S. HRG. 108–274

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 2989/S. 1589

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF TRANSPORTATION AND TREASURY, AND INDEPENDENT AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2004, AND FOR OTHER PURPOSES

Department of the Treasury
Department of Transportation
Nondepartmental witnesses

Printed for the use of the Committee on Appropriations

Available via the World Wide Web: http://www.access.gpo.gov/congress/senate

U.S. GOVERNMENT PRINTING OFFICE

85–941 PDF WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
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DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004

WEDNESDAY, APRIL 2, 2003

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

The subcommittee met at 10:33 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby, Bennett, Murray, and Dorgan.

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

STATEMENT OF MARION C. BLAKEY, ADMINISTRATOR

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Good morning. The hearing is called to order.

Every year when it comes time to hold hearings on the upcoming fiscal year's budget request, it is likely that we will cover some of the same old ground. But, unlike other agencies or departments, the nature of the industry and facilities that the FAA regulates seem to be in a constant state of change.

A few years ago we were concerned about hub concentration and the anti-competitive behavior. More recently, we turned our concern to airline treatment of passengers and system-wide delays. Now, we wonder where all the passengers have gone, whether the hubs will survive, and if the traditional airline structure will remain intact or if we will see something substantially different emerge as a result of all the upheaval.

This is a very difficult time for virtually everyone involved in aviation: the passengers, communities, airports, airlines, aircraft manufacturers and the FAA. Passengers are anxious about flying in the aftermath of the September 11th attacks. The terrorist threat alerts exacerbate people's fears about the vulnerability of our air transportation system to terrorism attack, and military operations to free Iraq have further increased the public's concern about the safety of flying.

In addition, passengers are facing fewer choices in flight options as the air transportation market undergoes the first significant service contraction since deregulation.

Airports face increased operational and capital costs as they respond to increased security requirements at the same time that their revenues are declining because of reductions in flights, reduced revenues from concessionaires, and fewer passengers.

Communities that were struggling to maintain service levels are finding that challenge even more daunting as the fixed costs of initiating or maintaining a marginally justified service continue to rise.

Airlines not already in bankruptcy or headed into bankruptcy have little to be optimistic about. As an industry, air carriers did not have time to recover after the September 11th attacks and the sluggish economy that we have experienced for the past 3 years has compounded an already difficult financial situation.

Most carriers are not predicting meaningful growth in traffic or bookings for several months after the Iraq war is favorably concluded, and many more are not anticipating a firming in the yields for more than a year. Clearly, this is an industry on the ropes.

Aircraft manufacturers, for their part, are typically the first to feel the slowdown and the last to recover from it. Neither Boeing nor Airbus anticipates an upturn in the demand for aircraft until the middle of 2004 at the earliest. Airbus is struggling with the challenges of keeping the new A–380 within their revised cost and weight estimates, and Boeing is undertaking an aggressive new aircraft program with the 7E7 and is marshalling $10 billion to develop it. Clearly, both manufacturers are feeling the pressure of the industry downturn, but both are looking to the future.

This brings us to the FAA. Administrator Blakey, you have now been at the FAA just long enough to start putting your imprint on that organization and begin shaping your vision of what you want that agency to achieve under your stewardship.

I feel certain that you have begun turning the programs, budgets, policy, and regulatory processes and directed the career personnel to your vision of where the agency should head to support a safe and efficient air transportation system.

I know that this budget was largely completed before you became administrator, and I know that the budget constraints that we face make your job even more difficult. But I would like to explore with you where we are going to take the FAA in the next several years. The budget request for FAA operations anticipates an 8.1 percent growth, but it seems to me to be a current services budget with few new initiatives.

That kind of growth to deliver the same services, I believe, will be hard to justify or secure in the current environment.

I believe it is important to show what the FAA is doing to foster a safe and efficient system as we move forward. We need to show how the FAA is responding to the evolving air transportation system. We need to show what works in the FAA. We need to know where we need to reinvigorate our efforts. And we need to show where we can save and redirect sources to higher priorities.

More importantly, we need to show how the FAA program is changing in the aftermath of the 9/11 terrorist attacks. I am told that the agency's Operational Evolution Plan (OEP) has not evolved since that time and that troubles me. None of these things can be done if we sit passively by and expect that things will just

work themselves out. It is imperative that the FAA, that our government, implement innovative and aggressive approaches to dealing with our rapidly changing world.

I want to work with you to help make the FAA responsive to the needs of the public and the industry it regulates.

Today we are pleased to have Marion Blakey, the Administrator of the Federal Aviation Administration; Ken Mead, the Department of Transportation Inspector General; and Jeff Shane, the Under Secretary for Policy at the Department of Transportation as our witnesses.

Senator Murray?

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman, and I want to thank you for calling this hearing on the aviation industry.

Our airlines, our airports, and our employees are facing an immediate crisis and they need our help. Thousands of hard-working Americans are being put out on the streets every week by the airlines or their suppliers. At home, tens of thousands of my constituents have lost their jobs because of the downturn in air travel. Together, these companies and their employees have faced the triple whammy of September 11th, a deteriorating economy, and now the war with Iraq. It is difficult to overstate the seriousness of the crisis facing this vital part of our Nation's transportation infrastructure.

Some carriers are emerging from bankruptcy. Others are entering it. And still others are desperately trying to avoid it. Some retired airline employees are seeing their monthly pension checks cut dramatically. And one of our Nation's largest carriers is facing the very real possibility of liquidation.

In just a half an hour from now the Senate will begin debating the war supplemental that we marked up in the Appropriations Committee yesterday. Yesterday, during markup, I offered an amendment to increase the size of the aviation relief package from $2.8 billion to $3.5 billion dollars. I am pleased that that amendment was adopted and that the full bill passed the committee on a unanimous and bipartisan basis. My amendment expanded the amount of relief provided to our airlines and addressed two gaping holes in the original proposal, the absence of assistance for our airports and the absence of help for the workers who have suffered the most during this crisis.

While our committee was reporting the war supplemental with $3.5 billion dollars in overall aviation relief, the House Appropriations Committee reported its version of the supplemental with roughly $3.2 billion in assistance. The House Committee version, however, did not include any help for workers.

The Administration's supplemental budget request included absolutely nothing for our airlines, our airports, or our aviation workers. Since then we have heard from the OMB Director and others that the Administration would not close the door on some form of aviation relief.

Unfortunately, it has not been clear what, if anything, the Bush Administration wants to do to address the crisis in our aviation industry.

That was until today. Today, we read that senior Bush Administration officials think that the packages approved by the House and Senate committees were too large and wrong-headed. Transportation Secretary Norm Mineta is quoted in the New York Times this morning saying that our committee's actions yesterday—and I quote—"show that a considerable gulf remains between Congress and the Administration regarding the amount and structure of this assistance."

Commerce Secretary Don Evans was quoted in an Associated Press (AP) story today saying we will work with the Congress to ensure that the airlines receive more reasonable assistance.

I fear that the Administration is long on rhetoric but short on detail. Time and again we hear that the Administration has a position, but they just do not tell Congress or the American people what it is.

Workers have lost their jobs. They are trying to figure out how to pay the mortgage this month. But instead of offering support, the Administration is failing them.

Mr. Chairman, this morning we are joined by President Bush's Under Secretary for Transportation Policy. I hope that this morning we will find out what the Bush Administration finds unreasonable in the committees' assistance package.

I have carefully reviewed the Under Secretary's formal testimony and I did not find any answers to those questions. I did find some nice multicolored charts documenting the problem, and a commitment by the Administration to continue to monitor the situation.

I hope the President does not object to helping thousands of workers who have lost their jobs through no fault of their own.

I want to put this in context. At a time when the President has proposed $700 billion more in tax cuts, I would hope he could find it in his heart to support less than 1/20 of 1 percent of that amount for our laid off workers.

And I would remind the Administration that 10,000 aviation industry workers have gotten pink slips since the start of the Iraq war.

I hope during our questions this morning we will finally get some clear answers on precisely where the Bush Administration stands on Congressional efforts to help this industry and its workers.

Let me close, Mr. Chairman, with another area where the Administration can do more, and that is carefully monitoring aviation safety. Many years ago, as we all know, during the bankruptcy and liquidation of Eastern Airlines, we learned that air carriers in difficult financial condition could be tempted to cut corners in the critical areas of maintenance and safety compliance.

It is the job of Administrator Blakey, who is here with us, to see that does not happen again. And it is the job of the Inspector General to make sure that Mrs. Blakey is doing her job.

So I look forward to asking both of them whether we should be concerned that the financial downturn in this industry could impact the overall safety of our aviation system.

Thank you, Mr. Chairman. I look forward to the questions.

Senator SHELBY. Senator Bennett.

Senator BENNETT. Thank you, Mr. Chairman. I do not have an opening statement and I look forward to hearing the witnesses and I will have some questions.

Senator SHELBY. Ms. Blakey, you will be first. Your written statement will be made part of the record, all of your written statement in its entirety. You can proceed as you wish. We welcome you to the committee.

STATEMENT OF MARION C. BLAKEY

Ms. BLAKEY. Thank you very much, Chairman Shelby, Senator Murray, Senator Bennett.

I very much appreciate the opportunity to testify before you today. And it is a pleasure because this is my first opportunity as the Administrator of the Federal Aviation Administration.

Before I begin, I have to acknowledge the new Chairman of this committee, Senator Shelby, who hails from the great State of Alabama. Since that is where I got this accent, you can appreciate the fact that I am really looking forward to working with you.

Senator SHELBY. I was enjoying your speech.

Ms. BLAKEY. I hope so. I also would like to thank Ken Mead and our Under Secretary for Policy, Jeff Shane for the enormous amount of work they put into working with us at the FAA to ensure that we are doing the right thing for the aviation system.

REAUTHORIZATION PROPOSAL

On March 25th, Secretary Mineta sent to Congress the Administration's new reauthorization proposal. The Centennial of Flight Aviation Authorization Act or Flight 100, as we like to call it. Secretary Mineta has challenged the Department and the FAA to be safer, simpler, and smarter, as he puts it. And I think these guiding principles, you will find, do form the basis for Flight 100, as we move to provide better performance, more flexibility, and increased accountability.

To that end, we believe the Administration's proposal will serve as a strong foundation for the development of the reauthorization legislation because it builds on AIR–21, which I know you all worked very hard on. It also provides the kind of funding levels that will support important infrastructure improvements, safety initiatives, system efficiencies, and important research in the safety area. Most importantly, I would stress to you that Flight 100 adds no additional taxes, no economic demands on the ailing industry, and no new financial burdens for the American flying public.

FISCAL YEAR 2004 BUDGET REQUEST

Now, let me turn my attention to the purpose of today's hearing, or at least in part the purpose, and that is the President's 2004 budget for the FAA. The President has proposed a budget of $14 billion for the FAA, a lean budget but I believe a generous one, given these challenging times.

Specifically, his budget requests $7.6 billion for Operations, $2.9 billion for Facilities and Equipment, $3.4 billion for Airport Improvement Grants, and $100 million for Research, Engineering and Development. This represents a 3.7 percent increase from the 2003

enacted budget and provides funding for the 49,745 employees that work for the FAA.

SAFETY

Let me turn initially and most importantly to not only my number one priority, but I firmly believe the number one priority of this committee, and that is safety. The United States has a remarkable safety record in aviation. Almost 100 years after the Wright brothers first took to the skies, I am pleased to report that 2002 was one of the safest years in aviation history. Not a single fatality occurred on a U.S. commercial airline.

We are all proud of this achievement, but I know that none of us think we can rest on our laurels on this, either. Every day at the FAA we help to ensure the safety of an airline industry that is in serious economic peril. I know we all agree that safety cannot be shortchanged. No matter how tough the economic circumstances become, we have got to keep it in front of us.

For this reason, out of a total budget request of $14 billion, $8.7 billion will be used to support the FAA's safety goals. Full funding of the President's budget will provide needed funds for inspecting aircraft, operating and maintaining the air traffic control system, including hiring 302 additional air traffic controllers in anticipation of the retirements that we expect in that workforce.

Funds are also provided for inspecting hazardous materials, making additional AIP grants for airport safety, capacity, and security investments, noise mitigation, safety research, and I could go on.

But the point here is that specifically in the area of commercial aviation, we have a number of programs and initiatives that have been particularly responsible for the remarkable safety record I was alluding to. The FAA's Runway Safety Program has helped significantly reduce the number of high risk runway incursions, which of course lowers the risk of collisions. Runway incursions declined from 407 in 2001 to 339 in fiscal year 2002. The number of high risk incursions fell from 58 to 37.

The Airport Movement Area Safety System, AMASS, is now operational in 31 airports. And I am happy to say it has occasioned saves in San Francisco, Boston, and Detroit.

The Safer Skies Initiative is a joint Government and industry effort to reduce commercial fatal accidents by 80 percent by 2007. We have made significant progress on this very aggressive goal, and we are on track to meet it.

Now, I know no one here can forget the tragedy of TWA 800. This accident focused national attention on the critical need to improve fuel tank safety. For a number of years my old agency, the National Transportation Safety Board (NTSB), and others have been calling for a way to remove flammable oxygen from fuel tanks and substitute inert gas which would, of course, eliminate the explosion potential. But the designs were always deemed too heavy, too complicated, and too expensive to be viable.

Building on previous research on ground-based inerting, the FAA's researchers recently developed a relatively simple but effective way to generate nitrogen enriched air in flight. That is why I have this in front of me. It is a very, very simple solution, one

that involves no moving parts, one that is not heavy. Even at full scale, the inerting system that the FAA's research has developed will be less than a single passenger on board a flight, in terms of weight.

We are going to flight test the system next month. If it goes as we expect, it is going to be a major improvement in terms of aviation safety. So it is just one example of the kind of things that the funds that you all appropriate, make a real difference.

CAPACITY

Let me turn to capacity for a moment. I am very fond of the saying that the Aircraft Owner and Pilots Association likes, which is that a mile of road will get you a mile. A mile of runway will get you anywhere. It is something I think we have to remember as we are looking at capacity issues.

Given the current downturn, we do have a unique opportunity right now to increase capacity before we return to the pre-9/11 traffic levels. Increasing capacity, as you well know, can be accomplished in basically three ways: new technology, new operations, new pavement. That is what it really comes down to. We have to have all three. If we invest in them wisely, I am convinced that we are going to have the capacity we need.

Our Operational Evolution Plan calls for a 31 percent increase in capacity by 2010, and it is yielding results. We have a brand new version of the plan that I would love an opportunity to brief you all on, because it has identified choke points in the system and developed a much more intensive, dynamic communication system with the airlines that is really yielding a lot of results. We are seeing real changes in terms of bottom line efficiencies for the airlines in a way we never did before.

From the standpoint of new technology, and new procedures, the User Request Evaluation Tool gives controllers the ability to approve direct routes and is saving time and saving fuel.

We are also seeing terrific results from our new Traffic Management Advisor which gives us a way to control traffic at our busiest airports, in a way again that is promoting great efficiency.

What about the tough one, which is new pavement? The FAA's Operational Evolution Plan is tracking now on 12 airport projects that are scheduled for completion in the next 10 years. And the terrific news is four of them are going to come online this year—Houston, Denver, Miami and Orlando. They are all still on track to open this year. So that is really a major improvement for the system.

Additionally, the President's Executive Order on Environmental Streamlining, and the $3.4 billion investment included in the budget for AIP program funding, demonstrates the Administration's commitment to expanding capacity. With this level of funding and with some structural changes in the AIP formulas, the Administration is going to be better able to target projects of national significance while at the same time helping our smaller airports.

FINANCIAL MANAGEMENT AND COSTS CONTROL

Finally, it is clear to all of us at the FAA, that we have to do a better job managing our finances and controlling our costs. Certainly, the Inspector General has called this to our attention and,

as they say, we get it. I am pleased to report that the FAA has recently received another unqualified or clean audit opinion on our 2002 consolidated financial statements. I am also proud to say it is the second year in a row that this has happened. It gives us a firm foundation that we need to implement a new financial system that is coming online this fall, DELPHI, which will continue to help us implement a cost accounting system that means something.

Just as our safety decisions have to be driven by data, so must our management decisions as well. We now track 80 percent of our costs on a monthly basis at the FAA. But we have got to do a better job of using the data to manage those costs. As part of the cost accounting system, we are implementing a labor distribution system as well in the Air Traffic Services line of business. It is called Cru-X.

It is our commitment to also track, control, and look at the issue of how we are distributing our labor costs. Our air traffic controller workforce will use this data to assess controllers' workload and figure out whether we are hitting the performance measures we want to.

Recently, the Inspector General noted that the system needs to be improved. We agree. I am committed to making the changes we need to ensure the integrity of the cost information. With budget shortfalls and depleting trust fund revenues, we have to be diligent stewards of the public funds.

PERFORMANCE-BASED PAY SYSTEM

Furthermore, the FAA has worked hard to implement a performance-based pay system. You all gave us personnel reform and we are working very hard to take advantage of the flexibility it provides. But we have got a ways to go. Approximately 36 percent of our workforce right now is currently under the performance-based system. It is intended and will link the organizational goals that we are developing in the strategic planning process we are undertaking right now, so that every single individual has a clear line of sight from their job to what the organization sets out to do. I pledge you my commitment to implementing this system across the entire FAA.

PREPARED STATEMENT

With that, I will conclude the prepared statement and look forward to questions. Thank you.

[The statement follows:]

PREPARED STATEMENT OF MARION C. BLAKEY

Chairman Shelby, Senator Murray, Members of the Subcommittee: Thank you for the opportunity to appear before you today to discuss the Federal Aviation Administration (FAA) and our budget request for fiscal year 2004. Before we begin, I would like to acknowledge the new Chairman of this Subcommittee, Senator Shelby from the great State of Alabama. I look forward to working closely with you as well as the other Members of this Subcommittee during my tenure as FAA Administrator. Finally, I would also like to recognize Kenneth Mead, Inspector General for the Department of Transportation. Thank you, Ken, for your commitment to work jointly with us to tackle our most pressing financial and performance challenges.

In the seven months I have served as Administrator, I have had the privilege to lead an agency whose mission is second to none—the safety of our Nation's aviation system. Our mission is carried out by thousands of talented, energetic, and dedi-

cated employees who care about the safety of the American people and our mission. It is an honor to represent them here today.

We at the FAA operate and maintain the Nation's complex air traffic control system and the facilities and equipment that enable its optimal operation. Our controllers control and monitor more than half of the world's air traffic—up to 5,000 aircraft in U.S. airspace at any given moment. FAA conducts state-of-the art research to continually improve safety and efficiency. We help improve the safety and capacity of more than 5,000 public-use airports in the United States. Our inspectors oversee more than 7,000 operators, including 139 major air carriers. Our maintenance technicians perform the maintenance, repair and engineering of over 62,000 facilities and pieces of equipment.

REAUTHORIZATION

I am pleased to say that on March 25, Secretary Mineta sent to Congress the Administration's reauthorization proposal—the Centennial of Flight Aviation Authorization Act, or Flight-100. I would like to thank Secretary Mineta and Deputy Secretary Jackson for their commitment and dedication to developing and supporting Flight-100.

I also want to thank them for their tremendous efforts in challenging the Agency to be Safer, Simpler, and Smarter. These three principles form the basis of Flight-100, but they also form the cornerstone of the entire Agency's mission—better performance, more flexibility, and increased accountability. Later in my remarks, I will address several of the Agency initiatives designed to meet these challenges.

To that end, we believe that the Administration's proposal will serve as a strong foundation for the development of reauthorization legislation. It builds upon AIR–21 in that it maintains our commitment to safety, capacity, and system efficiency. The funding levels in Flight-100 continue to support important infrastructure improvements, safety initiatives, system efficiencies and safety research. It adds no additional taxes, no economic demands on an economically troubled industry, and it provides no new financial burdens on the American people. I thank you for your consideration of Flight-100, and I look forward to continuing the dialogue on this, our blueprint for aviation in the future.

BUDGET

Let me now turn my attention to the purpose of our meeting today—the 2004 President's Budget. Our budget supports Flight-100 in that it contributes to our efforts to be Safer, Simpler, and Smarter.

To support our operations and capital investments, the President has proposed a fiscal year 2004 budget of $14 billion—a lean budget, but generous given these challenging times. Specifically, his budget requests $7.6 billion for operations, $2.9 billion for facilities and equipment, $3.4 billion for airport grants, and $100 million for research and development.

This represents a 3.7 percent increase from the 2003 enacted budget. Funding will support 49,748 employees.

I want to thank all the members of this Subcommittee for your tireless efforts and continued dedication to supporting the FAA's funding needs. Fully enacting the President's budget will permit the FAA to hire more controllers to prepare for an expected surge in retirements, make needed improvements in the National Airspace System (NAS), and fund safety, capacity, and security improvements at our Nation's airports. Your support for these investments will reap benefits for years to come, as FAA provides a safe and efficient aviation system that contributes to national security, promotes economic growth, and encourages the recovery of civil aviation.

SAFER, SIMPLER, SMARTER

Safety

First, let me address my number one priority, and that of every FAA employee—safety, both in the skies and on the ground. Under the superb leadership of Secretary Mineta, the Department's emphasis on safety has never been greater. The United States has a remarkable safety record. Almost 100 years after the Wright Brothers first took to the skies, FAA is proud to report that calendar year 2002 was one of the safest years in the history of the U.S. airlines, not a single fatal air carrier accident, and we continue to make progress in reducing the number of general aviation fatal accidents. We are proud of this achievement, but we will not rest on our laurels.

Safety must always be our top priority, especially with the airline industry in serious economic trouble. As a carrier reduces its schedule, its fleet and its personnel,

we must evaluate the impacts of these reductions and amend our surveillance plans as necessary. I recently met with the FAA managers overseeing USAirways and United Airlines to ensure that we have appropriately expanded our review of these carriers. The approach we are taking with these carriers is to focus our safety oversight on areas that may be more at risk during a financial crisis.

We will support the resurgence of the airline industry with some of our most effective mechanisms—continuing our investments in building capacity at our Nation's airports and putting safety first.

Out of a total budget request of $14 billion, $8.7 billion will be used to support FAA safety goals. Full funding of the President's Budget will provide needed funds for inspecting aircraft, expanding safety programs and hiring an additional 20 safety staff; operating and maintaining the air traffic control system; hiring 302 additional air traffic controllers (in anticipation of the first wave of controller retirements); returning the Hazardous Materials Program from TSA; purchasing airport surface movement detection equipment; making AIP grants for airport safety, capacity and security investments, as well as for noise mitigation and research on aviation safety.

In commercial aviation safety, several programs and initiatives were instrumental in reaching last year's high level of aviation safety. The Runway Safety Program helped reduce the number of high-risk runway incursions significantly, which in turn lessened the risk of collisions. Runway incursions declined from 407 in fiscal year 2001 to 339 in fiscal year 2002 due to our aggressive actions to reduce these incidents, and the number of high risk incursions fell from 53 in fiscal year 2001 to 37. The Airport Movement Area Safety System (AMASS), now operational at 31 major airports, has been officially credited with saves at San Francisco, Boston, and Detroit.

Our Safer Skies initiative, a joint government and industry effort to reduce commercial fatal accidents by 80 percent by 2007, made significant progress in addressing a number of factors that cause air carrier accidents. I am pleased to say that we are on track to accomplish this goal.

The Air Transportation Oversight System (ATOS) is another tool to increase air travel safety and, like Safer Skies, is targeted for increased funding in the President's Budget. Under ATOS, in addition to comparing carriers' performance to all the requirements of our regulations, aviation safety inspectors evaluate air carrier systems that impact safety. Using ATOS, we have identified weaknesses in air carrier programs and made sure that the carrier took corrective actions.

In fiscal year 2002, the FAA research program focused on key areas to reduce the size, weight and complexity of fuel tank inerting system designs. We developed a simple system to inert the critical fuel tanks (heated center tanks) in transport airplanes. The system has virtually no moving parts, resulting in high reliability, low installation weight, and low operating costs. The FAA's R&D program and the sharing of the data and system design have helped the industry, including the Boeing Company pursue inerting systems for the transport airplane fleet. The availability of a practical inerting system provides for a balanced approach of ignition prevention and flammability reduction. In fiscal year 2004, the research program will focus on high priority safety projects.

We have also strengthened our international safety focus. We are working with the International Civil Aviation Organization (ICAO), as well as other members of the international aviation community, to strengthen and further aviation safety. For example, ICAO and the Joint Aviation Authorities are both involved in the Commercial Aviation Safety Team (CAST), the commercial aviation side of Safer Skies. FAA also initiated the Global Aviation Information Network (GAIN), a program that promotes the global collection and sharing of safety information.

Though progress has been made, we agree with the Inspector General that more can be accomplished. We will continue to build upon our 2002 successes.

Security

Since the events of September 11, the focus of Congress and the American people has been on security, and understandably so. You and your colleagues should be applauded, along with TSA, on your joint efforts to improve aviation security. By federalizing baggage screeners, ensuring that all checked baggage is screened, and expanding the Federal air marshal program, your efforts have made air travel much more secure.

The FAA has played an important role by providing resources and in successfully transitioning our former security programs to TSA. And we continue to work closely with TSA to assure that our safety programs are interrelated and coordinated with their security programs—without redundancy and complications. We look forward to the healthy continuation of our partnership to restore the faith of the American people in aviation.

The President's Budget requests $198 million to secure FAA facilities and electronic systems. This includes $145 million in Operations to fund internal FAA security, including securing our many information systems and background checks of staff. Internal security is not a new activity, but was temporarily transferred to TSA in the fiscal year 2003 budget. Fully funding the President's Budget request would also provide 26 new controllers to support the North American Air Defense command and its expanded airspace security programs.

Capacity Building

While safety remains our first concern, we must also remain committed to expanding capacity throughout the aviation system—in the air and on the ground. While demand for passenger travel is down, it will return. The FAA must be ready for this recovery. Now is the time to focus on increasing airport capacity, while air traffic is temporarily reduced. Both the President's Executive Order on environmental streamlining and the $3.4 billion investment included in the budget for the AIP program demonstrate the Administration's commitment to expanding capacity. With this level of funding, coupled with some structural changes in AIP formulas, the Administration will be able to better target projects of national significance that provide the greatest system benefit and, at the same time, provide additional funding to airports that rely most on Federal assistance.

Even after September 11, FAA's Operational Evolution Plan (OEP) remains fundamentally sound—with a planned 31 percent increase in capacity by 2010. In response to the costly, frustrating, and unacceptable delays that plagued the system in the summers of 1999 and 2000, FAA made needed changes, such as identifying and addressing choke points in the system and developing and refining regular communications between the airlines and the FAA Command Center to deal with daily problems in the system.

The User Request Evaluation Tool (URET) gives controllers the ability to approve more direct routes and is saving airlines time and fuel. With this tool everyone wins. We're also seeing terrific results from the Traffic Management Adviser (TMA), which makes more efficient use of our busiest airports.

We believe that new runways added at the right airports are the single most effective way to increase capacity. Thus, FAA's OEP tracks 12 runways scheduled for completion in the next 10 years. During calendar years 2003 and 2004, Denver, Houston, Miami, and Orlando airports are expected to complete runway projects.

The importance of investing in airport infrastructure cannot be discussed only in terms of alleviating a congestion problem at a specific location. These investments provide relief to the entire air system. The economy relies on aviation to move people and products, and aviation relies on an efficient NAS to accommodate the capacity demands placed upon it. We must all work together—Congress, Federal, State and local governments, and industry stakeholders—to ensure that the future does not catch us unprepared for the return of air traffic to pre-September 11 levels and higher. Future generations depend upon us.

A SAFER, SIMPLER, SMARTER AND MORE BUSINESS-LIKE FAA

In my tenure as Administrator, it has become apparent that FAA's operational costs must be brought under control. Since any future growth must be manageable, our decisions must be made in an informed manner. Just as our safety decisions should be driven by data, so should all our management decisions. Consequently, we must accelerate our efforts to set up our new financial system, DELPHI, and complete the implementation of our Cost Accounting System (CAS) and Labor Distribution Reporting (LDR) initiative, and use these tools to drive analysis toward better decisions.

We will improve our cost accounting and acquisition processes, and we will become a performance-based organization. Currently, FAA has implemented cost accounting in two lines of business and several support organizations. And while we track 80 percent of our costs on a monthly basis, we still have a lot of work to do.

As part of our cost accounting system, we are implementing a labor distribution system in air traffic services called Cru-X, to account for and distribute labor costs. Our air traffic controller workforce will use this data to better assess their workload and performance. Recently, the Inspector General noted that we have additional work to do on internal controls related to this system. I am committed to making this change, and to assuring the integrity of our cost information. With budget shortfalls and depleting trust fund revenues, we must be diligent stewards of the public's funds.

Though we have made great strides, there is still much to be done. FAA received another unqualified or "clean" audit opinion on our fiscal year 2002 Consolidated Financial Systems. I am proud to say that this is the second year in a row that the

Agency has received such an opinion. This gives us the firm foundation that we need to implement DELPHI effectively and to continue to build our cost accounting system.

The Agency has worked hard to implement a performance based pay system. Approximately 36 percent of our employees are currently under the system—a system that links organizational goals with individual performance goals at every level. We must fully embrace a new way of thinking: pay equals performance. I pledge to you my full commitment to implementing such a system FAA-wide.

CONCLUSION

To ensure that FAA moves forward in all these areas, one of my top priorities is to provide consistency and predictability in the way FAA works with industry. I do not want any variations in FAA policy or practice in the regions or field offices. I want our industry partners in the United States and around the world to know what they can expect and count on when dealing with the FAA. The future of aviation is dependent upon all of us leveraging our reduced resources in support of the common goal: a safe and efficient aviation system for our children and generations to follow.

This year marks the centennial of the Wright Brothers' historic flight at Kitty Hawk. When you look back on those early days of aviation and compare how dangerous air travel was to its safety record of today, it is easy to congratulate ourselves and feel content with how far we've come. Yet, our pride should not give way to complacency. We must continue to set and work to achieve goals on safety, capacity and efficiency. Though we will face countless obstacles and difficult decisions, we must draw upon the strength and courage of great aviation pioneers, such as Lindbergh and Earhart, who set difficult goals and attained them. I am proud to take part in the future of aviation, and I stand ready to work with you, as together we enter the second century of flight. Thank you.

This concludes my prepared statement. I am happy to answer your questions at this time.

BIOGRAPHICAL SKETCH OF MARION C. BLAKEY

Marion Clifton Blakey was sworn in September 13, 2002 as the 15th Administrator of the Federal Aviation Administration. As Administrator, Blakey is responsible for regulating and advancing the safety of the Nation's airways as well as operating the world's largest air traffic control system. Prior to being named FAA Administrator, Blakey served as Chairman of the National Transportation Safety Board.

During her tenure as Chairman, Blakey managed a number of accident investigations including the crash of American Airlines flight 587. Blakey worked to improve the Board's accident reporting process and increased industry and regulatory responsiveness to NTSB safety recommendations. Additionally, Blakey strengthened the Board's advocacy and outreach programs to promote safer travel throughout all modes of transportation. She also furthered development of the NTSB Academy as a national and international resource to enhance aviation safety and accident investigations.

At the FAA, Ms. Blakey, continues a long career of public service. In addition to NTSB Chairman, Blakey has held four previous Presidential appointments, two of which required Senate confirmation. From 1992 to 1993, Blakey served as Administrator of the Department of Transportation's National Highway Traffic Safety Administration (NHTSA). As the Nation's leading highway safety official, she was charged with reducing deaths, injuries, and economic losses resulting from motor vehicle crashes. Prior to her service at NHTSA, she held key positions at the Department of Commerce, the Department of Education, and the National Endowment for the Humanities, the White House, and the Department of Transportation.

From 1993 to 2001, Blakey was the principal of Blakey & Associates, a Washington, DC public affairs consulting firm with a particular focus on transportation issues and traffic safety.

Ms. Blakey, born in Gadsden, Alabama, received her bachelor's degree with honors in international studies from Mary Washington College of the University of Virginia. She also attended Johns Hopkins University, School of Advanced International Studies for graduate work in Middle East Affairs.

Senator SHELBY. Mr. Mead?

OFFICE OF THE INSPECTOR GENERAL

STATEMENT OF KENNETH M. MEAD, INSPECTOR GENERAL

Mr. MEAD. Thank you, Mr. Chairman, Senator Murray, Senator Dorgan, Senator Bennett.

It is good to be here with Administrator Blakey and Under Secretary Shane, very good people and great to work with.

In your packages you have some slides. It has a blue wheel on the front. I will refer to those a couple of times.

This hearing is occurring, of course, against the backdrop of an industry in financial distress. As I was writing my statement, I had to change it by the hour because it is hard to know who is in bankruptcy and who is out. But as Senator Murray was pointing out, they are either in or right on the brink of bankruptcy, or just coming out of it.

I think it is important, though, for us all to recognize that this is due to a confluence of factors that include an unsustainable cost and fare structures that predate 9/11 by a long time. That pattern persisted and became more pronounced after 9/11 and now, with the war in Iraq, we are experiencing an even greater precipitous decline in bookings, particularly in the international area.

Of course, the airlines also point to increased security related expenditures.

This first chart, I tried to map out on this first chart the yellow and blue, what has happened with respect to business travel both before and after 9/11. You can see the steep drop in September, 2001.

But look to the left of that axis and you will note that business travel was down 20 percent just before 9/11. And in November 2002 compared to November 2000, leisure travel was down 19 percent and business was down 32 percent. What we are seeing, to some degree, is a continuation of some problems that existed before 9/11.

Even before the war with Iraq, major carriers were projecting losses of about $6 or 7 billion for 2003. With the war, and their assumption is a 90-day war, major carrier projections are about $10 to $11 billion. And the end is not in sight. We do not think you are going to see a recovery to the 2000 levels until 2005, 2006, which is consistent with FAA's aviation forecast.

Here are some other interesting metrics. In February 2003 actual flight operations were down 10 percent compared to February 2000. And an interesting dimension to that is there has been a huge increase in the use of regional jets, a 156 percent increase compared to a 17 percent decline in larger aircraft and a 46 percent decline in the use of turboprop aircraft.

Domestic emplanements are down nearly 8 percent in 2003 compared to January 2000. Much of the reduced demand represents what had been the highest fare business travelers. An interesting statistic here relates to the network carrier cost structure. About 10 to 20 percent of their passengers, the business travelers, were providing between 40 and 50 percent of the revenues. So when the business travel part of the market began to fall out, you can see why the airlines were hurting so much.

Another interesting statistic, last year break-even load factors, that is the average percentage of paying passengers on all flights that are needed to cover an airline's costs. For the industry as a whole it was 87 percent. In other words, 87 percent of that plane had to be full before an airline would start talking about turning a profit.

Actual load factors, though, were only averaging about 74 percent. One airline had a break-even load factor of over 100 percent. And you might say well, how can an airline fill more than 100 percent of its seats? The answer is it cannot. And that is why that airline is teetering on the edge of bankruptcy.

I know you are considering some relief packages and you and your staffs must be exhausted from the last few days. I would say that great care has got to be taken in framing a relief package. I think a relief package is warranted. But take care to not provide a cash subsidy that is going to simply allow the airlines to avoid making hard calls that many of them are already in the process of making. We do not want it to be a bailout.

And I might add, I think it has been pretty unseemly for airlines to come up here to Congress and ask for financial aid from the taxpayers for not the first, but the second time when the senior executives are getting very large bonuses. I think the American taxpayer would wonder what is wrong with this picture.

The second factor is that you require any airline security costs that Congress judges are eligible be documented. And that the airlines have some evidence of that $4 billion that they are claiming is justifiable. I do not think we want a repeat of what happened last year when Congress thought it was going to be $1 billion and it eventually ended up being about $300 million.

Third. That it be a limited duration. This is an important issue, a limited duration package will allow you to come back to revisit it if it is necessary.

And finally, I am not sure that the packages consider how we are going to treat the foreign carriers that come here and pay these fees. We want to make sure that we do not develop an equity argument whereof they pay a fee and we reimburse domestic carriers. I would expect that there would be some expectation that they be reimbursed as well.

I would like to move to a word on small communities. You hear a lot of anecdotal evidence that service to small communities is declining. It is not just anecdotal. I have a chart, chart 2 cuts up the United States into quadrants. And you can see that on the average you have lost about 19 percent of service to your small, medium non-hub communities. The Northeast is particularly hard hit—about 33 percent of their service has been lost. I know an important matter on your agenda is the essential air service program.

I now would like to turn to FAA. I think it is very important to recognize that this agency oversees the largest and safest air transportation system in the world. FAA deserves a lot of credit for that. I think Ms. Blakey's safety background is going to serve the Nation extremely well in that regard.

But this agency urgently needs to get its costs under control. Why? Well, projected tax receipts to the Aviation Trust Fund for 2004 have dropped from approximately $12.5 billion to around $10

billion. Over the next 4 years the projected trust fund tax revenues are down and you are going to have about $10 billion less than you were counting on.

While these projections have dropped precipitously, FAA's spending has not. Budgets increased from about $8 billion in 1996 to $14 billion in 2004. That is about 70 percent. Over half of that, though, is for increased operations cost, which are mostly payroll costs.

The committee should know that personnel reform was a key element of the move to make FAA performance-based. But to date, the reality has been increasing workforce costs and significantly higher salaries.

The new compensation system for controllers, FAA's largest workforce, was a big cost driver. They have a very good pay package. The average base salary for fully certified controllers, exclusive of overtime, is now about $106,000. In 1998 it was about $72,000. That is a 47 or 48 percent increase.

Even though FAA is supposed to be a performance-based organization, only 36 percent of the employees actually get paid based on individual performance. The rest is largely automatic.

In terms of acquisitions, for air traffic control, five major acquisitions out of 20 that we tracked have experienced cost growth of over $3 billion and that cost growth alone is equivalent to 100 percent of a full year's appropriation for acquisitions. I do not think continued cost growth of that magnitude is sustainable, especially given the decline in revenues.

In some ways, it is the same picture the airlines were facing. I think FAA, under Ms. Blakey's leadership, needs to redouble its efforts to be a performance-based organization.

On the safety front, there are a couple of areas I would like to mention. One is FAA has had some progress in reducing operational errors and runway incursions, but they are still much too high. They are experiencing one involving a commercial airliner every 10 days. That means that once every 10 days a commercial airliner is coming very close to just barely avoiding a collision, either on the ground or in the air. And so more progress is needed there.

Close attention also is needed with respect to the level of oversight being provided to repair stations. Some metrics, in 1996, 36 percent of airline maintenance costs went to repair stations. Now it is 47 percent, and you can expect it to grow. For some airlines, 64 to 77 percent of their maintenance is being outsourced. So we should expect a corresponding shift in the FAA's vigilance and attention to that area.

And finally, a pending wave of controller retirements. There is some debate about how many controllers will retire and when. And that is one reason we need this Cru-X cost accounting system or labor distribution system so we can find out where the controllers are that are going to retire and how to plan accordingly.

But the number that some are using is that by 2010 you could lose about 7,000 controllers. This is about half the controller workforce. It takes about 5 years right now to train a controller to full proficiency.

PREPARED STATEMENT

And finally, a security related matter on the airports that I would encourage the Congress to resolve. Nobody knows who will pay for the installation of these SUV-sized explosive detection machines at airports. The airports, I am sure, have visited you. And when they say this is of concern to them, they have a legitimate point. This is not an inconsequential cost item, Mr. Chairman. We peg it at about $3 to $4 billion. So some resolution is needed on that point.

That concludes my statement, sir.

[The statement follows:]

PREPARED STATEMENT OF KENNETH M. MEAD

Mr. Chairman and Members of the Subcommittee, we appreciate the opportunity to testify today as the Subcommittee begins deliberations on the fiscal year 2004 appropriation for the Federal Aviation Administration (FAA).

This hearing is occurring against the backdrop of an industry in financial distress—two airlines representing more than 20 percent of the industry are in bankruptcy, and several others are teetering on the brink. This is due to a confluence of factors that include unsustainable cost and fare structures that clearly predate 9/11 and, with the advent of the war in Iraq, precipitous declines in travel bookings. The airlines also point to increased security-related expenditures for passenger screening, insurance, and Federal security taxes as contributing factors to their financial condition.

Great care must be taken to ensure that any relief package provided by Congress (1) does not provide a cash subsidy that allows a way for airlines to avoid making the hard calls necessary to become sustainable, including lowering labor costs (including management salaries and bonuses) and increasing productivity of capital; (2) require that any airline security-related costs that Congress judges are eligible for reimbursement be supported by documentary evidence that clearly demonstrates that claimed costs were actually incurred; and (3) be of limited duration.

The issue of service to small- and medium-sized communities is related to the financial condition of the airline industry. In an effort to stem losses, airlines have reduced service in the smallest communities by 19 percent in the past 5 years. Funding levels for the Essential Air Service Program (EAS), which is one vehicle for restoring access to air service in small communities, will be an important issue for the Committee's consideration this year. It should be noted, however, that maintenance of service in small communities will be most successful where restructuring of the cost structures of the network carriers is most successful.

As for FAA, it is important to recognize that the agency oversees the largest and safest air transport system in the world, but FAA urgently needs to do considerably more to bring its costs under control. FAA's budget has increased from $8.2 billion in 1996 to $14 billion in fiscal year 2004—an increase of $5.8 billion, or over 70 percent. Over half of this increase is attributable to sharply rising costs in FAA's operations, which are made up primarily of salaries (about 74 percent of FAA's fiscal year 2004 Operations budget). From 1998 (when FAA began implementing new pay systems), salaries within the agency have increased 41 percent whereas the overall increase for the Federal workforce in Washington, DC, for example, was about 30 percent.

In terms of acquisitions, 5 major acquisitions out of 20 that we track have experienced substantial cost growth totaling more than $3 billion, which is equivalent to an entire year's budget for FAA's modernization account. These same 5 acquisitions have also experienced schedule slips of 3 to 5 years.

Continued cost growth of this magnitude is unsustainable given the financial state of the airline industry, multi-billion dollar declines in projected Aviation Trust Fund receipts, and greater dependence on the General Fund to pay for FAA's operations. We do not believe the answer to cost growth at FAA lies in an increase in taxes, fees, or other charges, which are already significant. Given the weak demand environment, any further increases are likely to reduce airline revenues and further threaten the financial health of the industry. Just as the airlines have had to rethink the basics of their business, FAA also must re-examine how it does business and redouble its efforts to become performance based in deed as well as in word. Administrator Blakey is taking steps to move the agency in that direction.

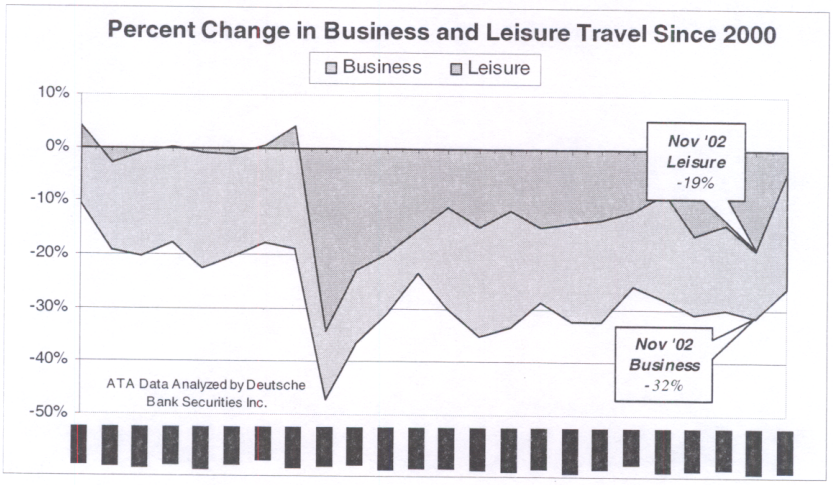
In terms of safety, we feel the imperatives for FAA are: (1) further reducing operational errors (when planes come too close together in the air) and runway incursions (potential collisions on the ground)—in 2002, a commercial aircraft was involved in at least one serious runway incursion or operational error every 10 days; (2) providing adequate oversight of air carrier maintenance in view of shifts in carrier practices from in-house to outsourced (from 1996 to 2001, outsourcing maintenance by major air carriers increased from 37 percent of total maintenance costs to 47 percent); and (3) addressing pending controller retirements.

On the security front, an important issue will be resolving who will pay for the next phase of explosives detection systems integration into airport baggage systems. This is a multi-billion dollar item.

STATE OF THE AIRLINE INDUSTRY

Most of the major domestic airlines are in a precarious financial condition. Several airlines are in bankruptcy and others are teetering on the brink.[1] As a group, the major carriers reported net losses totaling over $11 billion in 2002, which followed a year where their combined losses totaled $7.5 billion. For 2003, even before the United States went to war with Iraq, major carriers were projecting losses of between $6 billion and $7 billion. Now that the United States is at war, the airlines have increased their estimated losses to between $10 billion and $11 billion, based on a 90-day war. And the end is not yet in sight, as current forecasts now extend the timeframe for recovery from 2004 to 2005 or 2006.

In February 2003, actual flight operations were down 10 percent compared to February 2000. Overall, domestic enplanements were down nearly 8 percent in January 2003 compared to January 2000. Much of the reduced demand represents what had once been the higher fare business travelers. By some estimates, business travelers account for 50 percent of airline revenues although they typically represent only 20 percent of airline travel. As the following figure illustrates, business travel in November 2002 was nearly one-third less than it was in November 2000.



In the third quarter 2002, breakeven load factors[2] for the industry as a whole were 87 percent, while actual load factors averaged only 74 percent. One airline in that period experienced breakeven load factors of over 100 percent. How can an airline fill more than 100 percent of its seats? The answer is it cannot, which is why that carrier is on the brink of bankruptcy.

In response to the economic downturn and increased costs following 9/11, airlines have reduced their workforces, modified schedules, eliminated flights, closed offices and facilities, and retired aircraft. Negotiations are underway to reduce employment expenses throughout the industry by an additional $10 billion. Several airlines have used the bankruptcy process to restructure their costs, including renegotiating their

[1] As of April 1, 2003, the two carriers in bankruptcy were United Airlines and Hawaiian Airlines. USAirways emerged from bankruptcy protection on March 31, 2003.

[2] The average percentage of paying passengers on all flights needed to cover airline costs.

labor contracts and their debt instruments. Still, financial conditions continue to be weak, exacerbated now by the ongoing war in Iraq.

Based on a scenario of a 90-day war, the airlines project that their losses will be $4 billion higher in 2003 than the $6.7 billion they had originally projected. The losses would be driven by decreased passenger demand, higher fuel prices, and lower airfares. The airlines attest that they have already incurred over $4 billion in additional security costs since 9/11, including passenger screening fees, new security taxes, increased insurance costs, freight restrictions, cockpit door fortification, and the Federal Air Marshall program.

A case could be made for providing some form of financial relief to assist airlines in the short term; such as extending the Federal war risk insurance program and extending the Air Transportation Stabilization Board loan guarantee program. Loan guarantees, if prudently incurred, can help to stabilize the financial condition of the industry. They may also prove a prudent, short-term market intervention if used to finance a realistically restructured airline's exit from bankruptcy.

Other forms of potential relief, including reimbursing the airlines for security improvements, eliminating or reducing the Passenger Security Tax and Air Carrier Security Fee, and drawing down the Strategic Petroleum Reserve, should be considered in the following context.

The airlines are requesting a very large sum of money from the American taxpayers. In that regard, we are concerned, as are American taxpayers, about the appearance of large executive pay packages that are still in place for top executives at some of the airlines with large operating losses. Financial aid is not a substitute for self-help. This must come in the form of restructuring labor costs and management salaries, as well as increasing productivity of capital.

Policy decisions are being made that could affect the competitive balance of the airline industry, and the implications of providing financial assistance for any reason need to be carefully considered. The airline industry is important to the economy of the United States and certainly financial assistance at this juncture would help preserve the industry in the short term. But it should be noted that while all airlines have had to incur the increased financial burden of operating in a post 9/11 environment, not all airlines are suffering equally. In fact, two airlines. Southwest and JetBlue, earned profits last year. These airlines were successful because their cost structures represent a more realistic picture of a post-deregulation competitive airline industry. Care should be taken not to penalize carriers who have adapted or revised their cost structures to forms that are sustainable, even during an economic crisis.

Consideration should also be given to how financial assistance to the airline industry will be viewed by our international counterparts. To the extent possible, any relief package should be structured to limit the possibility of being criticized as an unfair airline subsidy.

The airlines are especially vulnerable to the effects of this war and the terrorist attacks that may accompany it. But it should not be forgotten that during wartime, many industries suffer financial losses–travel agents, retail outlets, cruise lines, and hotels—to name a few. Therefore, it is essential that a financial aid package designed to assist just one affected industry—the airlines—include narrowly defined relief terms and be of limited duration.

If the decision is made to provide some sort of assistance to the airlines, the following guidelines should apply.

—The effects of 9/11 and the war in Iraq have no doubt affected the airlines' costs and revenues, but the fact is that many airlines had unsustainable cost structures long before these events took place. Any financial assistance that is forthcoming should not result in a bail-out for failures in the competitive marketplace that occurred prior to 9/11. Funding that is not tied specifically and demonstrably to direct security-related costs simply postpones the restructuring that will be necessary in order for the major network carriers to remain viable. Most of the current financial woes of the industry should be solved by the marketplace.

—Documentation of which costs are being claimed and in what amount must be provided by the airlines and verified to ensure that funds provided under a security relief package are not subsidizing financial losses unrelated to security. Clarity is needed concerning whether financial assistance will be restricted to future war-related costs or security-related costs already incurred by the industry. Whichever costs are deemed eligible, the airlines must be held absolutely accountable for documenting the costs the aid is applied towards.

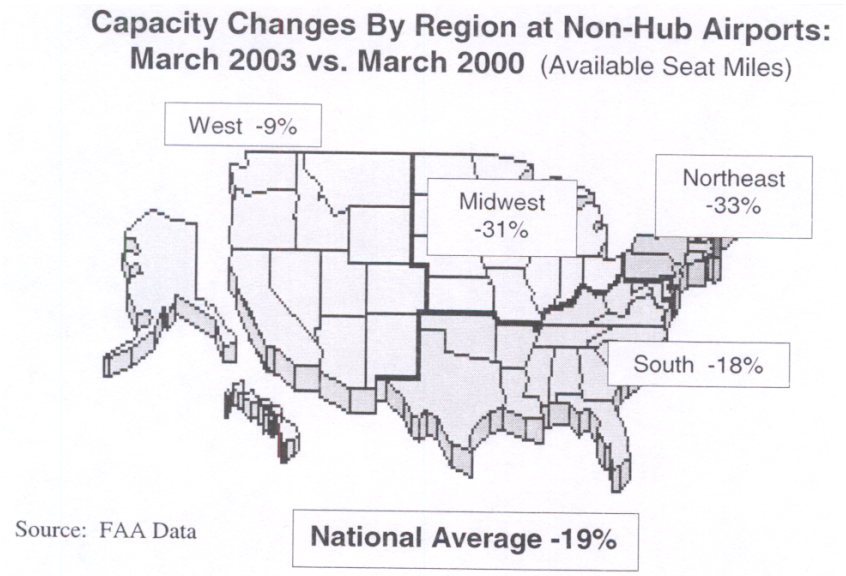
—Financial assistance aimed at providing short-term war relief should be just that: short term. Aid, if provided, should be of limited duration and should not come to be expected by the industry on a recurring basis. Given the uncertainty

of what could happen over the course of the coming year, an aid program should terminate at the end of a firmly fixed time period with the option to revisit the terms of the program if conditions warrant.

SERVICE TO SMALL AND MEDIUM SIZED COMMUNITIES

Financial problems for major airlines may ultimately affect the air service to small- and medium-sized communities. The major network carriers serve these communities through their mainline service and regional affiliates by connecting passengers from these communities to the major airlines' hubs. At the current time, low-cost carriers are not a solution for many small- and medium-sized communities if their service declines. The low-cost carrier business models focus on serving dense markets that make it economical to fly multiple frequencies in large-volume jets. That model would not be sustainable in these small- or medium-sized communities. Maintenance of service in these markets will be most successful where the restructuring of the network carriers is most successful.

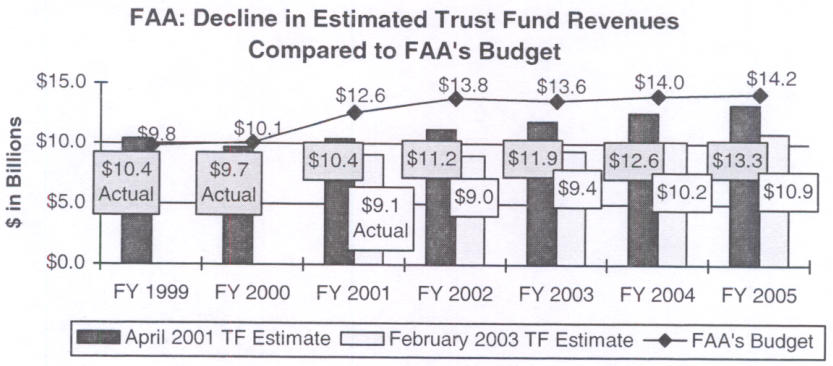
In the smallest communities—those served by non-hub airports—service has been declining for the past 5 years. Between March 1998 and March 2003, non-hub airports nationwide lost 19 percent of their commercial air service as measured by available seat miles. Between March 2000 and March 2003, non-hub airports in the Northeast and Midwest lost approximately one-third of their service.



The Essential Air Service Program is a tool that these small communities rely on for attracting air service to their communities. The funding levels for this program will be an important matter for the Committee's consideration this year.

GENERAL STATE OF FAA

As a result of the slow economy and the decline in air travel, there has been a significant decrease in tax revenues coming into the Aviation Trust Fund. Projected tax receipts to the Aviation Trust Fund for fiscal year 2004 have dropped from approximately $12.6 billion estimated in April 2001 to about $10.2 billion estimated in February 2003. Over the next 4 years, Aviation Trust Fund tax revenues are expected to be about $10 billion less than projections made in April 2001. Although Trust Fund projections are down for next year, FAA's spending request is not; increasing from $13.6 billion this year to $14.0 billion next year. If this $3.8 billion gap between Trust Fund revenues and FAA's budget ($10.2 billion to $14.0 billion) is financed by the General Fund, it would represent a rough doubling of such spending compared to recent years.



(FY 2002 figures include onetime anti-terrorist supplemental funding.)

While there have been suggestions that this gap could be closed by increasing taxes or fees on airlines and air passengers, we urge extreme caution in this area. Taxes and fees are already high. For example, a non-stop round-trip ticket costing $200 may consist of nearly $33 in taxes, fees, and airport passenger facility charges or 16 percent of the fare. On a connecting flight, the taxes on a $200 ticket could be up to $51, or nearly 26 percent of the fare. Any further increases are likely to reduce airline revenues, given the weak demand environment and will further threaten the financial health of the industry.

Over the past 5 years, FAA has had some notable accomplishments—successfully managing the Y2K computer problem, obtaining a clean opinion on agency-wide financial statements, bringing new Free Flight controller tools on-line, deploying the Display System Replacement on time and within budget, and expeditiously shutting the system down safely on 9/11. However, a key focus for FAA now must be effective cost control. This, in our opinion, is a primary challenge facing FAA for the next several years.

Operating as a Performance Based Organization.—In 1996, Congress acted to make FAA a performance-based organization by giving the agency two powerful tools–personnel reform and acquisition reform. The expectation was that FAA would operate more like a business—that is, services would be provided to users cost effectively and major acquisitions would be delivered on time and within budget. FAA was also directed to establish a cost accounting system so that FAA and others would know where funds were being spent and on what. It is now over 6 years later and we do not see sufficient progress toward FAA's becoming performance-based or toward achieving the outcomes that Congress envisioned.

—*Personnel Reform.*—Personnel reform was a key element of the move to make FAA performance-based. But to date, the reality has been increasing workforce costs and significantly higher salaries. From 1998 (when FAA began implementing new pay systems), salaries within the agency have increased 41 percent whereas the overall increase for the Federal workforce in Washington, D.C., for example, was about 30 percent.

The new pay system for controllers (FAA's largest workforce) was a significant cost driver. The average base salary for fully certified controllers is now over $106,000, which is exclusive of premium pay and overtime. That figure represents a 47 percent increase over the 1998 average of $72,000, and compares to an average salary increase of about 32 percent for all other FAA employees during the same period. Although linking pay and performance was a key tenet of personnel reform, only about 36 percent of FAA employees receive pay increases based on individual performance. The remaining FAA employees receive largely automatic pay increases.

In our work, we also found there are between 1,000 and 1,500 side bar agreements or Memorandums of Understanding (MOUs) that are outside the national collective bargaining agreement with controllers. Many serve very legitimate purposes, but some can add millions to personnel costs. For example, one MOU we reviewed allows controllers transferring to larger consolidated facilities to begin earning the higher salaries associated with their new positions substantially in advance of their transfer or taking on new duties. At one location, controllers received their full salary increases 1 year in advance of their transfer

(in some cases going from an annual salary of around $54,000 to over $99,000). During that time, they remained in their old location, controlling the same air space, and performing the same duties.

We found that controls over MOUs are inadequate. FAA management does not know the exact number or nature of these agreements, there are no established procedures for approving MOUs, and their cost impact on the budget has not been analyzed. It is important for FAA to get a handle on this process because many MOUs involve issues pertaining to deploying new equipment. We briefed Administrator Blakey on our concerns regarding MOUs; FAA is now in the process of identifying those MOUs that are problematic or costly and has begun a dialogue with the controller's union to address them.

—*Acquisition Reform.*—FAA has learned from past mistakes and its "build a little, test a little" approach has clearly avoided failures on the scale of the multi-billion dollar Advanced Automation System acquisition. But the bottom line is that significant schedule slips and substantial cost growth for major air traffic control acquisitions are all too common. The following chart provides cost and schedule information on 5 of 20 projects we track that were largely managed since FAA was granted acquisition reform.

Program	Estimated program costs (dollars in millions)		Percent cost growth	Implementation schedule	
	Original	Current		Original	Current
Wide Area Augmentation System	$892.4	[1] $2,922.4	227	1998–2001	2003–[2 3]
Standard Terminal Automation Replacement System.	940.2	[2] 1,690.2	80	1998–2005	2002–[2 3]
Airport Surveillance Radar–11	752.9	916.2	22	2000–2005	2003–2008
Weather and Radar Processor	126.4	152.7	21	1999–2000	2002–2003
Operational and Supportability Implementation System.	174.7	251.0	44	1998–2001	2002–2005

[1] This includes the cost to acquire geostationary satellites and costs are under review.
[2] Costs and schedules are under review by FAA.
[3] To be determined.

These five acquisitions have experienced substantial cost growth totaling more than $3 billion, which is equivalent to an entire year's budget for FAA's modernization account (Facilities and Equipment). These same five acquisitions have also experienced schedule slips of 3 to 5 years. Problems with cost growth, schedule slips, and performance shortfalls have serious consequences. They result in costly interim systems, a reduction in units procured, postponed benefits (in terms of safety and efficiency), or "crowding out" other projects. For example, in fiscal year 2002 alone, FAA reprogrammed over $40 million from other modernization efforts to pay for cost increases in the Standard Terminal Automation Replacement System (new controller displays for FAA's terminal facilities).

FAA needs to set priorities and link the Operational Evolution Plan (OEP) (FAA's blue-print for enhancing capacity), with the agency's budget and address uncertainties with how quickly airspace users will equip with new technologies in the Plan (estimated at $11 billion). FAA is retooling the OEP, and both FAA and industry officials told us that considerable benefits may be obtained through airspace changes, new procedures, and taking advantage of systems currently onboard aircraft—all of which do not require major investments by airlines. According to senior FAA officials, hard decisions about funding OEP initiatives and related major acquisitions will need to be made. In addition, FAA needs to develop metrics to assess progress with major acquisitions.

—*Cost Accounting System.*—To effectively operate as a performance-based organization, FAA needs an accurate cost accounting system to track agency costs and provide managers with needed cost data by location. Without a reliable cost accounting system, FAA cannot credibly claim to be, nor can it function as, a performance-based organization.

At the direction of Congress, FAA began developing its cost accounting system in 1996, which was estimated at that time to cost about $12 million and be completed in October 1998. Now, after nearly 7 years of development and over $38 million, FAA still does not have an adequate cost accounting system, and it expects to spend at least another $7 million to deploy the cost accounting system throughout FAA. Although FAA's cost accounting system is producing cost data for two of its lines of business, it still does not report costs for each facility location. For example, for the Terminal Service in fiscal year 2001, about $1.3 bil-

lion of $2.4 billion was reported in lump-sum totals and not by individual facility locations.

FAA also needs an accurate labor distribution system to track the costs and productivity of its workforces. Cru-X is the labor distribution system FAA chose to track hours worked by air traffic employees. As designed, Cru-X could have provided credible workforce data for addressing controller concerns about staffing shortages, related overtime expenditures, and to help determine how many controllers are needed and where. That information in turn is especially important given projections of pending controller retirements. Unfortunately, Cru-X has not been implemented as designed. We hope it will be in the coming year.

Aviation Safety.—After several years of continuous increases in operational errors and runway incursions, FAA has made progress in reducing these incidents. In fiscal year 2002, operational errors decreased 11 percent to 1,061 and runway incursions decreased 17 percent to 339 from fiscal year 2001 levels. Despite FAA's progress, the number of these incidents is still too high considering the potential catastrophic results of a midair collision or a runway accident. On average, in fiscal year 2002, at least one commercial aircraft was involved in a serious runway incursion or operational error (in which a collision was barely avoided) every 10 days. We will be issuing our report on operational error and runway incursions shortly.

FAA also needs to pay close attention to the level of oversight it provides for repair stations. Since 1996, there has been a significant increase in air carriers' use of these facilities. In 1996, major air carriers spent $1.6 billion for outsourced maintenance (37 percent of total maintenance costs), whereas in 2001, the major air carriers outsourced $2.9 billion (47 percent of total maintenance costs). As of September 2002, four major carriers were outsourcing between 64 and 77 percent of their maintenance.

In spite of this increase in the use of repair stations, FAA's surveillance continues to target more resources on air carriers' in-house maintenance facilities than repair stations. In fact, repair stations are required to be inspected by FAA only once annually. In addition, some FAA-certified foreign repair stations are not inspected by FAA inspectors at all because foreign civil aviation authorities review repair stations on FAA's behalf.

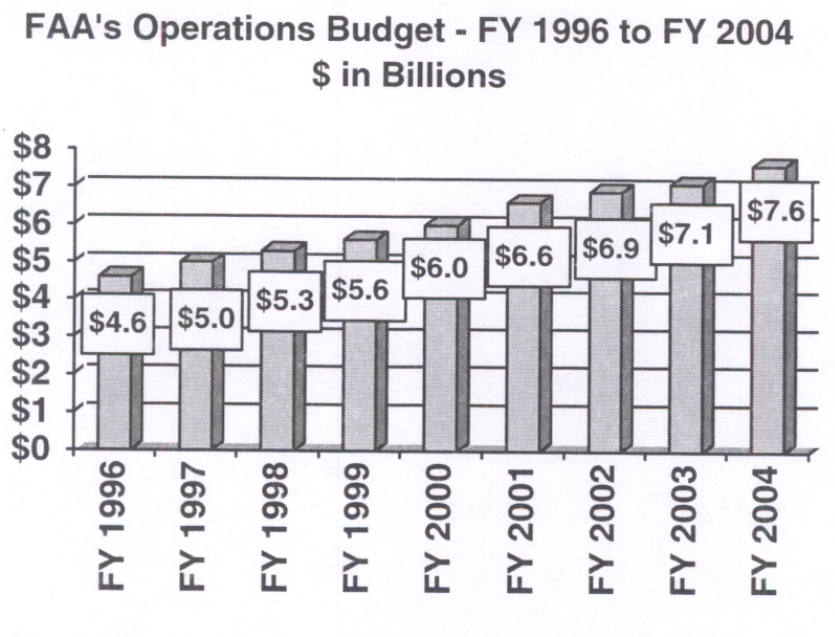
This trend in outsourcing maintenance is likely to continue, and FAA needs to consider the shift in maintenance practices when planning its safety surveillance work. We will be issuing our report on FAA's oversight of repair stations shortly.

Another significant issue is the pending wave of controller retirements. In May 2001, FAA estimated almost 7,200 controllers could leave the agency by the end of fiscal year 2010. In general, the training process to become a certified professional controller can take up to 5 years. Given that time lag, FAA needs to take actions now to address when and where new controllers will be needed. The pending retirements underscore the need for an accurate labor distribution system. We will be starting an audit of controller training in the next several weeks.

Mr. Chairman, let me conclude by discussing a major issue for airports—funding the next phase of explosives detection systems (EDS) integration. Thus far, nearly all EDS equipment has been lobby-installed. The planned next step (integrating the EDS equipment into airport baggage systems) is by far the most costly aspect of full implementation. We have seen estimates that put the costs of those efforts between $3 and $5 billion. A key question is who will pay for those costs as well as other costs still to be determined, such as improving access controls and acquiring new screening technologies.

MAKING FAA A PERFORMANCE-BASED ORGANIZATION THROUGH CONTROLLING COSTS IN OPERATIONS AND MAJOR ACQUISITIONS

Controlling Operating Cost Increases.—Although Congress envisioned that personnel reform would result in more cost-effective operations, this has not occurred. Since 1996, FAA's operating costs have increased substantially. As shown in the following graph, FAA's operations budget has increased from $4.6 billion in fiscal year 1996 to $7.6 billion in fiscal year 2004. Given the decline in Aviation Trust Fund revenues and the financial situation of the airlines, a continuation of this growth can no longer be sustained.



FY 2002 figures exclude onetime anti-terrorist supplemental funding.

Much of the increase in operations costs has been a result of salary increases from collective bargaining agreements negotiated under FAA's personnel reform authority. The 1998 collective bargaining agreement with the National Air Traffic Controllers Association (NATCA), which created a new pay system for controllers, was a significant cost driver. Under the agreement, most controllers' salaries increased substantially. For example,

—The average base salary for fully certified controllers has now risen to over $106,000—a 47 percent increase over the 1998 average of about $72,000 (as shown in the table below). This compares to an average salary increase for all other FAA employees during the same period of about 32 percent, and for all Government employees in the Washington, D.C. area of about 30 percent.

AVERAGE BASE SALARIES FOR FAA EMPLOYEES

Average base salary (including locality)	Fully certified air traffic controllers	Non-controller FAA employees
2003	[1] $106,580	$78,080
1998	$72,580	$59,200
Percentage Increase From 1998 to 2003	46.8	31.9

[1] After 4.9 percent increase.

Following the NATCA agreement, other FAA workforces began organizing into collective bargaining units as well. Today, FAA has 48 collective bargaining units as compared to 19 collective bargaining units in 1996.

The increase in bargaining units has complicated FAA's plans for fielding its agency-wide compensation system (created in April 2000), because FAA's 1996 reauthorization requires that FAA negotiate compensation with each of its unions. This has also complicated FAA's plans to create a link between pay and performance. Although linking pay and performance was a key tenet of personnel reform, only about 36 percent of FAA employees receive pay increases based on individual performance. The remaining FAA employees receive largely automatic pay increases.

We also found, that outside the national collective bargaining agreement with NATCA, FAA and the union have entered into hundreds of side bar agreements or MOUs. These agreements can cover a wide range of issues such as implementing

new technology, changes in working conditions and, as a result of personnel reform bonuses and awards, all of which are in addition to base pay. We found that FAA's controls over MOUs are inadequate. For example, there is:

—no standard guidance for negotiating, implementing, or signing MOUs;
—broad authority among managers to negotiate MOUs and commit the agency;
—no requirement for including labor relations specialists in negotiations; and
—no requirement for estimating potential cost impacts prior to signing the agreement.

In addition, FAA has no system for tracking MOUs, but estimates there may be between 1,000 and 1,500 MOUs agency-wide. While most MOUs serve very legitimate purposes, we reviewed a number of MOUs that had substantial cost implications. For example,

—As part of the controller pay system, FAA and NATCA entered into a national MOU providing controllers with an additional cost of living adjustment. As a result, at 111 locations, controllers receive between 1 and 10 percent in "Controller Incentive Pay," which is in addition to Government-wide locality pay. In fiscal year 2002, the total cost for this additional pay was about $27 million.
—One MOU we reviewed allows controllers transferring to larger consolidated facilities to begin earning the higher salaries associated with their new positions substantially in advance of their transfer or taking on new duties. At one location, controllers received their full salary increases 1 year in advance of their transfer (in some cases going from an annual salary of around $54,000 to over $99,000). During that time, they remained in their old location, controlling the same air space, and performing the same duties.

Administrator Blakey is aware of our concerns regarding MOUs and has begun a dialogue with NATCA to address this issue.

Improving Management of Major Acquisitions.—FAA spends almost $3 billion annually on a wide range of new radars, satellite-based navigation systems, and communication networks. Historically, FAA's modernization initiatives have experienced cost increases, schedule slips, and shortfalls in performance. While progress has been made with Free Flight Phase 1, problems persist with other major acquisitions. In 1996, Congress exempted FAA from Federal procurement rules that the agency said hindered its ability to modernize the air traffic control system. Now, after nearly 7 years, FAA has made progress in reducing the time it takes to award contracts, but acquisition reform has had little measurable impact on bottom line results—bringing large-scale projects in on time and within budget. The following chart provides cost and schedule information on 5 of 20 projects we track that have been managed since FAA was granted acquisition reform.

Program	Estimated program costs (dollars in millions)		Percent cost growth	Implementation schedule	
	Original	Current		Original	Current
WAAS	$892.4	[1] $2,922.4	227	1998–2001	2003–[2 3]
STARS	940.2	[2] 1,690.2	80	1998–2005	2002–[2 3]
ASR–11	752.9	916.2	22	2000–2005	2003–2008
WARP	126.4	152.7	21	1999–2000	2002–2003
OASIS	174.7	251.0	44	1998–2001	2002–2005

[1] This includes the cost to acquire geostationary satellites and costs are under review.
[2] Costs and schedules are under review.
[3] To be determined.

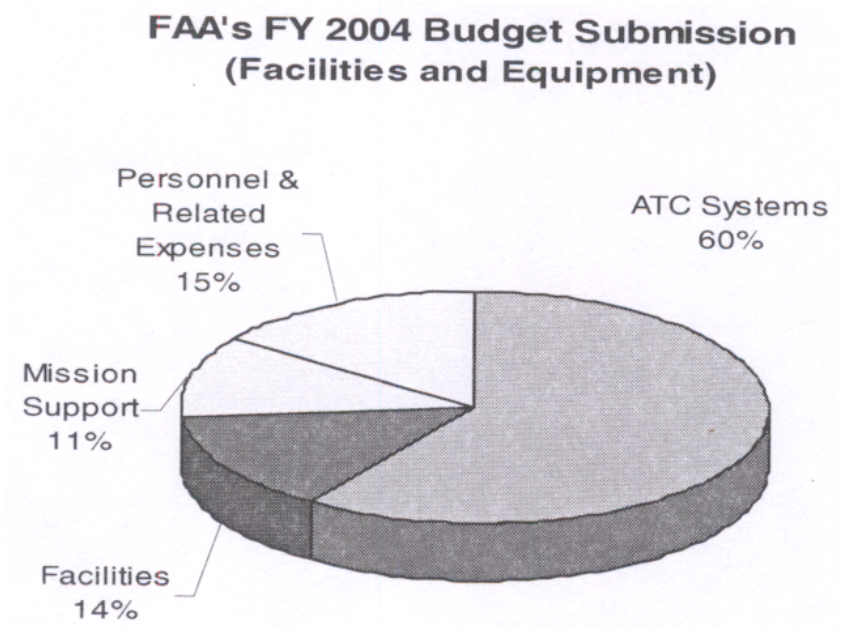
These five acquisitions have experienced cost growth of over $3 billion and schedule slips of 3 to 5 years. Problems with cost growth, schedule slips, and performance shortfalls have serious consequences—they result in costly interim systems, a reduction in units procured, postponed benefits (in terms of safety and efficiency), or "crowding out" other projects.

For example, STARS, which commenced operations at Philadelphia this past year, has cost FAA more than $1 billion since 1996. Most of these funds were spent on developing STARS, not delivering systems. When the STARS development schedule began slipping, FAA procured an interim system, the Common Automated Radar Terminal System (Common ARTS) for about $200 million. FAA is now operating Common ARTS (software and processors) at approximately 140 locations.

Moreover, in fiscal year 2002 alone, FAA reprogrammed over $40 million from other modernization efforts (data link communications, oceanic modernization, and instrument landing systems) to pay for cost increases with STARS. As a result of these cost and schedule problems, in March 2002, FAA officials proposed scaling back the program from 182 systems for $1.69 billion to a revised estimate of 73 sys-

tems for $1.33 billion. No final decision has been made, and FAA is currently re-evaluating how many STARS systems it can afford.

Cost growth of this magnitude must be avoided because only 60 percent of FAA's fiscal year 2004 request for Facilities and Equipment is expected to be spent on new air traffic control systems, whereas the remaining funds are requested for FAA facilities, mission support (i.e., support contracts), and personnel expenses.



There are large-scale acquisitions—both old and new—whose cost or schedule baselines need to be revised because the programs have changed considerably or benefits have shifted. For example, the Integrated Terminal Weather System (ITWS) provides air traffic managers with enhanced weather information. FAA planned to complete deployment of the new weather system in 2004 at a cost of $286 million. However, unit production costs have skyrocketed from $360,000 to over $1 million; FAA cannot execute the program as scheduled and may extend the deployment by 4 years.

In addition, FAA intended to have the Local Area Augmentation System (Category I)—a new precision approach and landing system—in operation in 2004. It is now clear that this milestone cannot be met because of additional development work, evolving requirements, and unresolved issues regarding how the system will be certified as safe for pilots to use. Moreover, the more demanding Category II/III services (planned for 2005) are now a research and development effort with an uncertain end state. This means that benefits associated with the new precision approach and landing system will be postponed.

Our work has also found that FAA has not followed sound business practices for administering contracts. We have consistently found a lack of basic contract administration at every stage of contract management from contract award to contract closeout.

For example, we found that Government cost estimates were:

—prepared by FAA engineers, then ignored;

—prepared using unreliable resource and cost data;

—prepared by the contractor (a direct conflict of interest); or

—not prepared at all.

FAA has stated that it will take actions to address these concerns—the key now is follow through.

In addition to strengthening contract oversight, FAA needs to develop metrics to assess progress with major acquisitions, make greater use of Defense Contract Audit Agency audits, and institute cost control mechanisms for software-intensive contracts. FAA needs to obtain these audits from the Defense Contract Audit Agency

for contract costs billed by private companies for research and development, production, and all costs related to system development. FAA should get these audits to ensure that the amounts billed are reasonable and that the government's interest is properly protected. By ensuring that only acceptable costs are paid to contractors, FAA will be able to stretch its procurement dollars further.

With schedule slips and cost overruns in major acquisitions, it should be noted that FAA is not getting as much for its $3 billion annual investment as it originally expected.

Tracking Costs.—An effective cost accounting system is fundamental to measuring the cost of FAA activities and provides the basis for setting benchmarks and measuring performance. Without a reliable cost accounting system, FAA cannot credibly claim to be, nor function as, a performance-based organization. It represents the underpinning for FAA's operation as a performance-based organization through the development of good cost information for effective decision-making. At the direction of Congress, FAA began developing its cost accounting system in 1996, which was estimated at that time to cost about $12 million and be completed in October 1998. Now, after nearly 7 years of development and spending over $38 million, FAA still does not have an adequate cost accounting system, and expects to spend at least another $7 million to deploy the cost accounting system throughout FAA.

Although FAA's cost accounting system is producing cost data for two of its lines of business, it still does not report costs for each facility location. For example, for the Terminal Service in fiscal year 2001, about $1.3 billion of $2.4 billion was reported in lump-sum totals and not by individual facility locations.

FAA also needs an accurate labor distribution system to track the costs and productivity of its workforces. Cru-X is the labor distribution system FAA chose to track hours worked by air traffic employees. As designed, Cru-X could have provided credible workforce data for addressing controller concerns about staffing shortages, related overtime expenditures, and to help determine how many controllers are needed and where. That information in turn is especially important given projections of pending controller retirements. Unfortunately, Cru-X as designed has not been implemented. We hope it will be in the coming year.

BUILDING AVIATION SYSTEM CAPACITY AND MORE EFFICIENT USE OF AIRSPACE TO PREVENT A REPEAT OF THE SUMMER OF 2000

FAA needs to be strategically positioned for when demand returns through a combination of new runways, better air traffic management technology, airspace redesign, and greater use of non-hub airports. It would be shortsighted to do otherwise. FAA estimates that domestic passenger numbers are expected to return to 2000 levels by 2005, although the recovery in passenger traffic will lag by a year for major carriers. FAA also reports large increases in the use of regional jets (from 496 in 2000 to over 900 in 2002)—this bears careful watching because of their impact on FAA operations and modernization efforts.

FAA's OEP is the general blueprint for increasing capacity. As currently structured, the plan includes over 100 different initiatives (including airspace redesign initiatives, new procedures, and new technology) and is expected to cost in the $11.5 to $13 billion range, excluding the costs to build new runways, but the true cost of implementing the plan is unknown. FAA estimates the plan will provide a 30 percent increase in capacity over the next 10 years assuming all systems are delivered on time, planned new runways are completed, and airspace users equip with a wide range of new technologies.

While airspace changes and new automated controller tools will enhance the flow of air traffic, it is generally accepted that building new runways provides the largest increases in capacity. The OEP now tracks 12 runways scheduled for completion in the next 10 years. Four of the runway projects are expected to be completed in 2003 at Denver, Houston, Miami, and Orlando airports. However, construction on several other airports has been delayed from 3 months to 2 years. There are other new runway projects not in the plan but important for increasing capacity, such as Chicago O'Hare. These runway projects are not in the plan because airport sponsors have not finalized plans or developed firm completion dates. FAA needs to continue to closely monitor all new runway projects.

Progress has been made with OEP initiatives, but much uncertainty exists about how to move forward with systems that require airlines to make investment in new technologies. FAA and the Mitre Corporation estimate the OEP would cost airspace users $11 billion to equip with new technologies. For example, FAA and Mitre estimate the cost to equip a single aircraft with Automatic Dependent Surveillance-Broadcast ranges from $165,000 to almost $500,000, and the cost for Controller-Pilot

Data Link Communications ranges from $30,000 to $100,000 excluding the cost to take the aircraft out of revenue service.

FAA is working to retool the OEP. With the slow down in the demand for air travel, FAA has an opportunity to synchronize the OEP with FAA's budget and set priorities, and address uncertainties with respect to how quickly airspace users will equip with new technologies in the plan. Senior FAA officials noted that hard decisions will need to be made. Further, some large-scale, billion-dollar acquisitions are not in the Plan but critical for its success. For example, the Enroute Automation Replacement Modernization project (new software and hardware for facilities that manage high altitude traffic with an estimate cost of $1.9 billion) is not an OEP initiative but needs to be fully integrated with the Plan and considered when setting priorities.

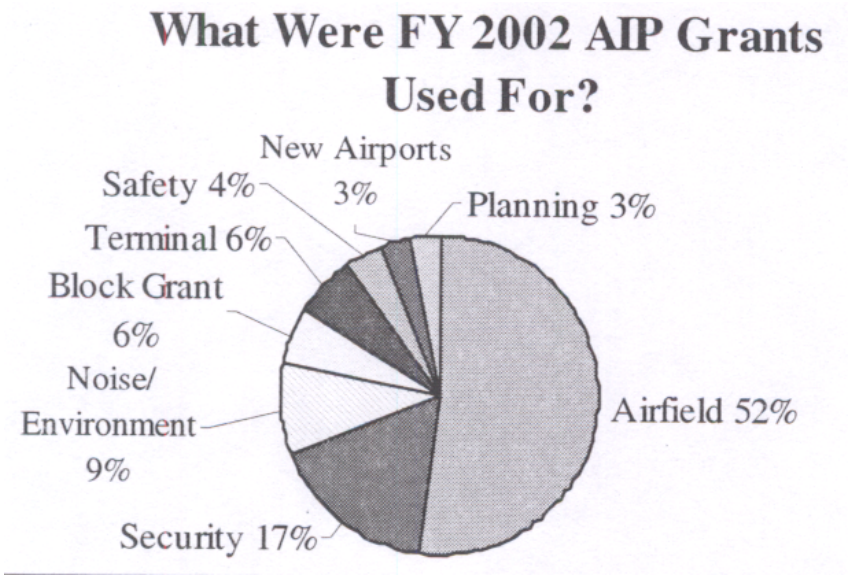
It is a good time to rethink what reasonably can be accomplished over the next 3 to 5 years, and what will be needed by FAA and industry given the decline in Trust Fund revenue and the financial condition of the airlines. According to the Associate Administrator for Research and Acquisition, it is likely that the OEP will shift from a plan that relied heavily on airspace users to equip their aircraft to one that places greater emphasis on airspace changes and procedural changes that take advantage of equipment already onboard aircraft.

STRIKING A BALANCE BETWEEN HOW AIRPORT FUNDS WILL PAY FOR CAPACITY AND SECURITY INITIATIVES

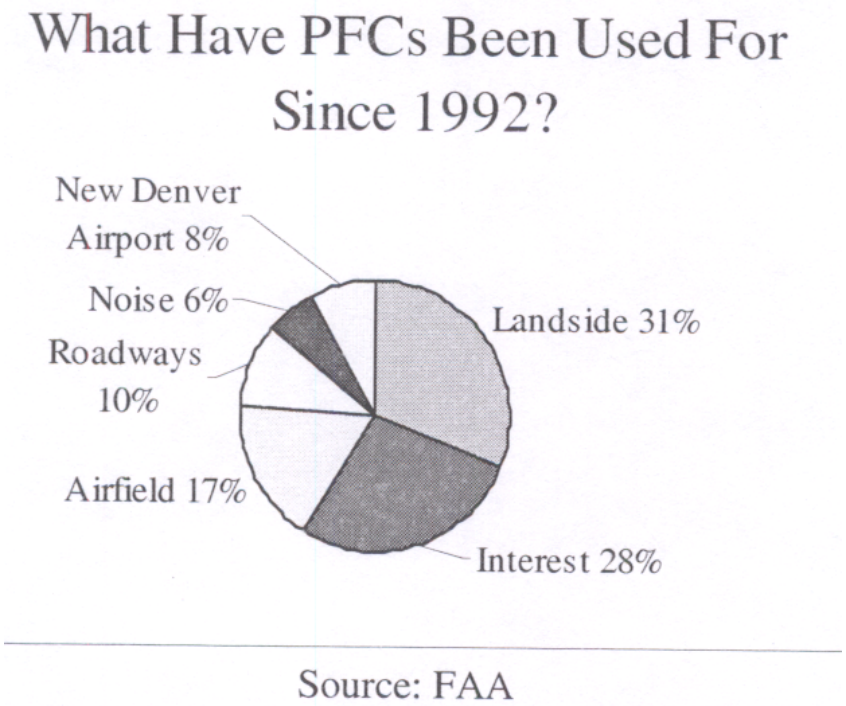
A major issue for airports is funding the next phase of EDS integration. Thus far, nearly all EDS equipment has been lobby-installed. TSA's planned next step (integrating the EDS equipment into airport baggage systems) is by far the most costly aspect of full implementation. The task will not be to simply move the machines from lobbies to baggage handling facilities but will require major facility modifications. We have seen estimates that put the costs of those efforts at over $5 billion, and this is an almost immediate issue facing the airports.

A key question is who will pay for those costs and how. While the current Airport Improvement Plan (AIP) has provided some funding in the past for aviation security, we urge caution in tapping this program until we have a firm handle on airport safety and capacity requirements.

In fiscal year 2002, airports used over $561 million of AIP funds for security-related projects. In contrast, only about $56 million in AIP funds were used for security in fiscal year 2001. Continuing to use a significant portion of AIP funds on security projects will have an impact on airports' abilities to fund capacity projects. The following chart shows how AIP funds were used and for what type of project in fiscal year 2002.



AIP funds as well as passenger facility charges (PFCs) are eligible sources for funding this work. However, according to FAA, PFCs are generally committed for many outlying years and it would be difficult, requiring considerable coordination among stakeholders (i.e. airports and airlines), to make adjustments for security modifications at this point. The following chart shows how PFC funds have been used since 1992.



There have also been proposals to raise the cap on PFCs; however, we urge caution before adding additional fees or taxes for air travel. Consumers already pay a significant amount in aviation taxes and fees. For example, a non-stop round-trip ticket costing $200 may consist of nearly $33 in taxes and fees, or 16 percent of the fare. On a connecting flight, the taxes on this ticket could be up to $51, or nearly 26 percent of the fare. Any further increases are likely to reduce airline revenues, given the weak demand environment and will further threaten the financial health of the industry.

AVIATION SAFETY

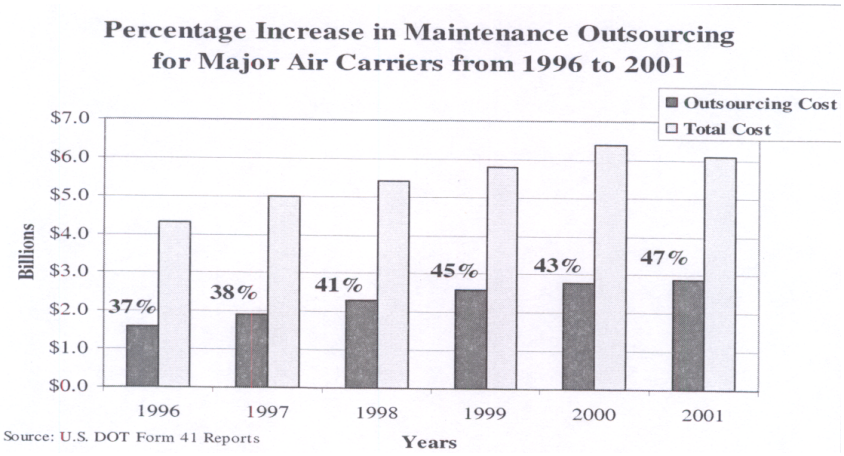
The U.S. air transport system is the safest in the world and safety remains the number one priority for FAA. Until the recent Air Midwest crash in Charlotte, there had not been a fatal commercial aviation accident in the United States in 14 months.

Progress has been made this past year in reducing the risk of aviation accidents due to operational errors and runway incursions. Operational errors (when planes come too close together in the air) and runway incursions (potential collisions on the ground) decreased by 11 percent and 17 percent, respectively, in fiscal year 2002. Notwithstanding these improvements, operational errors and runway incursions should remain an area of emphasis for FAA because at least three serious operational errors and one serious runway incursion (in which collisions were narrowly averted) occur, on average, every 10 days.

In the current financially-strapped aviation environment, FAA must remain vigilant in its oversight to sustain a high level of aviation safety. FAA has recognized this need and has taken steps to heighten surveillance during times when airlines are in financial distress. For example, FAA has increased the number of inspections

planned for distressed air carriers' internal aircraft maintenance operations. We are beginning an audit of this issue in the next several weeks.

FAA also needs to pay close attention to the level of oversight it provides for repair stations. In the past 5 years, there has been a significant increase in air carriers' use of these facilities. In 1996, major air carriers spent $1.6 billion for outsourced maintenance (37 percent of total maintenance costs), whereas in 2001, the major air carriers outsourced $2.9 billion (47 percent of total maintenance costs).



Even as air carriers currently outsource close to half of their maintenance work, FAA has continued to focus its surveillance on air carriers' in-house maintenance operations with no comparable shift toward increased oversight of repair stations. For example, FAA assigns a team of as many as 27 inspectors to continuously monitor air carriers' internal maintenance operations, while typically, only one to two inspectors that have other collateral duties are assigned to monitor work performed at aircraft repair stations. Because use of repair stations represents a less costly way of getting maintenance work completed, the trend in outsourcing maintenance is likely to continue. FAA needs to consider this shift in maintenance practices when planning its safety surveillance work.

Another significant issue is the pending wave of controller retirements. In May 2001, FAA estimated a total of 7,195 controllers could leave the agency by the end of fiscal year 2010. In general, the training process to become a certified professional controller can take up to 5 years. Given that time lag, FAA needs to take actions now to address when and where new controllers will be needed. The pending retirements underscore the need for an accurate labor distribution system. We will be starting an audit of controller training in the next several weeks.

That concludes my statement, Mr. Chairman. I would be pleased to address any questions you or other members of the Subcommittee might have.

Senator SHELBY. Secretary Shane, welcome to the committee.

OFFICE OF THE SECRETARY

STATEMENT OF JEFFREY N. SHANE, UNDER SECRETARY FOR POLICY

Mr. SHANE. Thank you, Mr. Chairman, and ranking member Murray, Senators Bennett and Dorgan. It is always a pleasure to appear before you, and it is today. We appreciate very much your holding this hearing.

I believe I can summarize my prepared remarks referred to by Senator Murray earlier, and do them fairly briefly. I will skip the part where I talk about how closely the Administration is monitoring industry developments. And I think Ken Mead has also covered a little bit of the ground, so I can be quick.

Almost 3 months ago, in testimony before another Senate committee, I outlined the challenges facing the industry and pointed at

the record losses that had occurred during calendar year 2001 and that were continuing into 2002.

Wall Street analysts, even before the war in Iraq, were predicting about $6.5 billion dollars in additional industry losses for 2003. We now know that these losses could be even higher if the conflict results in an extended period of reduced demand for air travel.

The airline industry has proven over the years to be remarkably resilient, however, and it is important to note that the news even now is not all bad. Despite heavy losses for the industry overall, for example a number of low fare airlines have remained profitable, and have been expanding their operations despite the downturn in demand.

At the same time, our largest network airlines are making progress in controlling their costs. USAirways, as we all read the other day, emerged from bankruptcy 2 days ago. And American, despite a lot of concern in the market, has been able to avoid bankruptcy. That is because both carriers have found ways to reduce their cost structures dramatically and to retool their business plans. Other airlines are making similar progress.

I have appended to my prepared statement some charts that illustrate the current state of the industry and the challenges that it is facing, particularly since the start of the war in Iraq. What I would like to do is summarize those charts very, very quickly.

I apologize, I did not bring blow ups of the charts. I believe that we have made sufficient copies available so that everybody has copies. If that is not the case, please let us know and we will supply them right now.

Chart 1 really covers ground that Inspector General Mead covered. It really just demonstrates how, in fact, the long period of record profits during the 1990s was transformed into a period that we now know to be record losses beginning in late 2000 and early 2001.

Chart 2 shows system operating profits or losses over the last 3 calendar years. But it is important because the airlines are divided, in that chart, into three different groups. The first group includes our largest network carriers. And the third group are low fare carriers.

I apologize for the airline codes that we used to identify the airlines. We actually have a legend. They are not all self-evident. So we can supply you that to make clear who the airlines are that we are talking about.

The important message from this chart is that while the industry as a whole has sustained operating losses approaching $10 billion for each of the past 2 years, the low fare carriers, as I indicated earlier, have indeed continued to earn profits.

Chart 3 shows system-wide operating margins. Note the contrast between the double-digit negative operating margins for the large network airlines and the low fare carriers' positive operating margins during this time.

Our review of recent information suggests that the financial trends observed in the quarterly data throughout 2002 are continuing into 2003.

Chart 4 compares weekly traffic levels, beginning in mid-December 2002, for those Air Transport Association member carriers that have international routes with traffic levels from a year earlier. It shows that from mid-December of last year to the end of January, traffic was up slightly over a year before. A pronounced downward trend begins in February, however, and accelerates after the start of the conflict in Iraq, especially for trans-Atlantic traffic.

Finally, chart 5 compares daily traffic for the same carriers beginning March 12th of this year with traffic a year earlier. Initially the trend is up slightly but then declines sharply at the start of the hostilities. By March 26th, traffic was down about 20 to 25 percent for each of the regions shown on the chart.

So where does this leave us? Many airlines have suffered large losses for more than 2 years, are heavily leveraged, and are now dealing with steep declines in demand. Does this mean that the airline industry is doomed to fail? Certainly not. But there will be change. Airlines are working hard to do what they must do to survive and to eventually return as viable competitors.

We are going to get through this. My personal conviction is when we do, the industry will look a lot like the industry we have today except that it will be more cost-effective, more competitive, and more robust.

Let me just say one thing particularly in response to Ranking Member Murray's comments about Secretary Mineta's statement for the press last night. Secretary Mineta, I hope everybody knows, has been a consistent champion of some limited temporary assistance to the airline industry. There has never been any question about that. My testimony was prepared at a time that productive negotiations were already underway between the Administration and Congressional leadership. Those negotiations, I hope, are continuing.

There is, as the secretary said, a considerable gulf between where the Administration believes we should come out and where the House and the Senate votes yesterday set the numbers.

We should continue to negotiate. I think the biggest difference, if I can just comment on this briefly, and I know we will have a colloquy about it afterwards, is that it is important to recognize that USAirways came out of bankruptcy on Monday. It is important to recognize that through heroic efforts American Airlines has been able to reduce its cost structure such that it did not have to go into bankruptcy. Other airlines are doing exactly the same thing.

The question for the Congress and for the Administration must be what measure of assistance is appropriate given the absolute duress the industry is in without compromising or interfering with a process that this industry has to go through. Otherwise, if it does not go through this process now, if it does not retool itself, if it does not fix itself for the future, we will face this issue every time there is another crisis and it will be a perennial albatross for every administration and for every Congress that succeeds us.

PREPARED STATEMENT

That is really the discussion that we should be having. We believe that some assistance is appropriate. The level of that assist-

ance is the only thing that separates the Administration and Congress right now.

Let me stop right there and I do look forward to any questions you may have. Thank you.

[The statement follows:]

PREPARED STATEMENT OF JEFFREY N. SHANE

Chairman Shelby, Ranking Member Murray, and Members of the Subcommittee, I appreciate the opportunity to appear here today to discuss the state of the airline industry.

As you are well aware, these are extraordinary times for the airline industry. Significant challenges are occurring virtually every day. The Administration is working hard to keep up with these developments and to assess their near-term and longer-term implications.

Almost three months ago, on January 9, in testimony before the Senate Committee on Commerce, Science, and Transportation about the future of the airline industry, I pointed to record losses during calendar year 2001, continuing heavy losses during 2002, and into 2003.

We now know that the predictions for large losses during 2002 were correct, and Wall Street analysts, even before the war in Iraq, had changed their loss predictions for 2003 from the range of $2.5 to $3.0 billion to about $6.5 billion. The large network airlines that today account for a major part of our domestic passenger air transportation system account for most of these losses. The war in Iraq may both reduce their revenue and increase their losses in 2003.

In my testimony three months ago I also pointed to the fact that the airline industry has proven to be remarkably resilient over the years, and that not all news was bad. Despite the overall heavy losses for the industry, and in stark contrast to the experience of the large network airlines, a cadre of low-fare airlines had remained profitable and was rapidly expanding. This trend has continued as well.

In addition, we now see individual large network airlines making progress in getting their costs under control. For example, USAirways has emerged from bankruptcy, and American has thus far avoided it, in part because they have been successful in reducing their costs by restructuring labor costs and overhauling their business plans. Other large network carriers have also progressed with their cost control efforts.

Many issues are now at play—structural issues that emerged before September 11, the aftermath of the September 11 terrorist attacks, the sluggishness of the return of air travel demand, and the war in Iraq. How all of this is resolved will have major consequences for the airline industry and related industries, and, indeed, our economy for many years to come.

To provide context, before getting into more specific details about what is driving the financial plight of much of the industry, an important deregulation development must be briefly discussed. Specifically, two very different types of carriers have evolved—large network carriers and low-cost carriers. Generally speaking the former are pre-deregulation carriers and the latter are new airlines that evolved after deregulation. To a certain extent these two types of airlines serve different types of markets, have different business strategies, and focus on different customers, even when they operate in the same geographic regions.

A basic reason for the emergence of the low-fare airlines is that this was the only effective response to the powerful networks that were quickly built by the pre-deregulation airlines. Low costs allowed the new carriers to charge such low fares that they could profitably serve a demand sector that was mostly unserved by the large network airlines. While these airlines, other than Southwest, struggled for years to establish a competitive toehold, several have now done so. Almost ironically, while the low-cost strategy was initially pursued as a vehicle for coexisting with the larger, dominant network airlines, the success of this strategy now poses a challenge to the continuing viability of the larger airlines unless they too are successful in their own efforts to control costs.

But both types of operation are vital components of our Nation's air transportation system. Low-cost airlines are an increasingly important element of our commercial air travel system. Their substantially lower costs enable them to provide capacity for price sensitive passengers, and to price compete for time sensitive passengers who are otherwise faced with substantially higher prices. But the traditional "major" airlines, through their feeder systems, serve an unmatched variety of markets—including a great many smaller communities that would not be on the aviation map without them. Over the course of many decades our largest airlines

have established critical international franchises as well—links to foreign markets that are essential to trade and economic growth.

The simple truth is that the markets for air travel are best served by airlines pursuing diverse strategies, and just one category or the other is unlikely to adequately and efficiently serve demand. That is why we cannot be cavalier about any part of the industry, and why the Administration is watching developments so closely.

With this background I will now briefly address the various changes and events that have contributed to the situation facing our major airlines today by directing your attention to a series of charts. Chart 1 shows why a long period of record profits for the airline industry abruptly came to an end well before the September 11 terrorist attacks. This chart shows trends both in unit revenues, or operating revenues per available seat mile, known as RASM, and in unit costs, or operating expenses per available seat mile, known CASM. Note that for several years CASM increased very slightly, compared with much larger increases in RASM. These trends portray a period of solid revenue growth and cost control underpinning continual profitable operations, indeed several years of record profits. But the combination of increasing costs beginning in 1999, and declining demand starting in early 2001, turned record profits into losses. Indeed, the decline in industry profitability for the year ended June 30, 2001, compared with a year earlier, was the largest year-over-year decline ever, before September 11. The losses for the year ended June 30, 2001, were not record losses, but that too changed abruptly with the terrorist attacks.

Chart 2 shows system operating profits or losses by quarter for the last 3 calendar years for the large network carriers, and a number of other airlines including a group of low-cost carriers. These carriers account for over 90 percent of the passenger industry. Note first, that these carriers collectively have sustained operating losses approaching $10 billion for each of the past 2 years.[1] Observe, however, that the group of low-fare carriers has continued to earn profits during this same time, and that this is not just attributable to Southwest. Five of the six low-fare carriers earned profits in 2001, and half of them earned profits in 2002, while two of the other three were close to break even. Note next, that the last profitable quarter for the large network carriers was the third quarter of 2000, and also, these carriers continued to suffer sizeable losses throughout 2002. It is especially important to note that these carriers' losses have accelerated since the second quarter, including the third quarter, which is normally their best quarter of the year. Despite the disastrous losses during the last two quarters of 2001, total losses for calendar 2002 approach the same levels. Indeed, in reality 2002 losses were even greater given that these six large network carriers' operations were considerably smaller.

Chart 3 shows systemwide operating margins (operating profit or loss divided by total revenues), and, as just indicated, the negative operating margins of the large network carriers were even greater in 2002 than a year earlier. Note also that this varies greatly from carrier to carrier. During 2001, for every $5 collected by American and United in revenues, they had $6 of costs. You can also see that during the first three quarters in 2002 for which we have final results these tendencies do not change much for either carrier. Finally on this chart, note that in contrast to the double-digit negative operating margins for the large network airlines, the low fare carriers earned very respectable positive operating margins. Indeed, the margins for these carriers in 2001 exceeded those for the network carriers for 2000.

In addition to the financial information the airlines file with the Department every quarter, they also file preliminary data on a monthly basis. While this information is subject to change, we believe it can be relied upon to reveal general tendencies. Our review of this information suggests that the financial trends you have just observed in the quarterly data throughout 2002 are continuing into 2003. Indeed, the results for the large network carriers in January 2003, or 16 months after the September 11 terrorist attacks, are no better than a year earlier, despite the fact that travel demand was still severely depressed.

With this context, please look at Chart 4. This compares weekly traffic, in terms of revenue passenger miles, for Air Transport Association member carriers that provide international service, beginning for the week ended December 15, 2002 with traffic a year earlier. This shows that from mid December 2002, to the end of January 2003, traffic was up slightly over a year earlier. Then note the rather marked downward trends beginning with early February. Next, note the increased rate of decline at the time of the first strikes in the war. This information is broken down into four major traffic categories, and, as would be expected, transatlantic traffic has suffered the greatest decline.

Chart 5 compares daily traffic for the same carriers beginning March 12, 2003 with traffic a year earlier. Initially the trend is up slightly until the Azores Summit.

[1] Fourth quarter 2002 data are preliminary and subject to change.

Traffic then plummets after the 48-hour ultimatum, and again as the war starts. Note that by March 26, traffic is down from about 20 to 25 percent for each category. Subsequently, the year-over-year declines eased up for several days before worsening again for all but the domestic category.

So where does this leave us? Many airlines, including the large network airlines that now provide the bulk of airline service in the United States, have consistently suffered large losses for more than 2 years, they are heavily leveraged, and now, once again, they see airline demand in steep decline for some unknown period. Does this mean that the airline industry as we know it today is doomed to fail? No, but there will be change. Airlines that are in trouble are all working hard at what they must do to survive and eventually return as viable competitors. How quickly and to what extent they recover will depend largely on three factors: how much they are able to reduce their costs, the recovery of travel demand, and the extent to which carriers reduce capacity in light of the now-diminished level of demand.

While my focus here today is the financial state of the airline industry, this painful process affects everyone in the aviation industry: aircraft lessors and investors, aviation vendors, airports and their concessionaries, and—more than anyone else—airline employees. Since September 11, more than 100,000 airline employees have lost their jobs. Just in the past 2 weeks airlines have announced an additional 10,000 layoffs. The aircraft industry has also been hard hit. Of the 7,525 jet aircraft available for service today, 971 are either stored or temporarily inactive.

We are going to get through this. My personal conviction is that when we do, the industry will look a lot like the industry we have today, except that it will be more cost-effective, more competitive, and more robust.

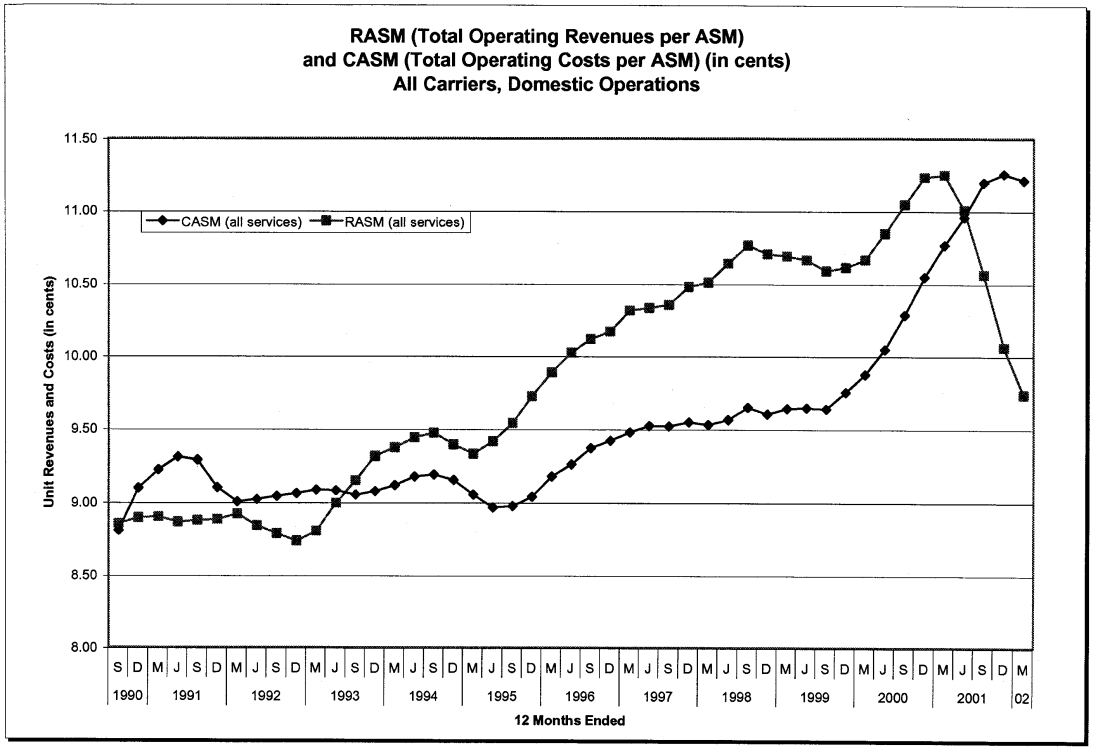
As many of you know, the Administration has recently unveiled its proposal, Centennial of Flight Aviation Authorization Act as a successor of AIR–21, which expires at the end of this fiscal year. A lot of people at FAA and in the Office of the Secretary have spent a lot of time over the past several months developing those proposals, and we are proud of them. They would promote the industry's growth and vitality while retaining safety as our top priority. We plan to reinforce our commitment to safety by making substantial investments in National Airspace System infrastructure and ensuring that our highly trained controller workforce is fully capable of sustaining its high levels of performance over the course of the next reauthorization period and beyond.

Our proposal will also ensure that we are prepared for the demand levels predicted in the FAA's recent industry forecast by continuing to fund airport capacity enhancements at record levels and restructuring Airport Improvement Program formulas and set-asides.

CONCLUSION

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify here today. I look forward to responding to any questions you may have.

CHART 1


RASM (Total Operating Revenues per ASM)
and CASM (Total Operating Costs per ASM) (in cents)
All Carriers, Domestic Operations
CASM (all services)
RASM (all services)
Unit Revenues and Costs (in cents)
11.50
11.00
10.50
10.00
9.50
9.00
8.50
8.00
S D M J S D M J S D M J S D M J S D M J S D M J S D M J S D M J S D M J S D M J S D M J S D M J S D M
1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 02
12 Months Ended

TOTAL OPERATING PROFIT OR LOSS ($millions)
SYSTEM OPERATIONS

		YEAR QUARTER														
		2000				2000	2001				2001	2002				2002
group	CAR2	1	2	3	4	Total	1	2	3	4	Total	1	2	3	4	Total
1	AA/TW	82	485	505	-62	1,010	-121	-694	-1,252	-1,136	-3,202	-732	-702	-1,252		
	CO	32	241	219	95	587	86	102	-200	-329	-342	-230	-147	-13		
	DL	273	577	476	132	1,459	-127	24	-311	-558	-972	-410	-156	-225		
	NW	17	276	365	6	664	-231	-20	-150	-397	-797	-191	-46	12		
	UA	287	652	-30	-168	741	-428	-355	-2,061	-900	-3,743	-706	-535	-699		
	US	-135	161	11	-81	-44	-194	31	-152	-866	-1,181	-369	-176	-182		
1 Total		**556**	**2,392**	**1,547**	**-78**	**4,416**	**-1,016**	**-911**	**-4,124**	**-4,186**	**-10,237**	**-2,638**	**-1,762**	**-2,359**	**-2,967**	**-9,726**
2	AS	-15	9	34	-40	-12	-32	11	16	-61	-65	-42	-3	17		
	HP	12	49	-1	-73	-13	-25	-56	-101	-138	-320	-122	-1	-42		
2 Total		**-3**	**58**	**33**	**-113**	**-25**	**-57**	**-44**	**-84**	**-199**	**-385**	**-163**	**-4**	**-25**	**-92**	**-284**
3	B6	-8	-7	-1	0	-16	9	11	11	5	35	23	28	23		
	F9	10	25	31	15	81	10	11	2	-3	20	6	-4	-5		
	FL	12	32	17	21	81	18	41	2	-5	55	-3	12	8		
	NK	-19	5	-2	1	-15	7	8	2	-6	10	4	0	-6		
	TZ	4	23	19	-27	19	-1	18	9	-111	-85	8	-57	-48		
	WN	155	315	300	250	1,021	210	291	93	37	631	50	189	91		
3 Total		**155**	**393**	**363**	**260**	**1,171**	**252**	**380**	**119**	**-84**	**667**	**88**	**168**	**63**	**80**	**399**
Grand Total		**708**	**2,843**	**1,942**	**69**	**5,563**	**-820**	**-576**	**-4,090**	**-4,469**	**-9,955**	**-2,714**	**-1,598**	**-2,321**	**-2,978**	**-9,611**

Note: Fourth quarter data for some carriers is preliminary and subject ot change. Data for Spirit Airlines has been updated as of late Mar.28.

OPERATING PROFIT MARGINS (OPERATING PROFIT OR LOSS / TOTAL OPERATING REVENUES)
SYSTEM OPERATIONS

		YEAR QUARTER														
		2000				2000	2001				2001	2002				2002
group	CAR2	1	2	3	4	Total	1	2	3	4	Total	1	2	3	4	Total
1	AA/TW	1.6%	8.7%	8.7%	-1.2%	4.7%	-2.3%	-13.5%	-28.1%	-32.4%	-17.5%	-19.2%	-17.1%	-30.3%		
	CO	1.5%	10.1%	9.1%	4.2%	6.4%	3.8%	4.5%	-10.3%	-21.8%	-4.3%	-13.3%	-7.6%	-0.7%		
	DL	7.6%	14.5%	11.8%	3.6%	9.5%	-3.6%	0.6%	-9.5%	-20.9%	-7.4%	-14.0%	-4.8%	-7.1%		
	NW	0.7%	9.8%	11.9%	0.2%	6.1%	-9.2%	-0.7%	-5.9%	-20.6%	-8.3%	-9.2%	-2.0%	0.5%		
	UA	6.3%	12.8%	-0.6%	-3.5%	3.8%	-9.7%	-7.6%	-50.3%	-30.8%	-23.3%	-22.1%	-14.4%	-19.2%		
	US	-6.6%	6.7%	0.4%	-3.4%	-0.5%	-8.7%	1.3%	-7.7%	-55.7%	-14.3%	-21.8%	-9.3%	-10.5%		
1 Total		**2.8%**	**10.8%**	**6.8%**	**-0.4%**	**5.2%**	**-5.0%**	**-4.4%**	**-22.6%**	**-29.7%**	**-13.9%**	**-17.1%**	**-10.3%**	**-13.8%**	**-18.7%**	**-14.8%**
2	AS	-3.8%	1.9%	6.9%	-9.2%	-0.7%	-7.5%	2.4%	3.4%	-15.9%	-3.7%	-10.1%	-0.7%	3.4%		
	HP	2.2%	8.1%	-0.2%	-12.9%	-0.6%	-4.4%	-9.7%	-20.9%	-35.0%	-15.7%	-26.6%	-0.2%	-8.2%		
2 Total		**-0.3%**	**5.5%**	**3.1%**	**-11.3%**	**-0.6%**	**-5.7%**	**-4.2%**	**-8.7%**	**-25.6%**	**-10.1%**	**-18.8%**	**-0.4%**	**-2.4%**	**-9.7%**	**-7.4%**
3	B6	-128.1%	-41.2%	-3.9%	0.7%	-15.2%	13.5%	14.1%	13.7%	4.7%	11.1%	17.5%	18.6%	13.7%		
	F9	11.3%	22.5%	23.3%	12.8%	18.0%	8.8%	9.2%	1.7%	-3.6%	4.5%	5.7%	-3.4%	-3.9%		
	FL	8.9%	19.7%	10.6%	12.1%	13.0%	10.3%	19.7%	1.3%	-3.8%	8.3%	-1.8%	6.4%	4.2%		
	NK	-23.7%	6.8%	-3.1%	1.1%	-4.7%	6.7%	7.5%	1.7%	-8.2%	2.6%	3.9%	-0.2%	-6.1%		
	TZ	1.5%	7.5%	5.7%	-10.1%	1.6%	-0.2%	5.6%	3.1%	-49.7%	-7.3%	2.6%	-19.6%	-16.6%		
	WN	12.5%	21.5%	20.3%	17.1%	18.1%	14.7%	18.7%	7.0%	3.0%	11.4%	3.9%	12.8%	6.6%		
3 Total		**8.4%**	**18.4%**	**16.5%**	**12.1%**	**14.1%**	**11.5%**	**15.9%**	**5.7%**	**-4.5%**	**7.8%**	**4.3%**	**7.3%**	**2.8%**	**3.5%**	**4.5%**
Grand Total		**3.1%**	**11.2%**	**7.5%**	**0.3%**	**5.7%**	**-3.5%**	**-2.4%**	**-19.2%**	**-26.7%**	**-11.6%**	**-14.8%**	**-7.8%**	**-11.4%**	**-15.6%**	**-12.3%**

Note: Fourth quarter data for some carriers is preliminary and subject to change. Data for Spirit Airlines has been updatyed as of late Mar. 28.

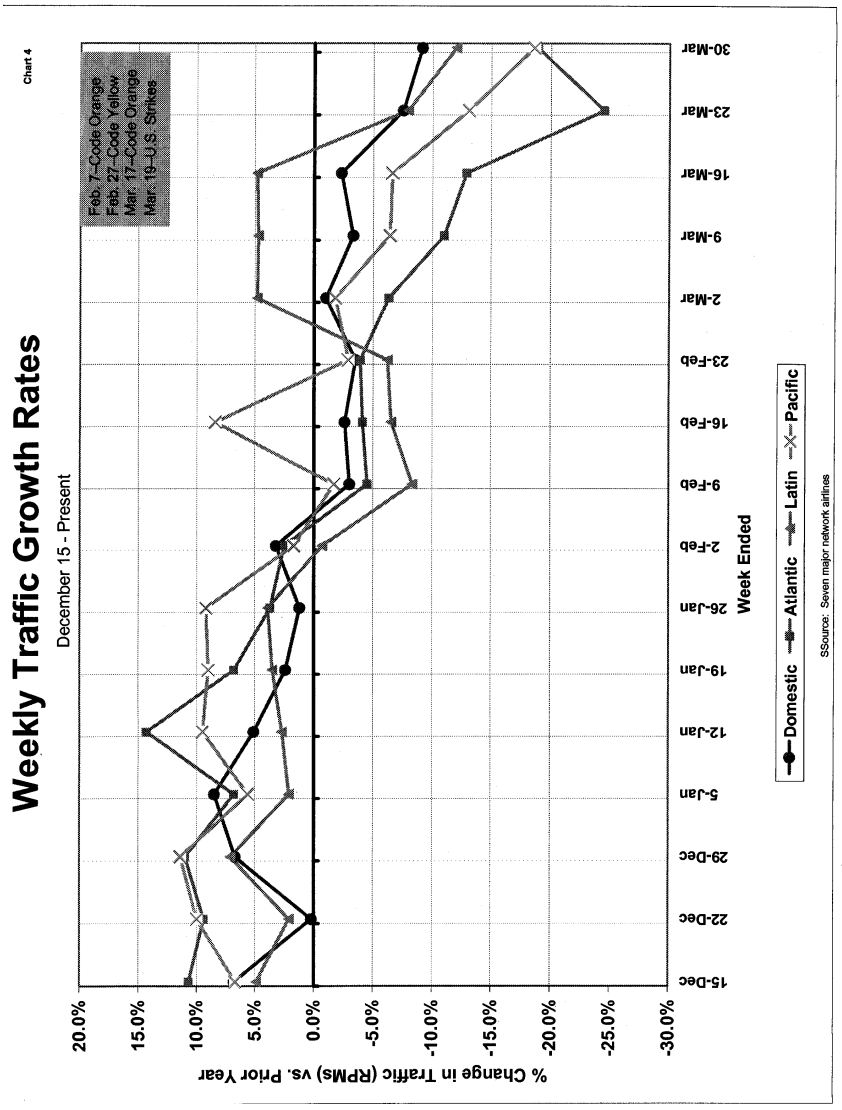
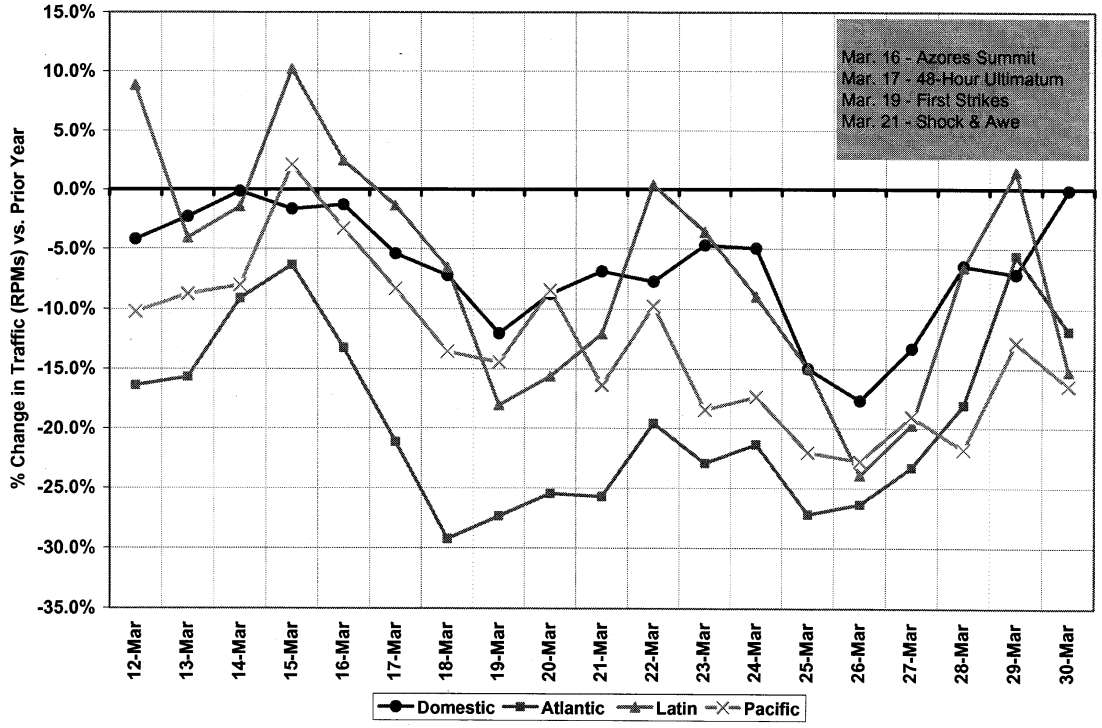


Chart 4
Weekly Traffic Growth Rates
December 15 - Present
Feb. 7–Code Orange
Feb. 27–Code Yellow
Mar. 17–Code Orange
Mar. 19–U.S. Strikes
% Change in Traffic (RPMs) vs. Prior Year
20.0%
15.0%
10.0%
5.0%
0.0%
-5.0%
-10.0%
-15.0%
-20.0%
-25.0%
-30.0%
15-Dec
22-Dec
29-Dec
5-Jan
12-Jan
19-Jan
26-Jan
2-Feb
9-Feb
16-Feb
23-Feb
2-Mar
9-Mar
16-Mar
23-Mar
30-Mar
Week Ended
Domestic
Atlantic
Latin
Pacific
SSource: Seven major network airlines

Chart 5

Daily Traffic Growth Rates

March 12 - Present



Source: Seven major network airlines

RELIEF TO THE AIRLINE INDUSTRY

Senator SHELBY. Secretary Shane, as you know, the committee reported a Supplemental Appropriations Act yesterday that included provisions to provide some relief and assistance to the aviation industry for relief to the airlines. Do you believe it is better to lower carrier costs in the form of a temporary suspension of security fees prospectively for a period of time or to reimburse carriers for security fees that they have already paid to the government?

Mr. SHANE. Well, either formulation will deliver relief to the industry and I am not sure the industry itself is of a view about which is preferable. I would evaluate those two scenarios essentially in terms of ease of administration.

The most important lesson we took from the compensation program that Congress enacted immediately after 9/11 was that the process of evaluating claims, if you are creating a system in which airlines are required to document costs, document claims in a complicated way, and then the Department of Transportation necessarily has to validate all of those claims, the amount of time that we simply have to expend in order to validate the claims is such that it is inconsistent with what we are trying to do with the program, which is deliver the relief in real-time.

The reason we have to do it is that my friend, Ken Mead, right here will have something to say about it if we are not vigilant in the way we evaluate those claims.

Senator SHELBY. He should have something to say about it.

Mr. SHANE. That is right. That is why I think if we are looking at various forms of assistance to the industry right now, the Department of Transportation would strongly favor a system in which we simply either reimburse or forgive fees that the industry incurs. It does not require subjective evaluation of whether these are really the amounts that we should be paying. We know what those amounts are. They are written down someplace. We just write checks.

REIMBURSEMENT TO THE CARRIERS

Senator SHELBY. Let me follow up on that.

One of my concerns with the reimbursement to the carriers is that the payment would include the fees that are paid by the passengers. I do not know why we would levy a fee first on the flying public and then pass that directly to the airlines.

Mr. SHANE. The airlines, in this environment, maintain that they are not able to pass that fee along to the carriers, in fact, that there is no market power whatsoever in this market, and that, in fact, they are absorbing that fee. It is supposed to be passed along and in a normal environment you would expect it to be passed along and tacked onto the ticket.

The fact is the prices in the market right now are what the market sets and there is no incremental amount that you could say is, in fact, passing on a fee to the passengers.

OPERATIONAL EVOLUTION PLAN

Senator SHELBY. The FAA has a plan for enhancing capacity called the Operational Evolution Plan or the OEP. Since the OEP was first published, the aviation industry has been hard-hit by the economic downturn of 9/11, increased security costs, and rising fuel prices. I want to address this question to you, Madame Administrator.

With the industry in such upheaval, what changes are being made to the OEP to adjust to the new realities in airline operations and the market environment?

Ms. BLAKEY. It is a good question because certainly there is a dynamic there that I think we have to respond to in real-time. For an organization like the FAA that depends tremendously on consultation with the industry and the research community to construct a solid plan, this is certainly calling us to really step up real-time on this.

We just issued a new version of OEP, 5.0, which does stay the course for a 10-year period to get 31 percent additional capacity at the end of 10 years. It is a good plan. It is one that there is a remarkable degree of consensus in the industry and in the affected communities that it makes sense.

That said, what I have asked that we do is develop a very intensive approach. We call it the skunk works, to look at the OEP and say okay, what could we put on the fast-track here that number one, will not burden the industry; number two, is develop technology; and number three, could be implemented in the next 1, 3, 5 years at the outside. Not the 10-year horizon. Let us see what we can do in terms of really fast-tracking some of this.

So far the staff has come up with some very interesting, and I think productive, avenues. We are going to vet them in the next month or 2 with the industry and with others before taking this out. But I think this is going to yield some more immediate results, if you will, from that standpoint.

Senator SHELBY. Mr. Shane, the Aerospace Commission recommended making the transformation of the U.S. Air Traffic Management System a national priority. What confidence do you have that the FAA and the OST are making the necessary changes to the OEP, as warranted by the call to action by the Aerospace Commission?

Mr. SHANE. Thank you, Mr. Chairman.

I have great confidence in that. The reason I have such confidence is that Administrator Blakey and I have talked about that issue dating back to before the Aerospace Commission actually issued that report. The Administrator is absolutely committed to giving life to some of the vision in the report. We have spoken to Secretary Mineta about it and the Deputy Secretary, Michael Jackson, as well.

I think in the not-too-distant future we will probably have a more concrete announcement for you. But at this point, there is not any question that we are on a path to realizing that.

RISING OPERATING COSTS

Senator SHELBY. A major cost driver of FAA's rising operating costs has been salary increases from collective bargaining agreements negotiated under FAA's personnel reform authority. Mr. Mead's prepared statement indicates that controller salaries have increased by 47 percent—47 percent since 1998.

Can you compare the increase in salary for air traffic controllers from 1998 through 2003 to other work forces inside FAA, as well as other Federal Agencies?

Also, what can you tell us about overtime costs and other cost drivers that are due to memorandums and MOUs related to controller contracts?

Ms. BLAKEY. The Inspector General has focused on this issue. And in fact, is undertaking an audit on just that issue right now. This goes to the issue of a contract that was negotiated in 1998 which did substantially increase the compensation for controllers.

As time has gone on there have also been a number of additional, if you will, side agreements, these memoranda of understanding which, in some cases, do add on costs in terms of the way the system is running. There are about 1,500 of these, many of which are perfectly fine and address operational work rules et cetera.

But there are some that without doubt add to the cost of this contract substantially, as well as ones that really do infringe on the rights of management to deal flexibly with the demands in traffic and in the kind of management that the system needs from an efficiency standpoint.

We are very committed to working with NATCA to address those issues. This is something that we have already notified the union that we do have a number of those that have been pointed out by the Inspector General that fall under the category I just discussed, that we need to sit down at the table and review and come to a more efficient way of operating from the standpoint of the taxpayer's money.

Senator SHELBY. Mr. Mead, do you want to comment on that?

Mr. MEAD. I appreciate Administrator Blakey's movement to get their hands around this.

One thing that was pretty alarming to us was that nobody knew how many of these deals or memoranda understanding existed. There was no inventory. In fact, as part of our audit effort we probably started developing the inventory. And they have very large financial impacts.

As Administrator Blakey says, a lot of them are legitimate and are needed, but we really ought to know what the cost impact of them is.

RELIEF PACKAGE FOR AVIATION INDUSTRY

Senator SHELBY. Senator Murray.

Senator MURRAY. Thank you, very much, Mr. Chairman. Mr. Shane, thank you for your testimony.

I just want to go back to this again because we are trying to work through this. The Senate had a $3.5 billion aviation package. The House has $3.2 billion. And again, as we noted, Secretary Mineta said there is a huge gulf here.

I just wanted to see if you would help us pin this down a little better and tell us precisely what the structure of a relief package the Administration will support and what amount? If you could tell us, we would really appreciate it.

Mr. SHANE. I really have not been involved personally in the negotiations that have been taking place. I am aware of them. And I would simply ask that I be excused from trying to give you an amount, because I really did not come authorized to talk amount, and it would be interfering with, I think, a conversation that is going on that I am not privy to.

The structural issue is, as I said in response to the Chairman's questions, that we would emphasize the importance of ease of administration. Let us find a set of security fees that we can quantify easily and that we can either forgive or reimburse on day one, simply because those numbers are readily available. If we go beyond that and get into a variety of imponderables and airlines then begin putting claim documents together—first we have to figure out a form. They will have to fill out the form, and then we have to evaluate the form. Weeks and months can go by before they will see any money from a process like that. And that is inconsistent with what they need right now in our judgment.

So we would urge whatever the amount, which is going to be the product of a negotiation, I expect, whatever the amount, it should be an amount that is delivered in a very transparent and easily administered form.

Senator MURRAY. So you have not heard any specific number mentioned by the Administration whatsoever?

Mr. SHANE. I am not—well, I have heard a lot of numbers but I really do not know precisely, because honestly it is taking place way above my pay grade, where the Administration is at the moment.

Senator MURRAY. Specifically let me ask you, as part of the amendment we passed yesterday, we put in funding for expanding unemployment insurance for laid-off workers. Do you find that to be a reasonable part of the package?

Mr. SHANE. Well, I am an undersecretary of transportation, not an undersecretary of labor and Department of Labor really would be the proper agency to comment on that.

I would just say generally that typically we extend unemployment insurance benefits in times when unemployment across the country is 10 percent or more. There have been two extensions, as I understand it, of unemployment benefits thus far in an environment in which the unemployment rate was in the neighborhood of 5 to 6 percent.

So my guess is the Administration will say it is inappropriate to extend those unemployment benefits yet again. It would be an extraordinary thing to do.

Senator MURRAY. This is for aviation workers and I understand they have had the triple whammy. They had September 11th, they have had the downturn in the economy. And now, with the Iraq war, we have had 10,000 lay-offs from aviation and related industries just since the war started. This is not something somebody did to make this happen. These are country-wide, nationwide,

worldwide issues that have impacted these employees. Certainly the Administration would have sympathy for that.

Mr. SHANE. I think the Administration has enormous sympathy and there is no question that the workers have taken it on the chin in a way that we have not seen before. There are a whole variety of programs that are available to the workers including national emergency grants and training programs and reemployment programs.

Again, I am way out of my depth in talking about the Labor Department's programs and I really do not want to get much further into it. But I have no reason to think that the Administration is going to be supportive of yet another extension, even for a particular sector.

There is a fairness element. Industries across the board are suffering as a result of the environment that we are living in today. A lot of it can be attributed to the same causes that the airline industry's problems are attributable to. It is just difficult to explain to people in another sector why it is that you have chosen this sector to provide special benefits to.

POST-9/11 IMPACT ON AVIATION INDUSTRY

Senator MURRAY. They have had a huge impact over the past 2½ years, or 1½ since September 11th.

What about the airlines? We put incredible pressure on them in terms of safety and security since September 11th, and certainly our airports as well. Massive requirements that we have put on top of them. Do you not think that has some kind of impact on their ability to avoid bankruptcy?

Mr. SHANE. There is no question that the Government has picked up a tremendous amount of the cost of the security that we have laid on. We have taken over all of the airport security. Those are all Federal workers now. They used to be airline employees.

There is a tremendous amount that has been done. There has been the $15 billion from 9/11. The question now is whether or not we are going to start finding ways of gifting the industry with so much more assistance that we take them off the track that they are on, leading to a perpetuation rather than a solution of the problem. And that is a genuine concern.

Senator MURRAY. But would you not agree that we have required a lot of our airports and our airlines in terms of security that has added a burden at a time when they are still struggling because of the economy?

Mr. SHANE. Yes, and we are also requiring a lot of every other sector of the transportation industry and I am not aware that we have picked up any portion of the costs that other transportation sectors are being required to bear or will be required to bear.

Senator MURRAY. I would just argue that the aviation industry has, in fact, really been hit because obviously September 11th had an impact on people's willingness to travel by air. And certainly that has not eased in the last months and certainly not since the war in Iraq started, would you not agree?

Mr. SHANE. It eased and then it went down again. Yes, the war in Iraq has been obviously a repeat in terms of the actual adverse impact on demand.

But again, without trying to suggest that we are out of the woods in any way, or to suggest that it is inappropriate to think about some additional assistance. That is not the position of the Administration. What we are saying is that it is important that we calibrate that additional assistance in a way that does not compromise what the industry must do now if we are to have a viable air transportation system going forward.

SUPPLEMENTAL APPROPRIATIONS ACT

Senator MURRAY. Let me just ask you, do you foresee a scenario where the President would veto the supplemental if we do add $3 plus billion for aviation?

Mr. SHANE. I have not had that conversation with anybody in the White House. I have no answer for that.

Senator MURRAY. I know you are not going to let me pin you down, but there is a rumor swirling that the Administration has drawn a line in the sand at $900 million. That is about a quarter of the size that the House and Senate versions both have in them. Have you heard that figure and do you think that figure includes any help for workers?

Mr. SHANE. Somebody reported to me that that figure was in the press, but I had not heard it anywhere else. So I have no way of knowing whether that has any validity whatsoever as a negotiation position or an Administration position.

Senator MURRAY. So you have heard nothing about what is in any kind of formal talks from the Administration, whether it includes work for employees, whether it includes airports, what kind of structure for the airlines? You have heard nothing?

Mr. SHANE. I have heard that we have circled around the idea of a very limited, targeted form of assistance, along the lines that I was suggesting which is related specifically to the security fees that are paid by passengers now and paid by the industry.

That is as much as I have heard. I do not know more than that. I do not know what would be acceptable at the end of the day to the Administration. I do know that it would be substantially less than the amount voted in either house of Congress yesterday.

Senator MURRAY. I am sorry, it will be substantially less than?

Mr. SHANE. An amount acceptable to the Administration would have to be substantially less than was voted in either house of Congress yesterday. That was what Secretary Mineta was saying last night.

Senator MURRAY. Would it include anything for airports?

Mr. SHANE. No, I do not believe that we had anything in mind for airports. Again, I do not mean to be cute here. I am just getting a little bit beyond my depth because this negotiation has been taking place, I believe, between White House staff members and members of Congress. And I have not been privy to those personally. In recent days I am not even sure any of us at the Department have been privy to them.

Senator MURRAY. I will hold on my other questions and let other members of the committee respond and then come back to Ms. Blakey. Senator Bennett?

STATEMENT OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you. This is an interesting picture that you have painted for us here this morning. And as I go through it, I ask myself how much can the Government do about it. Because many of the things that I see that ought to be done are things that probably ought to be done by the airlines themselves.

First, let me just make a few comments and then I will engage in a dialogue here. You referred to Southwest and Jet Blue as the low-cost carriers. You are aware that Jet Blue's fares are higher than their competitions? Were you aware of that?

To fly from New York City to Fort Lauderdale on Jet Blue is $36 more than to fly on their competitor. And the reason is that experience on Jet Blue is $36 better than the experience on their competitors. People who fly Jet Blue become tremendously loyal, almost fierce defenders of the Jet Blue experience and say we want to fly Jet Blue wherever you go.

I think there is a lesson there that I do not know what Government can do about. But when I was in business I focused tremendously on consumer satisfaction.

We now have a circumstance where consumers are almost driven away from air travel by the experience. Jet Blue goes out of their way to do everything they can to create a worthwhile experience and they can charge higher fares, thus saying to us that air travel is not a commodity. There are alternatives. We think of commodities, we think of competition and commodity, it is solely on the basis of price. There is competition on the basis of consumer satisfaction.

Again, if you could think of something the Government could do to get airlines to try to make the experience more satisfactory, and thereby people would be willing to pay a little more to have the experience, instead of going there only when they have no other alternative.

One thing we could do which probably does not fall in your department is to reduce the hassle factor around security. I am as concerned as anybody about security but if I were running the airline industry as a whole as a business, I would certainly do something about the experience you get with TSA.

Now TSA, to its credit, is a better experience than it used to be following September 11th in that period when it was still contracted out to others. The TSA people are substantially more professional and handle that experience with a better sense of consumer satisfaction than you used to get.

I remember when I was in the Department of Transportation when hijackings began, we talked about—forbidden word—profiling as a way to deal with hijacking. Now it is not politically correct to even use the word unless you are using it in speech to denounce it.

But airlines know their customers. Do a background check on a frequent-flier and discover that that frequent-flier is not, nor has ever been, nor ever will be connected with a terrorist organization. Cannot that frequent-flier, thus checked out, and not picked on the basis of so many miles, but checked out with an actual profile, be given a pass?

We senators come into the Capitol without having to go through a security check because the Capitol Police knows who we are. I am not suggesting that we get to the point where everybody has to be carefully identified, but would it not help the business flier to want to get back on the airplane if he or she knew, properly profiled and in an identity bank and even with biometrics—you put your hand on a screen, so as you go through they know that is who you are you get to go by without having to strip all the way down to taking off all your shoes and the kinds of things we go through now?

BUSINESS TRAVELERS

We have got to get the business traveler back on the airplane. If you are making a business decision and you are going to go downtown from Washington to New York City, you say well I have got to be at Reagan at least 1 hour before they takeoff. And it is going to take me 20 minutes to get from my office to Reagan. So this is 1 hour, then a little extra, 1½ hours before I get on the airplane. And then it takes me 1 hour to fly to LaGuardia, so that is 2½ hours. And then, depending on the time of day, it is going to take me a half hour in good times and 1 hour in bad times to get from LaGuardia to downtown New York. Very, very strong incentive to be on the Metroliner.

I happen to think that is a good idea. I would like to see more people on the Metroliner. But that same phenomenon is what is driving people in other markets to the highways. That is the competition for the airline, not the train. It is the highway. Testimony shows the highway is less safe, more congested. We have to appropriate money for highways to deal with the increased traffic there.

How do we get people back on the airplane? We make it a better experience and, aside from dealing with that TSA thing, I do not know quite what Government can do in this area.

I just want you to think about that and see if you can come up with any.

Now, moving quickly, and I apologize to my colleagues for taking so much time. But in this morning's Wall Street Journal, a new airline policy, kill United. Did any of you read that? If not, read it and I would be interested in your response.

Again, when I was at the Department of Transportation, we had to deal with serious problems in the railroad industry, and that is referred to in this piece, where we dealt with the Penn Central bankruptcy. I remember all of the ins and outs about the Penn Central bankruptcy. It was an important part of my tenure there.

Now we are going through bankruptcy in the airline industry and this is a suggestion based on a railroad experience. When Conrail was broken up and Conrail's routes were given to the two competitors, and they are saying United should be broken up and their facilities given to competitors to reduce capacity in a way that is rational.

With that rant on those two areas, do you have any comments or suggestion as to what we can do, looking at it not from the standpoint of legislation or budget, but from the standpoint of overall approach to this tremendous problem that you have presented to us here this morning?

Mr. SHANE. First, Senator, let me just say I remember fondly your days as an Assistant Secretary of Transportation. You probably do not remember, but we were colleagues back then.

Senator BENNETT. You stayed in the industry.

Mr. SHANE. I have been in and out more times than I care to remind myself of but I am in at the moment.

TSA

Let me just say, in response to the hassle factor, the most important thing you said is that it is much reduced. That TSA, which is as you noted no longer part of the Department of Transportation but now part of the Department of Homeland Security, has performed heroically in the course of the last year.

There is no question that there were enormous growing pains and that the hassle factor became a buzz in the business community. Nobody would fly because of all the reasons that you cited.

I do not see that today. I am speaking anecdotally, I know, but the fact is that my impression is average waits are about what they were prior to 9/11. TSA and its very professional cadre of screeners have done an enormous job of bringing that wait time down, so that you really do not have to plan very differently now for an airplane ride than you did prior to 9/11. And enormous credit goes to the folks at TSA who have made that happen.

There is a profiling system that TSA is working on. It is called CAPPS–2. You have undoubtedly read about it and it does embrace much of the vision that you have for making the process easier to create greater confidence in our knowledge of who, in fact, is boarding an airplane. I have no doubt that, as time passes, we will have a much improved system for looking at passengers and not having to put everybody through the wringer on a random basis.

AIRLINE INDUSTRY

As to how you get people back on the airplane, I think the Congress should be very proud of what it did in 1978 when it deregulated the industry. We have been to hell and back in this industry any number of times since that time but Congress has always stayed the course.

I am old enough to remember in the early 1980s when the industry was here, in Congress, talking about worst ever losses in the industry since the beginning of time. The same claims were made in the beginning of the 1990s. And we had meetings with the industry about what form of assistance might be appropriate. Serious consideration was given to that. There never was any assistance back then.

I do not pretend that any of that was anything like what we have going on today. This is a world apart from even those long dark nights of the soul that the industry went through.

But we have never veered from the conviction that we have as a country that the best solution for this industry is to allow the market to work. When we are prepared to go forward and provide some assistance in the current environment—and I am repeating myself here, I realize—we have to be mindful of the importance of letting the industry make the changes it has to make if, in fact, it is going to be viable in the long-term.

When you referred to an article in the Wall Street Journal about a putative policy of killing United and breaking it up, that to me is mindless. The first thing that would happen if you actually tried to kill United is that you would vitiate all the good work that is happening now. By taking that additional capacity out, you take the pressure off everybody else to continue to reduce costs the way they are doing right now.

That is not a good position. United going away is not a good solution for this industry. And it would be a horrible solution, of course, for the thousands and thousands of people who work for United and who are served by United. So that has no place. I know you did not suggest that it would have any place, but it has no place in Government policy, as we sit here today.

Senator BENNETT. It gave you the opportunity to give you the speech you have just given.

Mr. SHANE. Those are some random comments that I would have on your remarks.

Mr. MEAD. I have two quick comments.

On what you were referring to about doing a background check on people like the U.S. Senators, you can come in here and you do not have to go through a big hassle. And you said that was because they know who you are and know about you.

TSA, which is now at Department of Homeland Security, is working on what they call a smart card that, I think, is probably about a year away. And one of the key questions is going to be how much information do we want to know about you before you get a smart card? Do we want to know about your income taxes? Do we want to know about your travel? Do we want to know who your friends are? And that is very controversial.

As Jeff said, also, the profiling, I forget what they call it, but Lockheed Martin has a contract right now. It was issued just before TSA went over to DHS. So I expect there will be movement on that front.

On the price issue. I would like to come back to that. Probably in late 2000, early 2001, the bottom was falling out of the business market on the airlines. And that was because the airlines had taken things too far in what they were charging the business traveler. And one of the reasons they had taken things too far was because people could afford it. Dotcoms out on the West Coast, I think if you spoke to UAL, they would tell you that dotcom travelers provided a lot of their business travel. But dotcoms, the bottom fell out of that market.

So I think what is happening now in the industry is they are trying to reattract business travelers, but they are also trying to do so at a substantially lower fare. And I suspect, sir, in time that is going to work.

CAPACITY BUILDING

Ms. BLAKEY. I would like to add one other point, too, because as Ken is referring to 2000 and what happened there. You asked what the Government can do. And I think very importantly we have to remember that part of the phenomena of 2000 were incredible delays. The summer of 2000 was a horrific time as a business trav-

eler or as a traveler period. And I think it did put a damper on things.

What we can do is increase the capacity in the system. And as I say, staying the course on that right now, in terms of our investment in this, I think is critically important because it really is an appropriate role for Government.

Senator BENNETT. Thank you very much. Senator Dorgan?

Senator DORGAN. Thank you very much.

Let me make a couple of observations and then ask a couple of questions. First of all, Mr. Shane, you indicated that we should let the market work. Let me say I am not someone who looks at the airlines and thinks they have done nothing wrong. I am not a big fan of the pricing schemes. You can pay twice as much to go half as far if you want to go to North Dakota versus Los Angeles from D.C. So I have plenty of irritation about a number of things.

But I must say that it is not a market system that works when an entire industry is shut down from a terrorist attack. Shut down, every asset ordered to be grounded immediately. And the airplanes themselves were used as the missiles, loaded with fuel, for the attack itself. And the picture is shown on television and all of those potential fliers are watching these hijacked airplanes being used to destroy the passengers, and being used to topple the skyscrapers.

There is no market system with respect to how people and potential passengers react to that.

In addition, as we went into that September 11th terrorist attack, we had a recession prior to it and a sputtering economy and the economy still sputters. There is really nothing market oriented about fuel prices and the airline industry has a heavy burden with fuel prices and fuel prices have spiked up because of the uncertainty of war over months and months and months and months. There is certainly nothing market oriented about war and what it does to people's interest in flying and concern about flying.

There is a whole series of things that have converged at the same intersection at the same time. And we can simply say let us ignore this and let the market system work and behave in that manner. But the fact is our economy will pay a heavy, heavy price if those who counsel that while the tent collapses we should just be interested in watching and observe how interesting it is prevail. If they win, if that is the mindset, in my judgment this economy will pay a heavy price.

Mr. Mead, you mentioned rural areas. We are pretty familiar with the price that is paid for dislocation and for discontinuance of service. We are pretty familiar with people that talk about the market system from their enclaves in big cities. But I must say, this is an industry that is essential to this country's economy. It is in bigger trouble than most anybody knows. We may see all of the major players being in bankruptcy, some of them never coming out. The question is do we do something or do we do nothing but observe and talk about how interesting it is?

ADMINISTRATION'S REPRESENTATIVE

Mr. Shane, I voted for you and I said in the Commerce Committee when you appeared before us, I think you have great cre-

dentials. I am impressed with your background and was pleased to vote for your nomination.

But frankly, I do not know why they sent you to this particular hearing which, I was told, was a hearing to talk about the financial challenges facing the aviation industry. My colleague, Senator Murray and certainly I, having been in the discussion yesterday in the Appropriations Committee about the issue of what we should do, what kind of financial package we might want to construct.

And you say well, I am not involved in all of that. And I really cannot respond to it. I do not understand, maybe you were not the one to come to testify on behalf of the Administration, but somebody should be here to tell us what the Administration thinks. What are they prepared to accept? What are they prepared to reject? What do they think we ought to do?

So with that as a prelude, let me just ask the question, Mr. Shane. And I do not mean this in a personal way to you. But you were responding repeatedly to Senator Murray, "Look, I am not involved. I do not know."

Frankly, this hearing, it seems to me, needs to be represented by someone in the Administration that says here is what we think we ought to do at this point. And we might disagree with that and we can have a discussion about it, but we need somebody to say what the Administration's plan is and what they will accept? Can you respond to that?

Mr. SHANE. I think you do need somebody who can respond to those questions. Whether a hearing of this sort is the appropriate forum for having that discussion, or whether there is some more effective forum where you can have that discussion is an open question in my mind.

I was invited to come here and testify and I showed up and the original billing was that we were going to be talking about the FAA budget.

Senator DORGAN. Then we have a different understanding because my heading on this says it was to be a hearing on aviation safety and security and financial challenges facing the industry.

Mr. SHANE. That is correct, and we did learn that well in advance of the hearing. I am not faulting the committee for not telling us what the hearing was going to be about, far be it from me. But we did not know, when we began planning for the hearing, that there would be votes in both houses yesterday. We could not respond that quickly for purposes of this hearing with that sort of information.

GOVERNMENT INTERVENTION

If I could only add one more point, Senator, what you said about the market not working when there was a terrorist attack on the United States, I do not disagree with anything you said. Of course, the market was not working then and we had a compensation program put in place and we created an Air Transportation Stabilization Board because of that. And we had a whole program of assistance to the airline industry at that time. And I agree with you that a war obviously compromises the effectiveness of market forces.

No question about that. We are not arguing about whether there should or should not be assistance. We are just arguing about how

much is consistent with the ideal of a restructuring of this industry for the future. That is the only issue.

Senator DORGAN. But you know, what I observe is folks in the Administration just watching all of this. I do not see that the Administration has developed an aggressive, robust plan.

And frankly, while Senator Murray is trying to apply a patch to this—and I support that, and I think she did a remarkable job yesterday in the Appropriations Committee—I frankly think it is not enough. I know what she is doing. She is trying to do the best she can to get something put in this supplemental bill, and she did that yesterday to add to what was in the bill.

But frankly, I think if we do not think in a bit longer term here with respect to this industry about the consequences of having a substantial portion of it just completely collapse, I think we do this country a great disservice.

And the question is, is that sort of thing going on in the Administration? If so, where? Who is involved? And who can we call up here to talk to about it?

Mr. SHANE. Yes, it is going on in the Administration. If you are talking about the in extremis situation where we are looking at what you might even consider to be a disorderly liquidation of a number of airlines, yes, we are considering the ramifications of that and attempting to plan for it.

Senator DORGAN. What is the worst case that you see? You talk about the disorderly dissolution.

Mr. SHANE. Well, a worst case scenario is probably something we should not discuss in an open hearing, to be quite honest with you. We are talking about a variety of scenarios that I think none of us wants to think about out loud. And I would be happy to come and visit you in your office and talk about that at greater length.

But to suggest that the Administration is not focused on those issues as a major priority would be a complete injustice. We do not go into all of that in great detail in public fora like this, but plenty is going on.

The main point, however, is that there is a process happening within the industry that does appear to be producing some success. And the USAirways success story is a prime example. And the Congress can take credit for that. You set up the Air Transportation Stabilization Board (ATSB). They qualified for a $900 million loan guarantee but only if they made certain cost savings in the structure of their company, which they then did.

So the ATSB created the incentive, and the Congress also created the incentive for USAirways to do what it did. And USAirways now has probably a very long lease on life. We can all be proud of that.

Those are the kinds of things that we support. There was never any argument about whether we should do the ATSB program.

Senator DORGAN. Let me just say, in response to my colleague Senator Bennett, who I have great regard for, I think there are some examples of successes. In fact, there are a couple of carriers that are, at the moment, profitable. But in most cases, those successes are point-to-point carriers that have picked certain explicit markets and said those are the markets that we are going to serve, and only those markets because those are the markets in which we think we can make some profit.

Carriers that have a broader reach and serve some smaller areas react kind of viscerally to this question of the market system. I think the market system is really, really wonderful, I mean really terrific. The market system, however, needs a referee from time to time.

And so, with respect to aviation and commercial airline service specifically, I am very concerned that we maintain a network of providers and that we not sit back and say let us allow dissolution to occur, despite the fact that we have had an intersection of the most unusual events perhaps in a century, the convergence of severe economic stress, a war, fuel prices ratcheting way up, and a terrorist attack using airplanes. We have not seen that since we began flying with a network of air carriers.

That is what I think Senator Murray was talking about yesterday and it is my great concern. I do not think this industry is going to come out of this whole or in any way in a manner that serves all of our country, unless we develop a strategy. Some call it industrial policy. Well, maybe it is. But nonetheless, a strategy of some sort that says this is a very serious, unique problem and we need to address it.

That is why I believe Senator Murray's amendment, and Senator Stevens' as well, is a start. But I think it is short of perhaps what we are going to need to do in a very aggressive way in the future.

Let me just conclude by saying I had intended to ask questions of Administrator Blakey, and thanks for your service down there, and I will send some questions in writing, if you do not mind.

Ms. BLAKEY. I would be delighted.

Senator DORGAN. Mr. Mead, thanks for your continued work. You have appeared before not only this committee, but the Commerce Committee, and I think your work has been extraordinarily helpful to us.

Mr. Shane, again, I did not mean it in a pejorative way. Thanks for coming down. But I really think we need to know a lot about what is being done and what is being considered in the Administration because there has to be a partnership in terms of how we address these issues.

Mr. SHANE. Senator, thank you for your vote.

Senator DORGAN. For confirmation?

Mr. SHANE. Yes.

Senator DORGAN. I would still vote that way.

ADMINISTRATION'S POSITION ON AIRLINE AID

Senator MURRAY. Mr. Chairman, can I just follow up on Senator Dorgan, just to ask Mr. Shane, and it is frustrating because we hear Secretary Mineta in the papers say that we are far apart. But unless you talk to us and tell us what your plan is and what you think is reasonable, it is hard for us to know where to go.

My question, just following up on Senator Dorgan, is you had talked about the Administration negotiating. I just want to know who they are negotiating with. The Senate Democrats added $700 million yesterday. No one is talking to us. Are they talking to someone representing the unemployed workers? Are they talking to the airports? Are they just talking to the airlines? Or are they just talking to themselves?

Mr. SHANE. I thought they were talking to congressional leadership and I cannot be more specific than that. I thought it was being done in White House Legislative Affairs and in the normal way in which——

Senator MURRAY. So you know, if you could pass it back to them, we are not hearing from anybody. And I do think they need to talk to the airports and to the unemployed workers, as well.

Mr. SHANE. Thank you.

Senator SHELBY. Some of these questions I am getting to may have been asked. I had to go to a press conference, and I apologize.

I hope we will never pursue "an industrial policy" but I understand how important the airlines are to our travel, to our way of life, and to our commerce. We all do. It is a question of how we make it work for all of us.

Industrial policy troubles a lot of people, including this senator.

Madame Administrator, if you could focus——

Senator DORGAN. Mr. Chairman, let me amend that. I did say industrial policy. Let me just say cogent policy.

Senator SHELBY. A well thought out policy.

Senator DORGAN. Yes, well thought out policy.

Senator SHELBY. I am sure we will work on that.

MOST IMPORTANT AIR TRAFFIC CONTROL PROJECTS

Madame Administrator, if you could focus on only three air traffic control modernization projects, which three projects in your judgment are the most important to the future of the aviation system and why?

Ms. BLAKEY. That is a good question. I think the first thing I would call your attention to, in terms—and we are talking technology here, rather than procedures; is that correct?

In terms of technology, I would have to tell you that the most urgent thing is modernizing the Host computer system, if we will, that really is the heart and brains of the air traffic control system. This is the En Route System and there is a new procurement, a research and acquisition program on, called En Route Automation Modernization (ERAM), which we are at the beginning of. It is a very expensive one. I certainly would let the committee know that we understand that we are talking about something that is a major taxpayer's investment.

Senator SHELBY. Huge.

Ms. BLAKEY. Yes, huge. The word huge is quite right.

But what we have to realize is we have a 30-year-old system now—30 years. The language that that system is written in, the software for it, is called Jovial. Now how many among us know anyone who even knows what Jovial is, much less can write it? I am told there are six people in the country at the moment.

So it is not hackable. That is the good news. But it is on life support. It is still safe, but we are at the very end of the life of this system. And we can, if we stay on track with this new research and procurement program. That is number one.

The STARS program. I know again, this committee and others have had to sweat bullets over STARS because again it is a very expensive program. It had a lot of inflation in its cost, and was rebaselined.

I had the best meeting I have had since I got to the FAA just the other day on STARS, because I will tell you what we are finding out. We have deployed the system in Philadelphia and not only is it working, it is working very well for air traffic controllers, the airlines, and our maintenance workforce. It is going beautifully.

And we believe that what we are seeing is that rather than the heavy costs that we had expected, in terms of deploying system after system, a lot of those costs, I think, were absorbed in the early stages of development. As we roll it out it will not require as much customization. It will not require as many development dollars, if you will.

Senator SHELBY. Are you telling us it is going to be under budget?

Ms. BLAKEY. No, I am not.

Senator SHELBY. As appropriators, we have been waiting to hear some very good news.

Ms. BLAKEY. Well, listen, I will tell you, I am looking for some really good news in the area you are focusing on. Needless to say, it is one of the areas that keeps me awake at night. But the fact of the matter is, I think we are going to have, and I would be delighted to get together with the committee on this, some good news on that ongoing rollout on STARS as we go forward. So those two I would call your attention to.

I would also call your attention to the fixed-price contract that we have for the Oceanic Aerospace. Again, that contract is going forward and it is staying within the fixed cost that we have anticipated. And that is something that is supported.

And may I finally give you one other piece, because we all like good news. Our WAAS, this is the Wide Area Augmentation System, is providing a lot of support in terms of guidance for smaller airports in particular. It is important to our general aviation community for vertical guidance.

That is going to come in early. We are going to turn it on this summer. And we are discovering again, we got some efficiencies through computer modeling. Rather than having to fly every approach for 530-some-odd airports we are going to roll it out for, we are able to do that on a sampling basis and model the rest of them and save some real money and get it online quicker. So that is going well. It costs a lot initially, but I think you are going to see that it is going to be a great asset in the system.

AIP AND SECURITY RELATED FUNDING

Senator SHELBY. Thank you. More than $560 million in AIP funding was used for security related expenses in 2002, which was up from only $57 million the previous year. Recently TSA Undersecretary James Loy testified that TSA would like to have "one more bite at the apple" this year to use AIP for high priority security purposes.

Is the FAA contemplating spending fiscal year 2003 AIP funds for installation of explosive detection equipment at airports? And if so, how much does the Administration propose using?

Ms. BLAKEY. There are massive costs for a lot of our airports involved with installing these van-sized pieces of equipment.

Senator SHELBY. They are not cheap, are they?

Ms. BLAKEY. They are not cheap at all, I will tell you. In fact, for some of our airports it is over $200 million. So the short answer is yes, because I think we have to. What I would caution the committee about is this, we have said that certainly we can sustain another bite at the apple of about the same size bite as last year.

Senator SHELBY. Not the whole apple, though.

Ms. BLAKEY. Not the whole apple, and over the long run we will eat it to the core in terms of maintenance, safety, enhancing capacity. So for out years, I think you have to pay attention to that.

Senator SHELBY. What effect would the use of AIP at 2002 levels, or even higher levels, have on other important safety, service improvement, or noise related projects in 2003?

Ms. BLAKEY. AIP is a critical program in terms of both the kinds of issues you just highlighted and certainly in terms of noise. I am happy to say that the way the AIP funds work right now, we are able to substantially mitigate the effect on our citizens, 14,000 of them every year through AIP on the noise front.

We are also going to use some of those funds for emissions, issues of air quality. I have to tell you, I am very pleased that the reauthorization that we are putting before you all is very aggressive on the environmental front, both in terms of using those funds well and wisely for that, and also in terms of streamlining so we do not drag these projects out the way we have.

In terms of capacity, I mentioned earlier some of the airports we are bringing online. One thing I would tell you is this, while these great big runway projects, Chicago, Denver, pick one of them, but we are talking, in some cases, over a billion dollars for these runways, are supported significantly through passenger facility charges.

For the smaller airports AIP money makes all the difference. And so we would like to see a greater percentage of AIP money going to smaller airports because they really cannot raise the money in other ways the way the big airports can.

So I would say on the capacity and safety front, that is important and I would urge your attention on that.

Senator SHELBY. Mr. Shane, what would be the long-term impact on using AIP funding at these levels for security purposes.

Mr. SHANE. As the Administrator hinted, I think we really begin to take a great big bite out of our ability to grow capacity. And we have to grow capacity, even in this environment. If we stop growing capacity, as the Administrator said in her earlier remarks, we will be losing an enormous opportunity. We will have the summer of 2000 again. We will have it in the summer of 2004 or 2005. And we will not have a very good excuse for it. It is just terribly important to maintain AIP for capacity growth purposes.

CONTROLLER-IN-CHARGE PROGRAM AND OPERATIONAL ERRORS

Senator SHELBY. Mr. Mead, has expanded controller-in-charge programs had any impact on operational errors?

Mr. MEAD. We cannot say for sure that it has. We can say that there is a statistical correlation. What you need to watch in this controller-in-charge program is in order to move out some supervisors, FAA would designate the elite controllers, the best performing ones as in charge.

What has evolved at some facilities, in some large facilities, is the FAA has designated about 100 percent of the controllers as in charge, controllers-in-charge. I do not think they need that many supervisors.

In some of these facilities we have seen a statistical correlation between the program and operational errors but I would stop short of saying it was cause and effect relationship.

AIP SPENDING

May I respond to your question on the AIP? I would put the brakes on spending AIP money until you had a firm idea of how much the Administration thought it needed to overhaul, to install these SUV-sized machines and where. And that you get from FAA a list with some granularity of what your near-term, big safety capacity projects are.

Senator SHELBY. Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman.

STARS AND OTHER PROGRAMS' COST GROWTH

Mr. Mead, you heard Ms. Blakey a few minutes ago talk about the STARS program, a fairly rosy scenario, which was interesting. I have heard you be very critical in the past. And I wondered if you could let us know are you feeling better about where it is moving, or do you still have concerns?

Mr. MEAD. I am certainly feeling better about Philadelphia. Actually before Administrator Blakey and I have talked at length about STARS. I think every one of our concerns, about how it was going to work, the technical problems and so forth, Administrator Blakey set forth to address them. And they were addressed in Philadelphia. And Philadelphia went online.

That being said, I am very concerned about the cost of this program. It has gone from $800 million to $900 million. Now we are telling people it is about $1.6 billion. I would be surprised if you can deliver the bacon on that.

I am concerned about when you take the four or five big acquisitions at FAA, which include the WAAS and STARS, when you add up all that cost growth, I can hand you the equivalent of one full year's appropriation. That has a cascading effect on other meritorious projects that you cannot undertake. It is going to affect our ability to achieve the vision that both Administrator Blakey and Jeff Shane were speaking about.

Ms. BLAKEY. Let me also just mention one thing, if I might, on the cost growth issue. I think one of the things we have to do, and I am addressing this at the FAA largely, but I think the industry and everyone has to accept this approach. And that is that we cannot keep adding to the requirements. We cannot keep shifting what these systems are intended to do without accepting the fact that it then costs a lot more money.

One of the things we are trying to do is develop real discipline, as well as bring them to the forefront more quickly, so that this issue of accretion of new and different changing requirements does not just completely knock a hole in the budget.

REPAIR STATIONS

Senator MURRAY. Thank you. I know the chairman wants to conclude here and I have a question I wanted to come back to because I heard Mr. Mead talking about repair stations and oversight of repair stations and that air carriers are outsourcing as much as, I think it is 47 percent of their total maintenance costs.

Ms. Blakey, if you could just tell us whether you think your safety personnel are providing the same level of scrutiny to contract repair stations as they are providing to air carrier's in-house maintenance facilities?

Ms. BLAKEY. We are very aware of this phenomena of the increase in contractor repair stations both here and abroad. It is certainly a subject for our focus. We have a very rigorous regime of inspections, as well as requirements for the air carriers themselves to maintain a very diligent oversight. And when it is abroad, for our corresponding civil aviation authorities to do the same thing.

Senator MURRAY. I think I heard Mr. Mead say that the foreign repair stations, some of them are not inspected at all; is that correct?

Mr. MEAD. Yes, that is correct. It is delegated to the foreign equivalent of the FAA, in some cases.

Senator MURRAY. Especially when we are in an era of worrying about terrorist attacks and those kinds of things, are you going to be increasing the number of inspections for our foreign repair stations? Or how are you going to deal with that?

Ms. BLAKEY. We have a strong regime right now of inspections on foreign, and they are required also to have a renewal of their certificate every 12 months to 24 months.

Senator MURRAY. Does that require an on-site inspection for foreign stations?

Ms. BLAKEY. Yes, from the FAA standpoint, we do require that.

Senator MURRAY. So every 12 months, you are inspecting foreign stations?

Ms. BLAKEY. Every 12 to 24 months. It is in that range. It depends on the level of service and what the specifics are with that repair station.

Let me assure you of this, though. I realize this is an area of great concern. This is something again, there is a phenomena of increasing usage of this. And this is certainly something that at the FAA we are going to pay increased attention to in a number of ways. So I would be very pleased also to get back with you on some specifics.

Senator MURRAY. I would really like you to do this, especially in this era. I think we really need to pay attention to that. And if we are contracting more out, I think we need to really be watching. I would like to hear more from you.

[The information follows:]

FAA'S OVERSIGHT OF FOREIGN REPAIR STATIONS

FAA assigns a principal maintenance inspector and, depending on the size of the facility, additional staff to provide regular oversight and inspection of repair stations located in the United States or abroad. The standards that repair stations have to meet remain the same regardless of whether the repair station is a domestic facility located within the United States or a foreign repair station located outside the United States.

The National Flight Standards Work Program requires a facility inspection at least once a year on all repair stations. Additional inspections may be required for various reasons, including changes in the internal workforce composition, NTSB recommendations, or aircraft accidents.

In addition, if a repair station performs maintenance for an airline it must follow the airline's approved maintenance program. An FAA principal maintenance inspector assigned to the airline inspects the repair station to determine that the proper maintenance procedures are followed.

When an applicant applies for FAA certification as a foreign repair station, the FAA must first determine if a U.S. repair station certificate is necessary to maintain or alter U.S.-registered/operated aircraft and/or aeronautical products at the applicant's proposed location. If the certificate is found to be necessary, and is granted, the foreign repair station is required to apply for certificate renewal every 12–24 months, as appropriate. If a foreign repair station no longer maintains U.S. aircraft or components, the certificate may not be renewed or the FAA limits the repair station's capabilities to only those articles used on U.S. aircraft. FAA is not obligated to renew a foreign repair station certificate.

The regulations do not require FAA to justify or provide cause for not renewing foreign certificates. Foreign repair stations are well aware of this, which is reflected in their certificate revocation rates. There were 11 violations filed against foreign repair stations in 2002 and no violations so far this year. For the last 8 years, the average number of violations for foreign repair stations (out of the total of enforcement filed for all repair stations) came out to be just 4.7 percent.

Finally, the airline is responsible to conduct audits of any repair stations it uses. FAA inspectors review the results of the airline's audits to evaluate the performance of the repair station.

For repair stations located in France, Germany and Ireland, the FAA has negotiated bilateral agreements that allow the civil aviation authorities in those countries to provide oversight of 173 foreign repair stations on our behalf. FAA provides similar oversight to 1,159 of the 4,571 domestic repair stations located in the United States that have been approved by the Joint Airworthiness Authorities of Europe.

Mr. MEAD. One of the interesting dimensions of this is that when an air carrier does most of its maintenance in-house, FAA has a team that is essentially dedicated to that airline. They know that airline's maintenance system and so forth. Once the maintenance is done out-house, though, the jurisdiction, the responsibility for the oversight is of a different unit.

In other words, the people that are dedicated to United Airlines inspections by FAA, would not necessarily be the people that check on how good the maintenance is at the repair station where UAL planes are being maintained.

So I think FAA needs to develop a greater connectivity between the two.

ADDITIONAL SUBCOMMITTEE QUESTIONS

Senator MURRAY. I appreciate that.

Mr. Chairman, I do have some other questions I will submit for the record, since we are out of time.

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

QUESTIONS SUBMITTED TO MARION C. BLAKEY

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

ENVIRONMENTAL REVIEW PROCESS FOR CAPACITY PROJECTS

Question. The FAA has made a concerted effort in recent years to streamline the review and approval process for key capacity-related projects. What is the status of those efforts? How have they affected the time it takes to review key projects? Do you anticipate further administrative improvements in this area? Do you support efforts in Congress to make further improvements to the process?

Answer. FAA issued a Report to Congress in May 2001 reporting on Federal environmental requirements related to the planning and approval of airport improvement projects together with recommendations for streamlining the environmental review process associated with those types of projects. Six initiatives for streamlining were identified and implemented, as outlined below.

—FAA established Environmental Impact Statement (EIS) Teams for preparing EISs for major runway projects at large hub primary airports. Since the Report to Congress in 2001, FAA Teams have been working on the EISs for nine major runway projects (Atlanta, Boston, Chicago-O'Hare, Chicago South Suburban Airport (SSA), Cincinnati, Greensboro, Los Angeles, Philadelphia, and San Francisco). EISs have been completed for five of the projects (Atlanta, Boston, Greensboro, SSA-Tier I, and Cincinnati) with the other four in various stages of EIS preparation.

—FAA has reallocated staff to provide for five more environmental specialist positions in the Office of Airports. With the passage of the fiscal year 2003 Department of Transportation and Related Agencies Appropriations Act, funding has been provided for hiring 18 more airports environmental specialists and 13 environmental attorneys. These additional personnel will specifically conduct and expedite the environmental analysis and review of airport and aviation development, so as to maximize the capacity benefits to the National Aviation System. FAA is implementing plans to hire qualified personnel to fill these positions at various locations around the country.

—FAA continues to maximize the use of consultant resources to perform more EIS tasks that can be outsourced by the FAA.

—FAA is working with the Council on Environmental Quality (CEQ) to expand the FAA list of categorical exclusions that will be published in revisions to FAA environmental orders. Initiatives are being explored to provide for shortened and streamlined EISs, as well as environmental assessments, that will also involve CEQ and the Environmental Protection Agency (EPA).

—FAA continues to engage other Federal agencies at the beginning and during preparation of EISs, about their environmental reviews and permit requirements in order to avoid unnecessary delays. Also, the FAA, and the National Association of State Aviation Officials, has undertaken a joint review of Federal and State environmental processes and coordination. As a result of this partnership, opportunities have been identified for improving ways in which Federal and individual State requirements can be more effectively and efficiently combined and coordinated.

—FAA has developed, published (on FAA's web site) and updates (at least twice a year) a compendium of best practices for EIS preparation and management. The compendium of best practices addresses practices that are the responsibility of the airport proprietor, the EIS consultant, as well as those of the FAA.

The 2001 Report to Congress noted that the average time for completion of an EIS (from start of the EIS until EIS approval) was 3 years. The average time to issue an agency Record of Decision (ROD) was 3 months. Looking at data available for four of the five runway EISs completed since issuance of the 2001 Report to Congress, and implementation of FAA streamlining initiatives, the Atlanta EIS took 7 months less than the 3-year average; the SSA EIS, 12 months less than the average; and the Cincinnati EIS, just 2 months more than the average. RODs for Atlanta, SSA, and Cincinnati were prepared and issued in 1½, 2, and 3 months respectively. The Boston project was unique and controversial and, therefore, the EIS process was lengthy (almost 7 years). Adding to the process was an 18-month delay between 1996 and 1998 because of a change in Massport leadership and priorities, and extraordinary steps taken to engage community groups and the public in the process. The Boston EIS was not a typical new runway EIS project. In the ongoing EIS projects, FAA streamlining initiatives are being utilized to ensure that environmental process times are minimized to the maximum extent possible, and hiring more environmental staff will greatly aid the effort.

FAA hopes that further agency, as well as congressional actions, will lead to administrative improvements in streamlining the environmental process for major runway projects around the country.

Further action taken by the FAA includes our implementation of the environmental streamlining provisions of Presidential Executive Order (E.O.) 13274, Environmental Stewardship and Transportation Infrastructure Project Review. Two airport EIS projects (Philadelphia and Los Angeles) have recently been designated as priority projects for oversight under the E.O.

The Administration's Flight-100 bill proposes a number of streamlining provisions including:

—Designating aviation congestion projects and aviation safety projects for high priority coordinated, concurrent reviews;
—Concurrent reviews will be through newly-established Interagency Environmental Impact Statement (EIS) teams;
—Interagency EIS teams are directed to establish milestones, and responsible Federal agencies are directed to give these projects the highest priority within their own agencies;
—Interagency EIS teams will defer to the Secretary on project purpose and need, and on determining reasonable alternatives, aviation factors, and aviation noise and emission analyses;
—Noise mitigation for capacity enhancement airport expansion may be funded from the noise set-aside without an additional Part 150 process requirement, and FAA may commit in the EIS Record of Decision to changes in flight procedures to minimize noise impacts due to the capacity enhancement project;
—Airport sponsors are permitted to fund additional FAA staff to facilitate timely processing of the environmental actions for the airport's capacity enhancement project.

OCEANIC AIR TRAFFIC

Question. The FAA has a long history of problems in attempting to provide new air traffic control equipment to manage oceanic air traffic. Since 1995, FAA has spent more than $290 million but has yet to deliver a new oceanic system.

Answer. Since 1995, the FAA has delivered incremental oceanic air traffic improvements and capabilities, required to keep pace with international standards:
—Two way controller/high frequency radio operator "email" automatically updating the controllers' flight data processor, followed by high frequency radio operator voice relay to pilot via conventional radio transmission, 1995.
—Two way controller/pilot direct "email" via satellite data link operational prototype, 1995.
—Interim Situation Display which automatically updates and displays tracking aircraft positions, 1997.
—Reduced Vertical Separation Minima allowing more planes to fly preferred routes with increased numbers of flights, 1997.
—Conflict probe which provides an automatic or controller initiated conflict prediction tool, 1997.
—Automated "email" transfer of flight data between international flight information regions, 1997.
—Two way controller/pilot direct "email" via satellite data link in all Oceanic sectors, 1999.
—Host & Oceanic Computer System Replacement, replaced aging hardware with Year 2000 compliant computers supporting Oceanic air traffic control communications, 1999.
—MicroEARTS, as the platform for the Capstone program, provides surveillance data directly to airlines, allowing them to track aircraft in flight, 2002.

FAA led the way in implementing reduced vertical separation standards in the Pacific and followed suit with our partners in the Atlantic. Further separation reductions require a fully integrated, modernized system and its accompanying procedures.

In March 2000 the FAA initiated the Advanced Technologies and Oceanic Procedures (ATOP) program to take advantage of technology developed for the international marketplace. After conducting a robust, global competition, the FAA awarded the ATOP contract to Lockheed Martin in June 2001. Program costs are within the Acquisition Program Baseline budget, approved in May 2001 by FAA's Joint Resources Council.

Question. The schedule of the current effort, the Advanced Technologies and Oceanic Procedures (ATOP) is significantly behind schedule.

Answer. The FAA's Acquisition Program Baseline schedule for the ATOP program calls for initial operational capability at Oakland in June 2004. The program is operating within its baseline schedule.

Question. What problems are the FAA experiencing with this acquisition program and what corrective measures are you taking?

Answer. Lockheed Martin Air Traffic Management (ATM) underestimated the amount of source lines of code and the amount of modification needed to its existing commercial system. In March 2003, an independent assessment team concluded that the job is larger than expected, and will take longer to complete. The fixed price contract ensures that the cost of developmental delay is borne by the vendor.

Installation of ATOP hardware is on schedule at the New York, Oakland and Anchorage centers. The FAA continues to prepare for system test, operational training, and site acceptance test activities.

Question. When can we expect a new system for oceanic air traffic?

Answer. Initial operational capability at Oakland Air Route Traffic Control Center (ARTCC) is expected by June 2004.

OPERATIONAL ERRORS AND RUNWAY INCURSIONS

Question. What progress has FAA made in reducing the number of operational errors and runway incursions?

Answer. FAA has achieved an 11 percent reduction in operational errors, following 4 years of steady increases. Operational errors declined from 1,194 in fiscal year 2001 to 1,061 in fiscal year 2002.

FAA continues to address operational errors within the National Airspace System. Several initiatives have been developed and implemented in an effort to increase management focus on operational errors in areas such as communications, position relief briefings and operational focus. The FAA deployed an enhanced terminal radar replay tool, updated quality assurance training provided by the FAA Academy, produced and distributed a training video on communication errors, and conducted more than 30 special evaluations focusing on operational errors. A 3-year operational error reduction plan has been implemented and represents a collaborative approach to the reduction of operational errors.

Runway incursions have declined from 407 in fiscal year 2001 to 338 in fiscal year 2002, due in part to FAA's aggressive actions to reduce these incidents. FAA established a system to categorize runway incursions by severity risk and has reduced the number of close calls (those runway incursions in the two highest categories) from 53 in fiscal year 2001 to 37 in fiscal year 2002 and 18 to date in fiscal year 2003 (through April).

FAA plans to continue its aggressive actions in reducing runway incursions by continued training of pilots in situational awareness while on the airport surface, and the use of existing and new technologies to warn pilots and controllers of potential incidents.

WAKE TURBULENCE RESEARCH

Question. In the last 2 fiscal years, FAA has requested $1 million for the wake turbulence research program. Congress recognized that the wake turbulence standards must be reassessed in a data-driven research program to address important capacity and safety issues, and enacted $4 million in fiscal year 2002 and $8 million in fiscal year 2003, to accelerate this important research. By proposing to zero-fund this program in fiscal year 2004, FAA has ignored the need for this research and has disregarded Congress' obvious intent to have an adequately funded wake research program. Why has FAA failed to provide funding for this important research program? What are the specific plans for the FAA to rectify this problem and accordingly revise its fiscal year 2004 request?

Answer. The FAA will complete the Joint FAA/NASA Wake Turbulence Research Management Plan and the Investment Package for the near and mid-term wake research activities within the next few months. FAA has no plans to revise its fiscal year 2004 request, but will reexamine the program in future years.

COST ACCOUNTING SYSTEM

Question. What is the current status of the cost accounting and labor distribution systems and when can we expect the full implementation of these systems?

Answer. Cost accounting has been implemented in 80 percent of the agency to date. Managers are beginning to use the Cost Accounting System (CAS) data. For example, the Air Traffic Services organization has used CAS data to target and track initiatives to reduce field maintenance by 3.5 percent, reduce overhead costs by 4 percent, and hold costs in Oceanic and Flight Services constant.

Implementation of the cost accounting/labor distribution reporting system will be completed in fiscal year 2004. CAS is now in place in Air Traffic Services, Commercial Space Transportation, Financial Services/CFO, Human Resource Management, Free Flight, and the Academy and Logistics Center at the Mike Monroney Aeronautical Center. In fiscal year 2004, CAS will be implemented in Research and Acquisitions, Airports, and Regulation and Certification.

AEROSPACE COMMISSION

Question. The Commission on the Future of the United States Aerospace Industry issued a report making a number of recommendations to ensure the competitiveness of the American industry. One of the Commission's recommendations called for the Federal Government to establish a national aerospace policy and promote aerospace by creating a government-wide management structure. How is the FAA responding?

Answer. FAA formed a Joint Planning Office (JPO) comprised of Federal Aviation Administration (FAA), Department of Defense, Transportation Security Administration, Department of Commerce and National Aeronautics and Space Administration, to focus on development of the next generation air traffic management system. FAA leads the team. The Agency is also establishing a high-level policy committee to guide this effort. It will be chaired by the Secretary of Transportation, and will be established this summer. The next steps are to establish advisory committees for this activity, to coordinate a framework for the initiative through the five participating agencies and departments, and begin drafting the national plan.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

CHIEF OPERATING OFFICER

Question. Will the FAA ever have a Chief Operating Officer?

Administrator Blakey, at previous FAA hearings in this subcommittee, it has been noted that the FAA has yet to appoint a Chief Operating Officer for the agency. This position, as you well know, was created in AIR–21 and is considered critical to moving air traffic control into a more performance-based operation. The COO position has never been filled. Your reauthorization proposal modifies the responsibilities of the Chief Operating Officer to clarify that the position will focus on the day-to-day operational functions of the air traffic control organization.

Why do you think these changes will improve your chances of recruiting a Chief Operating Officer?

Answer. While the changes proposed are modest, the FAA and the executive search firm believe that clarifying the role of Chief Operating Officer (COO) is key to the successful recruitment for the position.

Question. What can you tell us about your efforts to recruit a COO so far, specifically how many serious candidates have you considered?

Answer. With the help of Korn-Ferry International, there was a search conducted earlier this year. The Administrator and Deputy Administrator have interviewed several of the top candidates. Discussions are ongoing.

CONTROLLER RETIREMENTS

Question. Ms. Blakey, over 50 percent of the controller workforce will be eligible to retire by the year 2010 and the General Accounting Office has estimated that roughly 5,000 controllers plan to leave the FAA by the end of fiscal year 2006. Your budget requests funding for only 302 additional air traffic controllers. Based on this request, I'm concerned that the agency isn't adequately preparing for the surge in controller retirements.

Given that it takes as much as 5 years to train a new employee to become a fully certified controller and assuming that the GAO's estimates are correct, shouldn't we be concerned that safety or the air traffic control system's operational capabilities might be compromised?

Answer. Staffing standards have been revised based on recent traffic forecasts. These standards are an important element, along with projected retirement losses, to predicting future controller requirements and hiring needs.

With the drop in staffing requirements due to reductions in air traffic, the 302 additional positions in the fiscal year 2004 budget, and the FAA's hiring plans for future years, the agency is positioned to meet all of its staffing needs.

The agency is sensitive to the additional hiring needs that are needed to address the surge in retirements. The FAA's annual retirement projections have been very accurate, and the FAA has been meeting its annual hiring goals. Over the last 6 years, the agency has hired more than 3,000 new controllers.

AVIATION TRUST FUND REDUCTIONS

Question. Ms. Blakey, the Inspector General's testimony states that over the next 4 years, Aviation Trust Fund tax revenues are expected to be about $10 billion less than projections made in April, 2001. He also stated that the options for compensating for these declines—whether it is increasing excise taxes, limiting investment

in the aviation system, or relying more heavily on General Funds—are not attractive.

Ms. Blakey, in order of preference, how do you think we should bridge the gap between declining trust fund revenues and the FAA's budgetary needs? Should we raise excise taxes, defer investments in air traffic control modernization or contribute more General Funds?

Answer. Just as a healthy industry is important to FAA's mission, FAA is important to a healthy industry. By virtue of its mission to regulate and promote the U.S. aviation industry, the FAA plays a vital role in sustaining the health of this critical section of the U.S. economy. The recent economic hardships experienced by the industry have caused the FAA to refocus on how its programs affect the industry, and particular, on what actions it might take to help improve the serious conditions facing the industry.

The FAA must continually endeavor to make its own operations more efficient and responsive to the needs of industry and the public, particularly in a time of tighter Federal budgets. Areas where the FAA is investigating possible improvements are procurement activities, staffing requirements, organizational structure, and enhancements to our financial systems—DELPHI, Cost Accounting (CAS), and Labor Distribution Reporting (LDR). Potential benefits include the ability to respond more efficiently, quickly, and cost effectively to the needs of industry and the public.

The Airport and Airway Trust Fund is the principal source of funding for FAA programs, accounting for all capital program funding. In fiscal year 2004 approximately 79 percent of operations funding will be derived from the Trust Fund. FAA remains committed to using the Aviation Trust Fund only to fund the Department's aviation programs, but in a change from AIR–21, the Agency is proposing to increase the use of balances that have built up in the Trust Fund. In fiscal year 2004, FAA would use $12.4 billion of trust fund dollars and $1.6 billion from the General Fund.

CARRIER SAFETY OVERSIGHT

Question. What specific measures has your safety inspection workforce taken to ensure that the air carriers aren't shortchanging critical maintenance needs? For example, how does the frequency and intensity of your on-site inspections of financially-distressed carriers differ from those conducted on financially stable carriers?

Answer. In addition to monitoring an air carrier's regulatory compliance, FAA inspectors are constantly monitoring their carriers' financial and labor relations circumstances so they have a complete picture of the airline's status. When inspectors see indicators of financial trouble, the inspectors increase their interaction with the airline's management and adjust their surveillance plan to increase their focus on areas that might be at risk due to financial cutbacks.

Each carrier's experience is different and requires that the surveillance plan be tailored to the circumstances. As a carrier reduces its schedule, its fleet, and its employee ranks, the impacts of these reductions must be constantly evaluated and surveillance plans amended. Areas of adjusted surveillance would include: training to ensure employees who are reassigned are properly prepared for their assignments; maintenance to ensure that discrepancies reported by pilots are properly addressed; and other areas affected by the carrier's plans.

The carrier's quality assurance and quality control process are monitored to ensure they are being followed and that findings are being addressed. Data and trends—such as dispatch reliability, on time performance, and minimum equipment list deferrals—are monitored and surveillance is retargeted if the data indicates a negative trend.

OVERSIGHT OF FOREIGN AND DOMESTIC REPAIR STATIONS

Question. Please provide us specific detail as to how the FAA intends to increase its oversight of foreign and domestic repair stations in terms of frequency of inspections and safety audit requirements?

Answer. Currently, the FAA is looking at a new model for Certificate Management Oversight of Part 145 repair stations. The model is designed to mirror that of a major air carrier Certificate Management Unit, and has already been put in place to provide oversight for a major repair station in the Seattle area. The FAA has increased the inspectors assigned to oversee this station from 1 to 5.

Under this model, the Certificate Management Unit is able to identify possible deficiencies in the repair station's organizational structure, quality control procedures and repair stations' manual. This enables the repair station to make needed changes to the organization and procedures to mitigate and/or eliminate known risks.

STATUS OF THE ASR–11 RADAR AND STARS

Question. Have all the software problems now been resolved with this radar and has your testing of the radar uncovered any additional performance concerns that would delay its implementation or increase its costs further?

Answer. Yes, all software problems associated with the ASR–11 radar have been resolved. Results of testing have proven the system suitable for operational use, as is the case for the Willow Grove ASR–11, which currently feeds the Philadelphia STARS.

FAA does not foresee any performance issues that would delay implementation of ASR–11, although some sites may present a challenge to obtain optimum performance. In these unique situations, as with any radar, additional measures (e.g. extra adjustments/enhancements) may need to be considered.

ASR–11 is a joint FAA and Department of Defense (DOD) procurement program intended to replace aging Airport Surveillance Radar Models 7 and 8, which are nearing the end of their service life and becoming more difficult to maintain. The ASR–11 system is an integrated system that includes a primary radar system and associated beacon system. The ASR–11 will provide digital radar input to new automation systems such as Standard Terminal Automation Replacement System (STARS).

Question. Since the full deployment of STARS is dependent upon the ASR–11 to provide the digital radar feed, how confident are you that STARS will stay on schedule?

Answer. FAA has developed a deployment plan and budget for STARS which is currently being validated by an independent third party. The waterfall schedule has been coordinated with the ASR–11 team to ensure synchronization as much as possible. FAA will continue to coordinate both program schedules throughout the deployment of both STARS and ASR–11. In the event of a delay to the ASR–11 schedule, several radar digitizers have been purchased which can be used in place of the ASR–11 until the two programs line up.

STARS is a joint FAA and Department of Defense (DOD) procurement program intended to replace the aging Automated Radar Terminal System (ARTS) at FAA TRACONs and DOD terminal facilities. STARS will work in conjunction with digital radar systems to allow air traffic controllers to track aircraft within the terminal area. The new equipment and software will be based on a digital platform and provide higher-resolution screens with color capabilities and higher system reliability. STARS can also be expanded to meet increased traffic demands and accommodate new automation functions.

REVISION OF THE OPERATIONAL EVOLUTION PLAN

Question. Ms. Blakey, the Operational Evolution Plan (OEP) was unveiled just 3 months prior to the tragic events of September 11. The OEP was expected to be the FAA's blueprint for how to increase the capacity and safety of our Nation's air traffic control system by 2010. Your recently released Aviation Forecast predicts an even slower recovery than what was estimated last year. Given the anticipated slower recovery, how has the OEP changed—what specific programs have been modified, deferred or expedited?

Answer. There is no doubt that the timelines for the Operational Evolution Plan have been impacted by the events of September 11 and by the subsequent downturn in the airline industry. Airlines have had to deal with their own financial issues as well as additional costs for security. As a result, they have not been able to maintain the level of investment they had hoped for in OEP improvements.

The most recent update to the OEP (Version 5, published in December 2002), reflected adjustments made over the past 18 months in response to these forces. Runways at Atlanta and Seattle were delayed and Charlotte's runway has been deferred as a result of decisions reached by the local community. We also scaled back activities in Miami with the Controller Pilot Data Link because of the airlines' limitations to voluntarily equip as originally planned. With Version 5, the OEP added a new runway at Cleveland and Boston, four Traffic Management Advisor (TMA) sites were added, along with several other capacity enhancing technologies, to include required navigation performance, collaborative decision-making, and more efficient approaches to airspace management. Further discussions with industry will occur this summer, leading to the next update of the OEP.

AIR TRAFFIC CONTROL AS A COMMERCIAL ACTIVITY

Question. Ms. Blakey, in February, the Department of Transportation published their Federal Activities Inventory Reform or FAIR Act list which changed the status

of air traffic control from a governmental activity to a commercial activity. As you well know, the National Air Traffic Controllers Association has expressed concern that this takes air traffic control one step closer to privatization.

Why was the classification of air traffic control changed?

Answer. On December 18, 2002, the Secretary of Transportation determined that air traffic control is commercial and not inherently governmental. There are two reasons: (1) Functions that are inherently governmental involve a sovereign act on behalf of the Government or bind the Government to a particular course of action. The separation and control of air traffic does not meet this rigorous definition and takes into account the FAA's existing contract tower program. (2) There are 219 contract towers that are safely and efficiently providing air traffic control services by private contractors. However, this was not a step toward privatizing the air traffic control system. This is not under consideration.

Question. Ms. Blakey, in February, the Department of Transportation published their Federal Activities Inventory Reform or FAIR Act list which changed the status of air traffic control from a governmental activity to a commercial activity. As you well know, the National Air Traffic Controllers Association has expressed concern that this takes air traffic control one step closer to privatization.

How can you assure the committee that air traffic control will continue to be a core mission of the FAA and that it will not be subject to privatization?

Answer. On December 18, 2002, the Secretary of Transportation signed a formal determination that functions involved in the separation and control of air traffic are a core capability required for the successful accomplishment of the FAA mission to ensure the safety and security of the National Airspace System. Based on the Secretary's determination, these functions are not subject to competition and will not be contracted out. I fully support the Secretary's position.

ENVIRONMENTAL REVIEW PROCESS FOR AIRPORT PROJECTS

Question. Ms. Blakey, last October, Secretary Mineta announced a list of seven transportation construction projects that were selected to receive accelerated environmental reviews. The Philadelphia International Airport runway construction project was the only airport project that was included on that list. Why was only one airport included in this initial list of projects selected for accelerated environmental review?

Answer. Secretary Mineta chose the initial selection of priority transportation projects in order to get the accelerated environmental review process underway before completion of project nominations in December. The Secretary, therefore, asked for project nominations by the Modal Administrators. He considered several airport projects before making his selection. Because the initial list of selected projects was to be small in number, the competition was keen. As a result only one airport project was selected.

Question. Ms. Blakey, last October, Secretary Mineta announced a list of seven transportation construction projects that were selected to receive accelerated environmental reviews. The Philadelphia International Airport runway construction project was the only airport project that was included on that list. Since that announcement, how many other airport projects have been selected for accelerated environmental review? Which specific airports?

Answer. Since announcing the Philadelphia Airport project, one other airport project was selected for accelerated environmental review under Executive Order 13274. Secretary Mineta announced the selection of the Los Angeles World Airport project on February 27, 2003 with five other transportation construction projects. Five other nominated airport projects remain on the Department's project review register for future consideration.

FAA highest priority projects for expediting or streamlining the environmental review process continue to be those major runway projects at large primary airports. These projects are the types that reduce national congestion the most. FAA will continue to apply and carry out streamlining initiatives for these projects regardless of whether such projects are nominated or selected for review under Executive Order 13274.

AIRPORT IMPROVEMENT PROGRAM

Question. At a time when airports are struggling to pay for the installation of explosive detection systems, what is your rationale for keeping the Airport Improvement Program (AIP) flat while requesting increases for FAA's other major programs?

Answer. AIP was funded at levels up to $1.95 billion prior to the enactment of AIR–21. Post AIR–21, AIP funding increased in fiscal year 2000 to $3.2 billion, a

65 percent increase. In fiscal year 2003, AIP funding rose to $3.4 billion. This represents a dramatic increase in funding that the President's Budget would retain in fiscal year 2004. Although airports face high costs associated with the deployment of explosive detection systems, there is other Federal money available to assist airports, specifically from the Department of Homeland Security (DHS).

GRAPHIC ADVISORIES FOR GENERAL AVIATION PILOTS

Question. Ms. Blakey, the recently-passed 2003 Omnibus Appropriations Bill directed the FAA to publish graphic advisories in addition to the notice-to-airmen advisories and to make these available to flight service stations and the aviation community via the Internet. The increased number of special use airspace and temporary flight restrictions subsequent to September 11, 2001, and the recent elevation of the threat to Code Orange make it even more critical to share this information with pilots. As yet, the FAA has not done as Congress has directed. Why not?

Answer. The FAA web page contains a link to graphic depictions of Temporary Flight Restrictions (TFRs). The site was activated shortly after September 11, 2001. Except for general notices, each TFR contains corresponding graphics.

The flight service stations (FSS) were heavily impacted by the above event, which led to the activation of the Flight Service Operation Support Center (FSOSC) team. The FSOSC creates graphical depictions of TFRs, as well as plain text versions of the TFR Notice to Airmen (NOTAM) using the TFR Operational Display System (TODS) special version software developed by Jeppesen for FSS use. This information is stored on the Jeppesen server and can be accessed via the Internet. At that time, most FSSs did not have the connectivity to access this data. The FAA has since purchased and deployed the hardware and software to support this capability. This information will be available to the FSS, pilots, and others on June 15, 2003.

Question. When precisely can we expect these graphics to be available to general aviation pilots via the Internet?

Answer. Graphical Temporary Flight Restrictions (TFR) information is currently available to pilots through one of the FAA's direct user access terminal system (DUATS) vendors, CSC (formerly Dyncorp, Inc.). The TFR Operational Display System (TODS) products will be made available to the general aviation public on June 15, 2003.

SAN JUAN COUNTY'S AIRSPACE FREQUENCY

Question. What specific steps are you taking to ensure pilots flying in San Juan County, without the assistance of any air traffic control, will be aware of and adhere to the new frequency?

Answer. The FAA process to inform all pilots of new frequency changes is to submit the change to the National Flight Data Center (NFDC) in the FAA Headquarters, Washington, DC. The information is then published in the National Flight Data Digest (NFDD), which comes out daily. This publication is sent to subscribers of NFDD, which includes air traffic facilities, chart producers, airlines, computer database providers, military, etc. General aviation pilots do not normally subscribe to the NFDD. The NFDD is used as the official authority to incorporate the change into airmen's charts and the Airport/Facility Directory (AFD). New charts and the AFD are published every 56 days. Since pilots are required, under 14 Code of Federal Regulations, Part 91.103, Preflight Action, to "become familiar with all available information concerning (their) flight," they are aware of any changes in the National Airspace System, including frequencies, as of the effective date of these publications. Therefore, frequency changes should coincide with charting cycles so pilots are aware of these changes when they discard outdated charts and AFDs, and begin to use new or updated charts and AFDs.

Additionally, many fixed-based operators will post proposed changes to the airport and the surrounding airspace, including Common Traffic Advisory Frequency and Unicom frequency as soon as they become aware a change is planned.

Question. Should we hold off relinquishing the CTAF until we are sure that pilots are educated enough to not create a safety problem?

Answer. In this case, education and notification are interchangeable terms. The FAA recommends that notification occur via the publication of the Airport/Facility Directory (AFD), and that the change to the new frequency coincides with the date the new frequency will be charted. The FAA will provide timely notification to the pilots by ensuring that CTAF changes do not occur until the AFD and new charts are published. Pilots are required to be aware of the AFD chart changes and to use current publications. If the frequency change does not coincide with the charting cycle, the FAA would then be obligated to notify pilots through other means, such

as Letter to Airmen or Notice to Airmen. A common practice is to provide pilot notification of changes through the AFD and charts.

AIR TRAFFIC MODERNIZATION

Question. Administrator Blakey, the Aerospace Commission recommended making the transformation of the U.S. air transportation system a national priority. The Commission's report specifically called for the "rapid deployment of a new, highly automated Air Traffic Management system, beyond the Federal Aviation Administration's Operational Evolution Plan, so robust that it will efficiently, safely, and securely accommodate an evolving variety and growing number of aerospace vehicles and civil and military operations." I am very interested in seeing this recommendation implemented to ensure the economic security of our country.

Can you tell me what your agency is doing to respond to this recommendation?

Answer. Working with other government agencies, the FAA has initiated an informal working group to develop a unified national air transportation plan for 2020 and beyond. The key objectives of the plan are to develop a series of unified strategic goals and actions that will move the industry forward. Critical to this is an emphasis on aligning the activities and resources of the various government departments to support the plan.

FAA will continue to follow the blueprint laid out in the Operational Evolution Plan (OEP) for the capacity goal. To help the Agency in assessing the aviation system of the future, FAA had discussions with industry representatives to explore what they believed will be the changes and challenges to the system. FAA is considering broadening this goal to better reflect the mobility goal of the Department by focusing more directly on the passenger experience. In that way, the OEP will become the jumping off point for the longer-term national plan. The scope of the team's work will include issues related to air traffic management, aviation safety, capacity enhancement, airport improvement, security, and homeland security.

Question. When do you expect to have a design and development plan for a next generation Air Traffic Management (ATM) system in place and when do you envision starting the implementation of such a plan?

Answer. A draft plan is scheduled to be completed by December 2003. The plan, which FAA is developing jointly with DOD, NASA, DHS and DOC, will establish a more formal coordination process for research and implementation activities.

Question. Since this recommendation will require a great deal of interdepartmental coordination to meet both our civil, defense and homeland security needs, what are you doing to ensure the appropriate level of participation from DOD, NASA, and DHS?

Answer. The FAA has a long and successful working relationship with NASA on research and development, an excellent relationship with DOD in coordinating airspace requirements, and a new partnership with DHS/TSA. By continuing to strengthen the relationships the Agency has with these partners we can develop a joint approach—and most importantly a greater alignment of resources—that will enable regular monitoring of the unification of our plans, goals, and objectives.

Question. Administrator Blakey, what is your agency doing to take advantage of the current slow down in the air travel demand to move forward on Air Traffic Management (ATM) system modernization to ensure we don't end up with horrendous delays like we had during the summers of 1999 and 2000 when traffic returns?

Answer. The goal of the Operational Evolution Plan (OEP) is to increase capacity and by doing so, improve the efficiency of the National Airspace System and reduce delays.

It is the FAA's objective, through the initiatives of the OEP and related Air Traffic Modernization projects, to increase the capacity of the National Airspace System by 31 percent during the next 10 years. While the events of September 11, and the subsequent downturn in the industry have impacted various elements of the plan—particularly those requiring collaborative work with the industry—the FAA is continuing to put considerable energy into this initiative.

During the past 2 years the FAA has aggressively pursued its OEP related initiatives. This includes airspace redesigns throughout the National Airspace System, the implementation of Required Navigation Performance (RNP), various capacity enhancing technologies, collaborative decision making, and new runway construction.

The industry has experienced a reduction in the number of flights and passenger loads. The market is not expected to reach pre-September 11 levels until 2005. However, overall capacity of the system, because of the OEP, is continuing to grow by 3 to 5 percent each year. This means, that when the system does recover we will be far less likely to experience the delays we faced in 1999 and 2000.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

ACE–IDS

Question. It is my understanding that air traffic controllers are very pleased with the performance of the new ASOS Controller Equipment-Information Display System (ACE–IDS) systems that is currently provided by a small business. I also understand that the older SAIDS4 systems in the field use hard to maintain obsolete software and use computers that have limited extensibility. What is your agency's position on the desirability of the acquisition of ACE–IDS for additional towers and TRACONS to replace the out of date systems?

Answer. Air traffic controllers are pleased with the ASOS Controller Equipment-Information Display System (ACE–IDS). The Information Display System 4 (IDS4) does include aging hardware and software that will eventually need to be replaced. The FAA is developing an acquisition strategy for the next-generation display system. However, the agency will consider ACE–IDS as a potential solution for satisfying requirements that exist prior to the next-generation display system award.

Question. There are many capable small businesses that provide products, services and systems to the FAA, including the current provider of ACE–IDS. To what extent would the ACE–IDS or FAA Data Display System (FAADDS) program lend itself to being set aside for small business? Has the FAA examined that possibility?

Answer. The FAA is currently developing the acquisition strategy for the next generation display system. All available options, to include small business set asides, will be considered in the course of the acquisition.

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

WORKING GROUP ON THE AIRLINE INDUSTRY'S FINANCIAL CRISIS

Question. Does the FAA have a working group to address the financial crisis in the airline industry?

Answer. The Office of the Secretary (OST), not the FAA, is responsible for oversight of the financial condition of the airline industry. OST does not have a formal working group on this issue, but has undertaken extensive efforts both to monitor the financial condition of the industry and to evaluate longer-term effects of the industry's ongoing financial plight.

The airline industry is in the midst of the most difficult period of financial distress since it was deregulated almost 25 years ago. This began well before the terrorist attacks of September 11 and reflected a combination of rapidly escalating costs—a trend that started in 1999—and severely decreased demand beginning in early 2001. With these changes, several years of record profits quickly turned to losses.

The terrorist attacks greatly exacerbated losses for the passenger carriers and led to record losses. The industry has suffered operating losses of about $10 billion during each of the past 2 years, and is now expected to lose another $7 to $8 billion this year. A number of smaller carriers have failed, and two major carriers, United and US Airways, filed for bankruptcy, although the latter carrier has now successfully emerged from that process. To compensate for the ongoing losses, airlines have undertaken large-scale capacity cuts, laid off more than 100,000 employees, made operational changes designed to enhance efficiency, and engaged in a wide variety of other efforts to reduce operating costs. These efforts have not yet stopped continuing losses as the industry has been confronted by a continuing series of events that have affected demand, such as the Iraq war and SARS.

It is also important to note that not all news is bad. While the large network airlines in particular have suffered massive losses throughout this period even while significantly reducing capacity, in marked contrast several low-fare airlines have profitably expanded throughout this same period. Now that several low-fare airlines have gained a critical mass and are expanding, cost control by the large network carriers is paramount. The structure of the industry that will evolve from this financial turmoil will depend in large part on how the less stable carriers respond to their cost cutting and restructuring efforts, but also on how soon and to what extent the economic recovery brings relief.

OPERATIONAL EFFICIENCY IN THE NAS

Question. What steps are being taken to improve operational efficiency in the national aviation system? Will they help the airlines operate more efficiently and save money?

Answer. The FAA's work in improving the operational efficiency of the National Airspace System can be considered both on a short-term and long-term basis. Near-term operational improvements include such initiatives as continued deployment of Traffic Management Advisor, enhanced use of collaborative decision making tools to mitigate the impacts of weather on efficiency, and Reduced Vertical Separation Minima. Longer-term initiatives include additional runways as well as the modernization of the en route automation system.

These efforts and systems will provide the airlines and flying public with fuel-efficient routes, predictable schedules, and minimize the disruptions caused by weather.

AIRPORTS WHICH WILL BENEFIT FROM NEW RUNWAYS

Question. Is Chicago O'Hare one of those airports which will benefit from new runways?

In your testimony, you state "We believe that new runways added at the right airports are the single most effective way to increased capacity." Is Chicago O'Hare one of those airports?

Answer. Chicago is one of the 35 airports in the agency's Capacity Benchmark Study/Operational Evolution Plan. Since over 70 percent of all scheduled traffic moves through these 35 airports and 15 of these airports account for 80 percent of the total delays in the entire National Airspace System (NAS), any project which increases capacity or reduces delays at these airports has benefits that ripple through to the entire NAS. O'Hare ranks third in the number of delays over the past 5 years and had the highest ratio of delays to operations of any of the Operational Evolution Plan (OEP) airports in 2002 (57.60 per 1,000). Given that O'Hare also handled more operations than any other airport last year, these delay ratios are indicative of a delay problem at O'Hare.

Delays at O'Hare International Airport will continue to grow as demand increases. Delays at O'Hare are having a ripple effect throughout the country and additional capacity is needed. The FAA is currently evaluating a draft plan proposed by the City of Chicago for the modernization of O'Hare Airport that is expected to significantly increase its capacity. The modernization plan includes the realignment of existing runways as well as the addition of a new runway.

QUESTIONS SUBMITTED TO JEFFREY N. SHANE

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

ROLE OF THE OFFICE OF THE SECRETARY IN FAA MATTERS

Question. Secretary Shane, now that the Coast Guard and TSA have moved to the Department of Homeland Security, do you see an increased role for the Office of the Secretary in matters relating to the FAA? Can you give us a few examples?

Answer. There has been no change in the role of the Office of the Secretary (OST) with relation to the Federal Aviation Administration (FAA) since the transfer of the Coast Guard and Transportation Security Administration (TSA) to the Department of Homeland Security. OST coordinates the broad policy goals of the Department and the administration among all the operating administrations. Its role with regard to the FAA is no different than its role with any other modal administration. For example, the aviation reauthorization legislation (Flight-100) that was proposed by the administration was a collaborative effort between the FAA and OST. The same collaborative process was followed with the various operating administrations included in the administration's surface transportation reauthorization proposal (SAFETEA). We expect this coordination role to continue with regard to all operating administrations within the Department.

FAA MANAGEMENT OF PROCUREMENT

Question. When you were at the Department in the early 1990's as the Assistant Secretary for Policy, the FAA and the Department were struggling with the Advanced Automation System procurement (AAS) and now, to read the IG's testimony, we still seem to be struggling with procurement at the FAA: WAAS, STARS, and Oceanic to be specific. And, in fact, I believe that STARS and Oceanic are, in part, follow-on procurements to the AAS procurement that was such a disaster for the FAA.

Do you think that the FAA does a good job in managing procurements?

What should OST do or Congress do to help the FAA improve its ability to deliver desired capability, reduce schedule slippages, and reduce cost overruns?

Answer. The FAA remains committed to delivering National Airspace System (NAS) systems within cost and schedule baselines. FAA has made a number of management changes that strengthen its ability to develop leading-edge technologies. For example, about 2 years ago, the agency instituted a more disciplined process to establish cost, schedule, and performance baselines. This new process acknowledges that a great deal of planning and analysis must be invested in a program before clear cost and schedule parameters can be established in an official acquisition program baseline. The FAA's investment review board also reviews major programs on a regular basis to identify and remove barriers to successful completion. These processes are producing more accurate cost estimates and better performance vis-à-vis program baselines. In fact, over the past 2 years, the FAA has stayed within cost estimates for the vast majority of modernization programs. With respect to the specific programs mentioned:

The Wide Area Augmentation System (WAAS) program has overcome its technical challenges and was commissioned on July 10, 2003. The Oceanic program has been delivering significant, incremental improvements to oceanic controllers since 1995. The Advanced Technologies and Oceanic Procedures program combines those earlier oceanic improvements, adds others, and integrates everything into a single controller workstation. The program is on track to meet the deployment milestones in its official acquisition program baseline.

The Standard Terminal Automation Replacement System (STARS) program is also on track. Except for a 3-day delay in achieving an early display capability in Syracuse in June, 2002, STARS has met every single milestone on or ahead of schedule for the past 3 years. The first full version of the STARS system began operations at an FAA facility on April 30, 2002, in El Paso. It is currently operational at El Paso; Syracuse; Philadelphia; Portland, Oregon; and Miami.

The FAA has also shown that it is willing to make hard decisions when faced with significant cost variances. The agency cancelled the Gulf of Mexico buoy program last year and just recently decided to defer further expansion of the controller-pilot data link communications program.

The Office of the Secretary of Transportation will continue to work closely with the FAA—to establish realistic and accurate cost/schedule baselines, improve program management, execute according to plan, and cancel or defer programs when their costs exceed benefit profiles.

THE FUTURE OF THE U.S. AEROSPACE INDUSTRY

Question. The Commission on the Future of the United States Aerospace Industry issued a report making a number of recommendations to ensure the competitiveness of the American industry. One of the Commission's recommendations called for the Federal Government to establish a national aerospace policy and promote aerospace by creating a government-wide management structure. How is the Department responding?

Answer. The Secretary is establishing a joint planning office (JPO) to address the air transportation portion of the recommendations. The objective of the JPO is to coordinate with the National Aeronautics and Space Administration, the Departments of Commerce, Homeland Security and Defense, and outside stakeholders on a national plan for the transformation of the air transportation system. These joint activities will unify interagency research and development by aligning our vision, goals, policies, and resources out to 2025. A second piece of the management structure will be a policy committee, chaired by the Secretary of Transportation, which will advise and guide these planning efforts with inputs on the overall national policies that will promote economic growth through the transformation of air transportation.

SUBCOMMITTEE RECESS

Senator SHELBY. Thank you.

This concludes today's hearing. The subcommittee is in recess subject to the call of the Chair.

We thank all of you for appearing.

[Whereupon, at 12:18 p.m., Wednesday, April 2, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004

WEDNESDAY, APRIL 9, 2003

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

The subcommittee met at 2:02 p.m., in room SD–124, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby and Murray.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

STATEMENT OF ROBERT E. WENZEL, ACTING COMMISSIONER

ACCOMPANIED BY TODD GRAMS, CHIEF FINANCIAL OFFICER

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. The Committee will come to order. With the April 15th tax filing deadline less than a week away I believe it is appropriate that we review the Internal Revenue Service's (IRS) fiscal year 2004 budget request. Since the newly nominated Commissioner of the Internal Revenue Service has not been confirmed we will hear from Bob Wenzel, the Acting Commissioner of the IRS today. I would also like to thank you for appearing before the committee this morning.

Although I am the Chairman of the newly created Transportation, Treasury and General Government Subcommittee, these are not necessarily new issues for me. Many of you may recall that I was the Chairman of the Treasury and General Government Subcommittee several years ago when the reorganization and modernization of the IRS was in its infant stage. Since those days, the IRS has improved its service to the taxpayers, but there's still a great deal more to be achieved.

I am relieved to know that today, unlike the last time I chaired a hearing on these issues, taxpayers are receiving courteous service, refunds are being processed in a timely manner, and more individuals are filing their taxes electronically. The Offer in Compromise program is working efficiently to help the taxpayers eliminate tax debts, and the Innocent Spouse program, I am told, is also

making progress because only the guilty party is now being assessed the tax liability.

Even with the success of all these programs, the IRS still has a long way to go to provide the service that taxpayers deserve and expect. I believe that the IRS should provide top quality service to America's taxpayers by helping them to understand and to meet their tax obligations, and by applying the tax laws with integrity and fairness. Americans deserve and expect no less from the Service.

Turning now to the IRS budget request, I would like to point out that your fiscal year 2004 request is $10.4 billion, an amount that comprises over 90 percent of the overall budget for the Department of the Treasury. The IRS' ongoing business systems modernization efforts will require $429 million in the year 2004. The Subcommittee appreciates the efforts that continue to go into this massive upgrade that we hope will improve the speed, timeliness, and accuracy of IRS' administration of the tax system.

I am aware that last year's efforts encountered some setbacks and I am interested to learn how the Service has gotten back on track and will ensure that such issues will not occur again because I expect positive results from such an investment.

While the IRS' traditional role is to implement and enforce our tax laws, it has also been charged with administering the earned income tax credit. The earned income tax credit has expanded since its enactment in 1975 and at the same time has become politically controversial. This budget proposes a number of changes to that program because of the high level of fraud associated with the program's administration. Each year the IRS makes approximately $9 billion in erroneous earned income tax credit payments. This is a direct and permanent cost to the American taxpayer because it is virtually impossible to recapture these payments once they have been made.

You are requesting $251.2 million in 2004 for the EITC program, and of that amount, $100 million is requested to implement the earned income tax credit task force recommendations to address the problems associated with current program administration that results in these overpayments. Eliminating erroneous payments and ensuring the proper administration of this program are certainly goals with which I completely agree.

Compliance is a problem and you are requesting an additional $133 million for staff to strengthen compliance. I am interested in hearing of the abusive tax schemes you will be targeting and how you will deal with them.

With the IRS' progression into the information age, I am keenly interested in how the electronic filing system is working, who is using the system, under what conditions, and finally, what kinds of systemic cost savings are being realized.

The IRS promotes electronic filing as "free" but I have been made aware that most, if not all, of the programs or services that are requested do charge a fee. I do not know anyone that would agree that is free. I am interested in exploring this more.

Along those lines, the IRS has initiated a new program called Free File, which is a public-private partnership between the IRS and a consortium of tax software companies that offer free filing

services to qualifying taxpayers. I applaud this effort and the assistance that it provides low income taxpayers. It is my understanding that savings identified because of electronic filing and increases in productivity will enable the IRS to close one of its processing sites. I would think that the closure of this processing site will realize some savings. Additionally, I am interested in how you think continued increases in electronic filing will change the nature of the IRS and its workforce.

Another significant change is this budget proposes to employ private collection agencies to track down taxpayers that owe billions of dollars in delinquent taxes. I do support the effort of collecting delinquent debt, but this is of serious concern because in addition to having a responsibility to protect taxpayers' privacy, I cannot imagine IRS as having the resources to administer and oversee such an undertaking.

While this is a fairly straightforward budget, the IRS proposes a significant number of changes in the way that it does business. As I mentioned, I am very interested in these changes and look forward to your explanation of the proposal that is included in the budget.

Senator Murray.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman. We are now less than a week away from tax day, and 2002 was a very rough year for America's working families. The economy has continued to decline, hundreds of thousands of Americans were put out of work, and many of them still have not found jobs. Even those who have found jobs have had to take big pay cuts. Six days from now many of those families will be hard-pressed to cover their check to the IRS. At a time when our national economy is struggling and when individual families are hurting, the President is pushing for tax cuts that overwhelmingly favor our wealthiest citizens. That has got to be pretty disheartening to the many families who are struggling through no fault of their own.

Today I want to shine a light on a similarly, I believe, unfair proposal in the President's budget that could mean less help for low income families. An initiative in the President's 2004 IRS Budget seems to be targeted at throwing working families off of the rolls for receiving the earned income tax credit or EITC. This is a tax credit that is targeted at the working poor. The EITC is probably the most targeted means-tested tax benefit in the entire Federal Code. It was started by President Gerald Ford and it was greatly expanded under President Reagan.

While many working families are eligible to receive it, as many as 25 percent or more of those families do not even apply for it. We should be taking steps to allow more eligible families to get the help they need, but I believe the President's proposal goes the other away. It would require many of these working poor families to basically pre-certify that they are eligible to receive the EITC. This proposal is designed, we are told, to minimize fraud in the earned income tax credit program.

Mr. Chairman, you will not find one Senator on this committee or anywhere in the U.S. Senate that supports citizens perpetuating

fraud on the IRS. Tax fraud by any taxpayer should never be tolerated. It is a disservice to every other family that works hard and pays its share.

As we work to eliminate fraud we need to be careful that we do not penalize the families who rely on this credit. As I understand it, under the Administration's proposal, within a couple of months, tens of thousands of families will receive Federal forms requiring a great deal of documentation in order to qualify them to take the Earned Income Tax Credit later in the year. Much of this required documentation will be hard to get, and the Federal tax assistance centers for the poor will not be up and running during the summer months. By this time next year more than 2 million families are expected to be subject to this procedure. The average earned income tax is roughly $1,660. That makes a pretty big difference for families that are struggling.

I will repeat, I believe each and every case of tax fraud should be prosecuted. Given the fact that the IRS never has and never will have enough resources to audit every return, I am mystified by its decision that $100 million in scarce funds should be committed to going after the working poor. No amount of fraud should be allowed for any taxpayer at any income level and I think we need to be very cautious of proposals that could have an adverse effect on families getting the benefits that they deserve.

The IRS should go after people that are cheating the system to receive the EITC when they are not eligible. But I believe the IRS also carries the responsibility to make sure that these enforcement efforts do not undermine the whole purpose of that the EITC program and the families that rely on it.

I hope that we will pursue this critical issue of fairness in our tax collection system today, Mr. Chairman. Thank you.

Senator SHELBY. Mr. Wenzel, your written statement will be made part of the record in its entirety. Proceed and sum it up, if you would.

STATEMENT OF ROBERT E. WENZEL

Mr. WENZEL. Mr. Chairman and distinguished members of the Subcommittee, thank you for this opportunity to discuss the President's fiscal year 2004 budget for the IRS. Accompanying me today is Mr. Todd Grams, the IRS' chief financial officer.

The President's overall fiscal year 2004 budget request increases discretionary spending by 4 percent. Seen in this context, the proposed 5 percent funding increase over the fiscal year 2003 request for the IRS is greatly appreciated. We will work hard to justify this confidence and investment.

Mr. Chairman, we also share your commitment to make the most efficient and productive use of the taxpayers' dollars. Indeed, beginning with the fiscal year 2004 budget, strategic planning, budgeting, resource allocation and performance goals, are much better aligned at the IRS.

Moreover, we are now integrating the development of our budget with the establishment of performance measures, a key part of the President's management agenda, and we believe we are on the right track.

Mr. Chairman, let me briefly discuss the President's fiscal year 2004 budget request. Simply put, it keeps us on track. The funding provided will help us to build on the improvements we have made in enforcement, service, and productivity, while continuing to make longer term investments in our business systems modernization program.

The principal strategic focus of the budget is strengthening enforcement activities. Last October we realigned our audit resources to focus on key areas of noncompliance, such as offshore credit card users and promoters of abusive schemes and scams.

To strengthen enforcement programs across the board, the IRS budget request includes $133 million to fund numerous initiatives. For example, new revenue agents and revenue officers will be added to address offshore credit cards, abusive trusts and shelters, high risk high income taxpayers, and other priority work. We also will increase staff devoted to frivolous returns and refund claims to counteract recent growth and aggressiveness by promoters in this area.

A legislative proposal is also in the budget that would authorize us to contract with private sector collection agencies to supplement current IRS tax collection efforts. By using these private collection agencies we expect to be able to handle more collection cases at an earlier stage, before the accounts become stale and uncollectible. Moreover, we can then concentrate our resources on more complex cases and issues.

The second focus of the proposed budget is reinvestments. Through the IRS' strategic planning and budgeting process, the agency's senior managers identified a significant potential for more effective and efficient use of current resources. A total of $166 million and 2,145 FTEs were identified for reallocation within the base budget for fiscal year 2004. By reinvesting $166 million, primarily from increased productivity, we will be able to increase performance in key tax administration areas.

For example, electronic filing success provides a great opportunity to reduce and reallocate resources from submission processing. The fiscal year 2004 budget reflects the first-ever closing of a submissions processing pipeline as paper filings decrease. We can use these reinvestments to strengthen enforcement and improve customer service.

The third and final focus is business systems modernization. The BSM program requests a total of $429 million, an increase of $65 million over the current fiscal year 2003 budget level. Over the course of the BSM program, these investments will benefit the IRS and taxpayers by reducing operating costs, increasing cost avoidance, reducing taxpayer burden, and boosting tax receipts.

PREPARED STATEMENT

Mr. Chairman, in conclusion, current trends in customer service and enforcement are pointing in the right direction. The President's budget will help us to maintain this upward course and to succeed in achieving our mission.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF ROBERT E. WENZEL

INTRODUCTION

Mr. Chairman, and distinguished Members of the Subcommittee, thank you for this opportunity to discuss the President's proposed fiscal year 2004 budget for the Internal Revenue Service. Accompanying me today is Mr. Todd Grams, IRS Chief Financial Officer.

I also want to thank the President and Treasury Secretary Snow for their strong and visible support of the IRS and our critical mission during these challenging times. The President's overall fiscal year 2004 budget request increases discretionary spending by 4 percent. Seen in this context, the proposed 5 percent funding increase over the fiscal year 2003 request for the IRS is greatly appreciated and we will work hard to justify their confidence and this investment.

The funding provided in the President's budget will help us to build on the improvements we have made in compliance, service and productivity while continuing to make longer-term investments in our Business Systems Modernization (BSM) program.

Mr. Chairman, I also welcome the opportunity to work closely with you and we share your commitment to make the most efficient and productive use of the taxpayers' dollars. Indeed, beginning with the fiscal year 2004 budget, strategic planning, budgeting, resource allocation and performance goals are better aligned. Moreover, we are now integrating development of our budget with the establishment of performance measures—a key part of the President's Management Agenda. We believe we are on the right track.

BUILDING ON A GOOD FOUNDATION

Mr. Chairman, the IRS continues to make steady progress on the mandates and new direction set forth by the IRS Restructuring and Reform Act of 1998 (RRA 98). We continue to make gains on our three strategic goals: top quality service to each taxpayer in every interaction; top quality service to all taxpayers through fair and uniform application of the law; and productivity through a quality work environment.

Although still unacceptable in some areas, service to taxpayers has improved. Returns, payments and refunds are better processed. Taxpayers are getting better service over the telephone, in person and over the Internet. Most are getting the right answers to their tax law and account questions. New incentives, such as the innovative Free File program, are breaking down the last barriers to e-file.

After careful study, we are redirecting our resources to the key areas of noncompliance, such as offshore tax avoidance schemes. New programs such as the Offshore Voluntary Compliance Initiative are producing promising results.

The four customer-focused operating divisions are also meeting the varying needs of their taxpayer segments. After years of planning, the BSM program is entering a new, challenging but risky phase: producing the flexible systems, technology and tools needed to provide service to taxpayers on a par with the best private sector financial services companies and to administer an increasingly complex tax system.

Clearly, we are doing a better job than when RRA 98 was enacted into law although we are far short of providing the level of service envisaged in the legislation. We still have a long way to go, but if we stay the course we began almost five years ago, we can still succeed.

Customer Service

The IRS has made steady gains in better serving America's taxpayers. Each filing season and year is appreciably better than the previous one and we are building on those successes. With only one week left in the filing season, we can detect some very positive trends.

For the 2002 filing season, the agency processed over 128.7 million individual returns, and issued over 99.5 million refunds totaling $191.2 billion. We believe we will exceed these numbers by the end of this filing season.

In 2002, web site usage smashed all records with 2.7 billion hits and 336 million files downloaded. For the 2003 filing season, usage on our newly designed web site is already running almost 25 percent ahead of last year's torrid pace.

IRS representatives also answered 25.9 million telephone calls during fiscal year 2002; the automated telephone system handled about 62.4 million calls. For the 2003 filing season, total assistor calls answered are running about level with last year, with automated calls down dramatically. This drop can be most likely traced to the high volume of calls we received last year related to the advance refund checks.

The big news is assistor level of service. It is up 20 percent over last year. This can be attributed to the implementation of new telephone lines, less complicated scripts and lower demand. Time spent waiting, while still below private sector standards, improved substantially. Average wait time is down 26 percent from the previous year.

Quality of service is as important as access to service. Taxpayers expect not only to get through on our toll-free telephone lines but to get the correct answer to their tax law or account question. For the 2002 filing season, taxpayers were receiving correct responses to 82.76 percent of tax law questions and 88.89 percent of account questions. So far this filing season, the numbers stand at 82.02 percent and 86.42 percent respectively.

In 2002, more than 46.7 million taxpayers (36 percent) filed electronically—a 16.4 percent rise from last year. This filing season, all e-file is up by almost 9.23 percent and e-filing on line has grown by 29.28 percent. Much of this surge can be attributed to the Free File program that will help us reach the RRA 98 mandated goal of 80 percent of individual returns filed electronically by 2007.

On January 16, 2003, the Treasury Department, the Office of Management and Budget (OMB) and the IRS launched the free online tax preparation and filing service called Free File. It was made possible through a partnership agreement between the IRS and the Free File Alliance, LLC—a private sector consortium of tax software companies.

The partnership agreement requires that the Alliance as a whole provide free tax preparation and filing to at least 60 percent, or approximately 78 million American taxpayers. The primary candidates for Free File are those taxpayers who prepare their own taxes and still file paper returns.

Initial Free File reports are most encouraging. As of March 19, Alliance members have processed and transmitted more than 2.0 million tax returns. This represents approximately 25 percent of the total 8 million online e-filed returns.

Improved service to taxpayers has not gone unnoticed. On the 2001 American Customer Satisfaction Index Survey (ACSI), taxpayers gave the IRS an overall score of 62, an 11 percent increase among individual tax filers over 2000, and a 22 percent increase over 1999. This was the largest favorable gain of the 30 federal agencies surveyed by the ACSI. The 2002 annual rating for IRS in the Roper Starch customer satisfaction survey was 44 percent—a 38 percent increase over its 32 percent nadir in 1998. However, it reflects a small decrease from 2001.

Compliance

The IRS does not have the resources to attack every case of noncompliance. Therefore, it must apply its resources to areas where noncompliance is greatest while still maintaining adequate coverage in other areas. After careful study, the IRS identified some of the most serious compliance problem areas. These include: (1) promoters of tax schemes of all varieties; (2) the misuse of devices such as trusts and offshore accounts to hide or improperly reduce income; (3) abusive corporate tax shelters; (4) underreporting of tax by higher-income individuals; (5) accumulation and failure to file and pay large amounts of employment taxes by some employers; and (6) the high rate of erroneous earned income tax credit (EITC) payments.

Our goal was to stop the long-term decline in compliance while beginning to focus effectively and efficiently on the key areas of noncompliance. In most areas, the IRS achieved this goal. For example, in fiscal year 2002, the IRS closed 140,737 Tax Delinquent Investigation cases. It also examined 60,894 individual returns for taxpayers with incomes exceeding $100,000 and 528 Large Cases (corporate). All of these show gains over the previous fiscal year and the audits of individuals with incomes over $100,000 represented a 22 percent increase. However, the 724,430 Tax Delinquent Account closures represent a small drop over the same period last year.

Our new emphasis against promoters of abusive tax devices has also shown results. As of March 19, 2003, the IRS had 25 promoter injunctions granted, 17 promoter injunctions pending in District Court and 17 pending at the Department of Justice, 216 promoter exams and information requests underway, and 464 ongoing criminal investigations of promoters of various tax schemes. The Offshore Voluntary Compliance Initiative, which ends April 15, is also producing promising leads on promoters and is bringing back taxpayers into compliance.

In addition, an abusive tax shelter disclosure initiative was launched in 2002. The IRS processed 1,664 disclosures from 1,206 taxpayers who came forward. The disclosures cover 2,264 tax returns and involved more than $30 billion in claimed losses or deductions.

Also, key to successfully executing a compliance program is better data. The IRS failed to detect new areas of noncompliance in part because of a reliance on increasingly obsolete data from the old Taxpayer Compliance Measurement Program.

(TCMP was last conducted in 1988.) The agency designed and is implementing a National Research Program that will obtain the essential information with far less burden on the taxpayer. New scoring models are being developed using 21st century techniques, with interim models already deployed.

Technology and Modernization

Critical to our success is better managing our massive technology and Business Systems Modernization program. From 15 separate information systems operations, we created one MITS (Modernization and Information Technology Services) organization that has the job of serving all of our operating units and managing our modernization program.

As part of this major transition, standards were established and largely implemented for hardware and software. We consolidated mainframes from 12 centers to three and established one standard for desktop and laptop hardware and software. We implemented nationwide e-mail and voice messaging systems, standard office automation software, and security certifications and standards. We deployed important interim applications systems, including Intelligent Call Routing, Integrated Case Processing and the Integrated Collection System.

Business Systems Modernization laid the foundation for success of this massive program. Both the long-term vision and enterprise architecture were established and embedded as a living blueprint for all business and technology improvement programs.

BSM has finally begun delivering the first projects with tangible benefits to taxpayers, such as moving the first set of taxpayers to a modern, reliable database in 2003. This year, taxpayers also began using the new Internet Refund/Fact of Filing (IR/FoF) application that allows them to check on the status of their return and refund 24 hours a day, 7 days a week. Of paramount importance, we implemented the first project on our new security system, which provides one standard for ensuring the security of all IRS data and systems. IR/FoF usage has already exceeded our expectations. So far this filing season, there have been more than 8.7 million uses of "Where's My Refund?"; we project that number will rise to 15 million by the end of the year.

Over the next five years, all individual taxpayers will be moved to the new database, cutting times for refunds on e-filed returns to less than a week and allowing us to provide taxpayer and employees with up-to-the-minute accuracy on their accounts.

All major management processes, which are needed to manage this program on a continuing basis, were improved. Indeed, we are only the second agency in the federal government to obtain Level Two certification in the Software Engineering Institutions Capability Maturity Model.

FISCAL YEAR 2004 RESOURCE REQUEST

For fiscal year 2004, the IRS is requesting resources totaling $10.437 billion and 100,043 FTE (full time equivalent). This represents an increase of $521 million (5 percent) over the President's fiscal year 2003 request.

Mr. Chairman, the fiscal year 2004 budget request can be best viewed through its three strategic drivers that are derived them from the IRS performance-based budgeting process.

First is Compliance.—The principal strategic focus of the President's fiscal year 2004 IRS budget is strengthening compliance activities, especially in the area of high-income, high-risk taxpayers and businesses, and abusive tax avoidance schemes and offshore trusts. A legislative proposal would also authorize the IRS to contract with private-sector collection agencies to supplement current IRS tax collection efforts. The budget further includes a major initiative to reduce erroneous payments in the Earned Income Tax Credit (EITC) Program.

Second is Reinvestments.—We are committed to better utilizing the resources the IRS already has by "reinvesting" base resources. By reinvesting $166 million, primarily from increased productivity within the base budget, the IRS will be able to deliver increases in the performance of key tax administration programs that are significantly higher than the additional dollar and FTE increases requested in the budget.

Third is Business Systems Modernization.—Investments in modernization through the BSM program would continue with a total request of $429 million, an increase of $65 million above the fiscal year 2003 appropriation. Over the course of the BSM program, these investments will benefit the IRS and taxpayers by reducing operating costs, increasing cost avoidance, reducing taxpayer burden and increasing tax receipts.

Mr. Chairman, I also want to draw the subcommittee's attention to a new task that was added to the IRS' traditional tax administration duties and operations. In August 2002, the President signed Public Law 107–210, the Trade Adjustment Assistance Act of 2002. Title II of this statute provides a refundable tax credit for the cost of health insurance for certain individuals who receive a trade readjustment allowance or a benefit from the Pension Benefit Guaranty Corporation (PBGC). The tax credit is equal to 65 percent of the health insurance premium paid by eligible persons to cover them and qualifying family members. The IRS must implement the Health Coverage Tax Credit provisions.

We are requesting $35 million for Health Insurance Tax Credit Administration. The amount provided in the Consolidated Appropriations Resolution, 2003 ($70 million) will be used to provide software, hardware, and contract services to develop the system mandated by Public Law. The IRS will oversee the contractor's work.

Let me now provide the highlights of our proposed fiscal year 2004 budget.

COMPLIANCE

Additional Funds Requested to Strengthen Tax Administration Compliance (+$133M and +1,700 FTE)

The Internal Revenue Service is realigning its audit resources to focus on key areas of noncompliance with the tax laws. The strategy represents a new direction for the agency's compliance effort.

Following months of research and planning, the new approach is focusing on high-risk areas of noncompliance. Our effort will generally focus first on promoters and then on participants in these various schemes. The initiative will feature new and enhanced efforts on the most serious compliance problem areas described earlier in my testimony.

Our Small Business/Self-Employed (SB/SE) Operating Division will handle the new effort in these key areas affecting individuals and businesses. Compliance efforts will continue in other parts of the agency, such as the tax shelter initiative in the Large and Mid-Sized Business (LMSB) Division.

To strengthen compliance programs across the board, the IRS budget request includes $133 million to fund numerous compliance initiatives. Key examples of these initiatives are:

Address Complex Enforcement Issues of Small Business/Self Employed Taxpayers (+$56M and 887 FTE).—Additional staff will be provided to all major compliance programs in SB/SE and new workload selection systems and case building techniques will be employed. New revenue agents (exam work) and revenue officers (collections work) will be applied in the field to address offshore credit cards, abusive trusts and shelters, high-risk/high-income taxpayers, and other priority work. Additional staff at call sites will be employed to specialize in out-going calls and offset levies. Greater resources in the Automated Substitute for Return (ASFR) program will allow us to focus on high-income taxpayers who do not file returns. Also, staff devoted to frivolous returns and frivolous refund claims will be increased to counteract recent growth and aggressiveness by promoters in this area.

Address Passthrough Entities and Abusive Trusts of Large Business Taxpayers (+$22M and 258 FTE).—This increase will allow the IRS to apply the most experienced revenue agents to the highly complex and technical issues of passthrough entities—such as partnerships, trusts and S-corporations—and abusive corporate tax shelters while maintaining minimum coverage of other priority exam work.

Counterterrorism (+$6M and 24 FTE).—The IRS is heavily involved in the fight against both global and domestic terrorism. Demand for the financial investigative skills of Criminal Investigation (CI) special agents remains high. After September 11, 2001, over 273 FTE in fiscal year 2002 and 206 FTE projected in fiscal year 2003 were redirected from CI tax enforcement activities to counterterrorism related activities. CI is working on counterterrorism with the Treasury Executive Office of Terrorism Financing and Financial Crimes and is an integral part of the nation's war on terrorism.

Use of Private Sector Contractors for Collection of Taxes Due

There is a significant and growing backlog of cases involving individual taxpayers who are aware of their tax liabilities but are not paying them. We believe that many of these individuals are capable of paying their outstanding tax liabilities. This is unfair to every hard-working American who pays his or her fair share of taxes. To address this problem, the President's budget proposes to support the IRS' collection efforts with private collection agencies (PCAs) that will engage in specific, limited activities, allowing the IRS to concentrate its resources on more complex cases and issues.

By eliciting the assistance of PCAs, the IRS expects to be able to address this important part of the existing backlog of collection cases. Over time, the IRS expects that PCAs would assist the IRS in handling more collection cases at an earlier stage in the process—before the accounts become stale and uncollectible. PCAs have proven successful with over 40 states and have been used for many years with other federal programs. PCAs would hold no enforcement power and their employees would be subject to the same rules that apply to the IRS governing taxpayer rights and confidentiality. Consequently, taxpayer protections would be unaffected. The IRS would be required to closely monitor the activities and performance of the PCAs to ensure these rules are followed.

Reduce Inappropriate Payments in EITC Program (+$100M and +650 FTE)

The EITC program benefits millions of low-income workers. The EITC lifts nearly 4 million people, especially single mothers, out of poverty each year. However, the current error rate for the EITC program is too high. In 1999, between 27 and 32 percent of EITC claims—or between $8.5 billion and $9.9 billion—were paid in error. EITC has been consistently listed among high-risk federal programs. Congress has recognized this by providing a separate appropriation that has been used for EITC compliance enforcement.

The Fiscal Year 2004 Budget requests an additional $100 million to begin a new strategy for improving the EITC program. This approach, suggested by the Department of Treasury EITC Task Force, concludes that the IRS must obtain additional information on certain EITC eligibility criteria before payment of the EITC-portion of refunds. A major portion of the request will be used to invest in suitable information technology and develop business processes.

The IRS will begin to use an integrated approach to address potential erroneous claims by identifying cases that have the highest likelihood of error before they are accepted for processing and before any EITC benefits are paid.

A key part of this strategy is to begin certifying taxpayers who claim qualifying children on the relationship and residency requirements. In addition, the IRS will use limited additional taxpayer information, in combination with taxpayer-specific IRS historical data, third party data and error detection systems to detect and freeze the EITC-portion of refunds that pose a high risk or filing status errors or income misreporting. The IRS will seek to minimize the burdens on taxpayers by using existing databases and other sources of information to verify eligibility in advance. This integrated approach is designed to provide far greater assurance that EITC payments go to the individuals who qualify for the credit, without sacrificing the goals of the EITC program.

REINVESTMENTS

Resources Freed-Up Within the Base Budget for Reinvestment (–$166 million and –2,145 FTE)

The President's budget submission states, "In fiscal year 2004, the IRS will improve performance primarily through better management and fundamental reengineering of business processes, and secondarily by increases in resources."

Through the IRS' Strategic Planning and Budget process, the agency's senior managers identified significant potential for the more effective and efficient use of current resources. A total of $166 million and 2,145 FTE were identified for reallocation within the base budget in fiscal year 2004. Examples of sources for reallocations include:

Submissions Processing/Electronic Filing (–$13.5M and –366 FTE).—IRS' continued success with electronic filing provides a great opportunity to reduce and reallocate resources from submission processing to strengthen compliance and improve customer service. The fiscal year 2004 budget reflects the first-ever closing of a submissions processing pipeline (Brookhaven, NY) as the labor-intensive processing of paper filings decreases across the system.

Compliance Support Reengineering (–$26M and –394 FTE).—Reengineering of the compliance program in SB/SE will improve operational efficiency and workload selection, and reduce taxpayer burden. Business process improvements and centralization of the Compliance Support Organization will generate FTE that can be reapplied in front-line activities.

Remittance Transaction Research (–$9M and –199 FTE).—Creating a central data repository (taxpayer payment data and related images) for all individual taxpayer payment documents will increase efficiency, improve accuracy of posting payments, and reduce the time it takes to resolve payment issues.

Information Technology (–$46M and –39 FTE).—Efficiencies through reengineering and other efforts will reduce expenditures in end-user support, computing center support, and network operations and maintenance.

Reinvestment of Reallocated Funds within the Base Budget (+$166 million and +649 FTE)

Resources reallocated within the base budget would be used to improve Customer Service and strengthen Compliance programs. The specific initiatives include:

Reduce Compliance Staff Support of Filing Season (+$13M and +154 FTE).—Due to lower-than-needed staff levels in Field Assistance Programs for individual taxpayers, the IRS must detail compliance staff from SB/SE to field assistance during the filing season to meet taxpayer demand. Under this initiative, we would hire additional staff in field assistance so that the level of service in assistance is maintained while the number of compliance details can be reduced, and compliance staff can devote more time to compliance activities.

Improve Telephone Service to Small Business/Self Employed Taxpayers (+$11M and +184 FTE).— Additional resources are needed to assist SB/SE taxpayers in Accounts Management phone services. These staff members assist taxpayers with a broad range of issues concerning taxpayers' accounts.

Information Technology (+$33M and 0 FTE).—IT investments will expand web services to taxpayers, replace aging servers, purchase needed software, and expand high speed and secure access for revenue agents at remote sites.

CONTINUED INVESTMENT IN BUSINESS SYSTEMS MODERNIZATION (+65 MILLION AND 0 FTE)

The BSM program request totals $429 million, an increase of $65 million over the current fiscal year 2003 level. The BSM account provides for modernizing IRS-wide business practices and acquiring new technology.

We use a formal methodology to prioritize, approve, fund and evaluate our portfolio of BSM investments. This methodology enforces a documented, repeatable and measurable process for managing investments throughout their life cycle. The IRS Core Business System Executive Steering Committee, chaired by the Commissioner, approves investment decisions. This executive-level oversight ensures that products and projects delivered under the BSM program are fully integrated into IRS Business Units.

Highlights in BSM for fiscal year 2004 include: (1) modernized e-File will provide electronic filing for large and small businesses; (2) implementation of the Integrated Financial System will replace the current antiquated administrative core accounting system; (3) the first release of the Custodial Accounting Project will put individual taxpayer data in a data warehouse for easier access and analysis; and (4) the Customer Account Data Engine and Internet Refund Fact of Filing will be revised for tax law changes to support the 2004 filing season. Given the changes in the fiscal year 2003 and fiscal year 2004 BSM funding totals, we are currently reviewing the fiscal year 2004 allocation project-by-project to determine the optimum plan. They are discussed in greater detail below.

Achievements and Benefits

In fiscal year 2002, the BSM Program provided real benefits, including a secure online system and system management capability and the aforementioned Internet Refund/Fact of Filing pilot program. In fiscal year 2003 and fiscal year 2004, additional supporting infrastructure services will be added, and an increasing number of business and internal applications will be delivered, creating benefits for taxpayers and practitioners and enabling internal efficiencies.

The fiscal year 2003 delivery plan will move the BSM Program into a wide spectrum of critical new areas:

—*Customer Account Data Engine (CADE) R1.*—In July 2003, CADE will begin processing single 1040EZ filers (both electronic and paper). Taxpayers covered under CADE will receive their refunds about 40 percent faster than under Master File processing, if they use direct deposit. More importantly, we will have taken the first of many steps to replace the 40-year old Master Files.

—*Custodial Accounting Project (CAP).*—We will continue development and testing of CAP Release 1 scheduled for deployment in the first quarter of fiscal year 2004. CAP will create a repository for modernized Individual Master File data and will address documented financial material weaknesses.

—*Enterprise Architecture (EA) and Tax Administration Vision and Strategy (TAVS).*—TAVS focuses on creating a long-term vision of how the agency should work in the future. Delivery and acceptance of EA Release 2.0 was a significant achievement. We also conducted a planning effort called "TAVS Refresh" to

identify gaps and outdated information in TAVS which we plan to address in fiscal year 2003.

—*e-Services.*—e-Services sub-releases will provide: registration of electronic return originators, Taxpayer Identification Number (TIN) matching, initial partner relationship management capabilities, electronic account resolution, transcript delivery, secure e-mail, and bulk TIN matching.

—*Infrastructure (STIR and Infrastructure Shared Services [ISS]).*—This project provides the basic secure infrastructure necessary to support the modernization effort including e-Services R1, IR/FoF, Internet Employer Identification Number (EIN), and subsequent fiscal year 2003 releases.

—*Integrated Tax Administration Business Solutions (ITABS).*—Projects to ensure we understand requirements and select COTS (commercial off-the-shelf) solutions that can effectively integrate business processes in IRS functions.

—*Internet EIN.*—This application will automate Employer Identification Number (EIN) requests over the Internet. Currently, the EIN request process is cumbersome and people-intensive, often resulting in unacceptable delays for those starting new businesses.

—*Integrated Financial System (IFS).*—Although the first release of the new financial system will not go live until October 1, 2003 (therefore, an fiscal year 2004 delivery project), it is likely to be our most work-intensive project during fiscal year 2003.

—*Modernized e-file.*—The Modernized e-file project will be in pre-deployment testing for all of fiscal year 2003, with initial deployment in early calendar year 2004, with Forms 1120 and 990 e-file capabilities.

BSM benefits delivered in fiscal year 2004 will include:

—Modernized e-file will provide electronic filing for large and medium-sized businesses (Forms 1120 and 990), as well as a new Tax Return Data Base, which will greatly improve customer service and issue resolution.

—e-Services will provide support for the 2004 Filing Season as well as implement support structures for modernized e-file planned for implementation later in the fiscal year.

—IFS will develop the detailed functional requirements to support internal management requirements for financial and management planning, execution and reporting.

—CAP will provide an integrated enterprise data warehouse to support organizational data needs, performance measurement, and tax operations process improvements.

—CADE will allow for electronic processing of selected Form 1040 Wage & Investment returns with additional taxpayer segments that have increasingly more complex tax returns and/or balance due returns.

—ISS will establish a program whose goal is to deliver a fully integrated shared information technology infrastructure to include hardware, software, shared applications and data, telecommunications, security and an enterprise approach to systems and operations management. This approach results in overall reductions in time and dollars to develop, deploy, and maintain the infrastructure and the business applications that use the infrastructure.

IMPACT OF UNFORESEEN COSTS ON STAFFING LEVELS

Although staffing increases were supported in recent budgets, they could not be realized because of unexpected cost increases. The IRS is labor intensive; salaries and benefits make up 71 percent of our Operations Budget. Therefore, any unexpected major cost that the agency must absorb will have a negative effect on staffing levels, despite efforts to reduce non-labor costs.

For fiscal year 2003, the President proposed a budget for the IRS that included 98,727 FTE (less EITC). However, the total FTE for fiscal year 2003 (less EITC) is currently expected to be 96,802, which is 1,925 FTE less than the President's request. The following are examples of what drove projected fiscal year 2003 FTE down below the President's request by 1,925.

—The unfunded increase in the fiscal year 2002 annual pay raise from the President's 3.6 percent request to the 4.6 percent enacted level (Cost: $43 million).

—Postage increases above initial budget projections (Cost: $22 million).

—Unfunded increase in security costs after 9/11 (Cost: $20 million).

Let me put the staffing problem in even greater perspective. Over time, the current fiscal year 2003 FTE projection is 1,249 FTE less than what was requested in the President's fiscal year 2001 Budget. It is also important to note that the fiscal year 2003 appropriation bill created a $68 million unfunded pay increase and an across-the-board cut of $64 million. These actions will further reduce our staffing

levels and directly affect our ability to deliver on performance projections included in the fiscal year 2003 budget request.

MODIFICATIONS TO THE IRS RESTRUCTURING AND REFORM ACT OF 1998 (RRA 98)

Mr. Chairman, in the fiscal year 2004 budget submission, the Administration proposed modifications to RRA 98. Last year, the House passed legislation that contained five of these proposals; the Senate did not act before adjourning. We commend the House for its actions and believe that these modifications preserve the intent of the Act while allowing us to administer it more efficiently and effectively. We urge the Congress to take similar action this year.

There are six parts to the Administration's proposed modifications. The first modifies infractions subject to Section 1203 of RRA 98 and permits a broader range of available penalties. Our ability to efficiently administer the tax code is currently hampered by a strong fear among our employees that they will be subject to unfounded 1203 allegations, and perhaps lose their jobs as a result. This proposal will reduce employee anxiety resulting from unduly harsh discipline or unfounded allegations.

The second part adopts measures to curb the large number of frivolous submissions and filings that are made to impede or delay tax administration.

The third permits the IRS to enter into installment agreements with taxpayers that do not guarantee full payment of liability over the life of the agreement. It allows the IRS to enter agreements with taxpayers who desire to resolve their tax obligations but cannot make payments large enough to satisfy their entire liability and for whom an offer in compromise is not a viable alternative.

The fourth allows the IRS to terminate installment agreements when taxpayers fail to make timely tax deposits and file tax returns on current liabilities.

The fifth streamlines jurisdiction over collection due process cases in the Tax Court, thereby reducing the cycle time for certain collection due process cases.

The sixth and last provision would eliminate the monetary threshold for IRS Chief Counsel reviews of offers in compromise.

The Administration also has two proposals to improve IRS efficiency and performance from current resources. The first would modify the way that Financial Management Services (FMS) recovers its transaction fees for processing IRS levies by permitting FMS to retain a portion of the amount collected before transmitting the balance to the IRS, thereby reducing government transaction costs. The offset amount would be included as part of the 15-percent limit on levies against income and would also be credited against the taxpayer's liability.

The second proposal would encourage growth in electronic filing by extending from April 15 to April 30 the return filing and payment date for the filing of individual income tax returns, if the return is filed electronically and any balance due is paid electronically.

CONCLUSION

Mr. Chairman, in conclusion, the President's proposed fiscal year 2004 budget for the IRS keeps us on track and will allow us to provide both the short-term and longer-term benefits to taxpayers, which has been the hallmark of our modernization program from its inception. Once again, I thank the President and his Administration for their continued support of our program and their confidence that we can get the job done, and at the least cost to America's taxpayers.

ELECTRONIC FILING

Senator SHELBY. I want to talk to you a little about electronic filing. This process clearly makes your job easier and maximizes efficiency within the Service, but there are serious concerns about the inability of the average American to fill out his or her own tax return and press a button on the IRS's web site and file their return electronically. I understand that there are a number of reasons floating out there but I would like to hear from you, why can't I or somebody else go to the IRS' web site, fill out my tax return and file it unless, of course, I print it out and put it in the mail?

Mr. WENZEL. This year, for the first time, we do offer the opportunity to have individuals come into the IRS.gov site and avail themselves of a program we refer to as Free File. There are 17

commercial software firms that make up the consortium. I need to back up and explain that a little bit.

The electronic filing program started from very humble beginnings in 1996 at the IRS. The first year we had 26,000 returns filed. This year we expect about 53 million returns filed electronically of the 132 million individual income tax returns that will be filed this calendar year. So there is a significant increase.

As you are aware, the Congress in 1998, as a result of the Restructuring and Reform Act of the Internal Revenue Service set a goal for the IRS that by the year 2007, 80 percent of individual and business tax returns will be filed electronically. While we have had, as I mentioned, some significant success, attracting 53 million electronically filed individual returns this year, we still have quite a ways to go for not only individual returns, but also business returns, to reach that goal in 2007.

FREE FILE INITIATIVE

Senator SHELBY. Can you file an electronic return from your home if you had the software?

Mr. WENZEL. You can file, beginning this year, with the consortium that we entered into, this agreement with the private sector. One of the efforts that we are—as I mentioned, it is the first year—trying to increase the number of returns filed electronically. We have a long-standing position at the IRS, that we were not going to compete with the private sector software vendors, to offer free software. That was a position that the IRS took, Treasury took.

As a result of that position we contacted the private sector to form this consortium. As a result of it, this Free File initiative has come up on the IRS.gov web site. Over 68 percent of individuals required to file a return are able to use that right now, at no cost to them. Because all they have to do is pick one of the 17 sites, go into it and have the opportunity to file a return at no cost.

Senator SHELBY. They would have to have the proper software to do this, would they not?

Mr. WENZEL. No, it is there. It is on our system. So far this year over 2.1 million individuals have opted to use one of those 17 software products. Since it is still a week to go——

Senator SHELBY. How much does that cost?

Mr. WENZEL. There is no cost.

Senator SHELBY. No cost to it?

Mr. WENZEL. No cost.

Senator SHELBY. Free?

Mr. WENZEL. Maybe the confusion here——

Senator SHELBY. There is some confusion.

Mr. WENZEL [continuing]. Because you can go in and use the programs at no cost, but what we agreed to with these 17 vendors is they would have the opportunity to use what is called pop-up screens. So if an individual went in, there is a screen that pops up and says, "Would you be interested in getting some additional information, some products and services that we offer?" If you said no, the pop-up screen would go away and you can continue to file your return. But if you said yes, that screen will open up and there are other products and services there.

That is where the confusion may be, Mr. Chairman, because some individuals have availed themselves to take advantage of the additional services offered where there is a cost. But to file a return, there is no charge for that.

Senator SHELBY. The system that I understand is currently in place requires, for example, me to seek an IRS-approved e-file partner to file my return electronically; is that right? Do you want me to repeat that?

In other words, the system I understand that is currently in place would require me to seek an IRS-approved e-file partner to file my tax return electronically. Is that what you were talking about?

Mr. WENZEL. Yes, the partner——

Senator SHELBY. That is what I thought.

Mr. WENZEL [continuing]. Would be one of these 17——

Senator SHELBY. Seventeen of them?

Mr. WENZEL. Yes, for this first-year effort.

Senator SHELBY. Now that costs some money, does it not? It cost something. I do not know how much.

Mr. WENZEL. Not for the taxpayer to go in and file their return.

Senator SHELBY. But as I understand, my staff did a quick search on your web site and found a few examples I want to share with you. There is a $6.95 senior special, the number one tax forms for beginners is $9.95, and finally, there is the complete tax package for $24.95 and when you are finished you can e-file them for free. In other words, you have got to do that first, is my understanding. Am I wrong?

Mr. WENZEL. Mr. Chairman, I have received e-mail, I have received correspondence——

Senator SHELBY. I do not know if I am wrong or not. I am just asking the question.

Mr. WENZEL [continuing]. From individuals of the 2-million-plus that have used this that have said, this is great because it has been free. It was no cost to me in terms of filing.

Senator SHELBY. In other words, they did not have to pay that other money?

Mr. WENZEL. No. I need to check on the examples given here because——

Senator SHELBY. We will furnish those for you, because we would be interested——

Mr. WENZEL [continuing]. I would really need to look into that immediately.

BUSINESS SYSTEMS MODERNIZATION

Senator SHELBY. Business systems modernization, something we have been working with a long time. The Service has informed the staff that the IRS' current IT infrastructure is not equipped to receive and process electronic transactions directly from individual taxpayers. Given our discussion here, I am interested to know if, in fact, the Service's massive business systems modernization project includes an upgraded capability to receive and process electronic transactions directly from individual taxpayers. And if not, why not.

Mr. WENZEL. One of our initiatives and programs in the future, as it relates to the business systems modernization, is to make that a reality in terms of account information.

Senator SHELBY. Would that not help a lot and move a lot of people into electronic filing?

Mr. WENZEL. Absolutely.

Senator SHELBY. And that is what you really want.

Mr. WENZEL. That is one of our e-services that we have been trying to make a reality because it is done so much already in the private sector. The timeliness improves significantly, less cost.

PRIVATE COLLECTION AGENCIES

Senator SHELBY. I want to move into debt collection. It is my understanding you are planning to use private collection agencies to collect some of the $280 billion owed in taxes. I remember Senator Kerry and I were involved in this committee at one time and we tried that. But actually it did not work very well at that time. Maybe it will work now.

But what will IRS do to ensure that this will be a worthwhile project and cost effective this time?

Mr. WENZEL. As you mentioned, there was a pilot in 1996–1997. We learned from that experience, in terms of benefiting from that limited pilot. We also, in getting ready for this proposal, in terms of the budget request, included three private sector companies; a large organization, medium-size, and a small business organization to get their input.

You are right in the sense that the total number of accounts receivable, what we call now potentially collectible inventory, is well over $200 billion. A lot of that, as you know, is corporations out of business or deceased taxpayers. The reality is that we know for a fact there are at least $13 billion right now just waiting for a contact to be made that has an opportunity to potentially be collectible. The reality is that the best we can do at the present time is, once a year, send out a notice to remind that taxpayer they still owe that money.

There is a 10-year statute period which we have to collect the potentially collectible inventory. Every year there is a significant amount of money dropping off because we have not attempted a telephone call, for example.

Senator SHELBY. How do you plan to ensure the protection of taxpayers' rights and the confidentiality of taxpayers to taxpayer information when you contract this out to private contractors?

Mr. WENZEL. This is a very important area for us, Mr. Chairman, in terms of——

Senator SHELBY. Very sensitive too.

Mr. WENZEL. Absolutely. We expect the private sector collection agencies, when they go out and hire people, the people they are hiring will have to meet the same kind of requirements that we expect of IRS employees in terms of background checks and so forth.

We have included our National Taxpayer Advocate in the development of this whole proposal for this very—for obvious reasons, but particularly for this reason, to ensure that taxpayer rights are not violated.

Senator SHELBY. It is very important.

What will be the cost of these contracts compared to the cost of collecting the same debts using IRS employees? Have you done any comparisons there?

Mr. WENZEL. Mr. Chairman, we are finalizing what the projected cost would be. This is not the first time this kind of effort has been done. Forty-two States currently use collection agencies as do the Department of Education and also Financial Management Services, which is part of the Treasury Department. We are having discussions with them about the cost for this, but our proposal is basically that the costs would be recaptured in the proceeds that are collected by these agencies or companies.

Senator SHELBY. So that leads me to the compensation of the contractors, the people you contract out with. Is their compensation a percentage of what they collect?

Mr. WENZEL. Yes, that is generally what the States and the two Federal agencies that I mentioned that have entered into these kinds of agreements do, and there is a certain percentage of the receipts that are collected.

Senator SHELBY. Okay.

Senator Murray?

EARNED INCOME TAX CREDIT

Senator MURRAY. Thank you, Mr. Chairman. In the fiscal year 2004 President's budget, the IRS is proposing a so-called pre-certification initiative for the EITC program, and while you are asking for the money for this in the next fiscal year, you are planning to send verification documents as soon as this July, I understand, to about 45,000 individuals requiring them to provide additional documents to ensure their EITC eligibility. These taxpayers, I understand, will have until this December to submit verification documents and your agency intends to delay the EITC portion of their refund until IRS can review that documentation.

Can you tell me how quickly IRS expects to review that documentation?

Mr. WENZEL. The proposal, in terms of the $100 million, is that we would send out letters to 45,000 taxpayers to ask them to pre-certify things like what we call a "qualifying child." The intent is not to put more burden on the taxpayers as it relates to how we are doing business today. As you are aware, the EITC program for some time has been determined to be a high risk program because it is a tax credit. For a number of years now we have been funded additional monies, not only to do the outreach, the informing and educating to make sure that individuals who are eligible for EITC are in the program, but also there was certain direction given to us to make sure we minimized the amount of fraud that goes into the program.

Senator MURRAY. I was not actually asking about your rationale. I was asking, because you are sending 45,000 questionnaires out and you are telling taxpayers that it may delay their refund, how long can we tell these people that it is going be, that it will take you to review this documentation?

Mr. WENZEL. We would try to make sure that we keep that time span to the absolute minimum. Right now, Senator, we are still talking with some interest groups on the outside. We have not even

finalized the form that would be used. We have had two meetings that have been coordinated by our National Taxpayer Advocate to make sure that the form and what we are requiring for the documentation is kept to the absolute minimum, so that once the information comes in to us, we can immediately review it, turn it around and issue the refund.

Senator MURRAY. Do you expect a lot of EITC payments to be delayed this year?

Mr. WENZEL. Delayed in the sense of, in the past that—yes, that would be a correct statement. There would be a delay and we hope to keep it to an absolute minimum.

Senator MURRAY. Can you give us any kind of time line on that?

Mr. WENZEL. I think what is key here, Senator, is to really finalize—as I mentioned, we are still finalizing some of those decisions, working with considered outside stakeholders. That would be key. I would be happy, once we get that—it should be done——

Senator MURRAY. If you could let us know. We will be hearing from our constituents and we need to give them a response on that.

Then I understand that you expect to expand this project next year and require pre-certification by two million EITC recipients. I am curious if before you expand it from the 45,000 to the two million, are you going to do any kind of evaluation?

Mr. WENZEL. Absolutely. That is why we are starting out with a much smaller number; that is correct.

Senator MURRAY. And you will have the results of that evaluation before you send out pre-certification documents to two million people?

Mr. WENZEL. We will carefully track that and make sure that we completely analyze what has occurred here, and then make a decision in terms of what is the correct number. We think the two million is a fair estimate, but that does not mean that that would not be modified based on what we see.

Senator MURRAY. But you are going to take a look at what happens with the 45,000, and if we are seeing tons of delay and a lot of problems then you will relook at that?

Mr. WENZEL. We will try to make sure that we do this right the first time, and not incur any delay, even with the 45,000. But if that is the case, we will make sure we modify our process and carry that into the next year and the year after that.

Senator MURRAY. GAO estimates that in 1999 25 percent of eligible households, or about 4.3 million households, did not know even how to claim this credit. The Government Performance and Results Act requires you to set quantifiable goals for your agency's objective. Does your fiscal year 2004 performance plan set a numerical goal to increase the participation rate for EITC?

Mr. WENZEL. We have not quite finalized that goal yet, but it is important, based on the feedback we received from GAO, to make sure that we have an appropriate performance measurement in that area.

Senator MURRAY. Why has it not been done yet?

Mr. WENZEL. We are still working through what the right percentage should be in terms of first time effort and setting the right goal.

Senator MURRAY. So you have not set a numerical goal. When do you expect to do that?

Mr. WENZEL. We should be able to do that within, probably within the next 45 days.

Senator MURRAY. The IRS has identified other high risk compliance areas such as promoters of tax schemes, misusers of trusts and offshore accounts, and under-reporting of tax by higher income individuals. The average EITC credit is estimated to be only $1,660 while the average dollar-level fraud by those upper income individual is obviously much higher. Do you really believe that focusing $100 million on EITC is how the taxpayer gets the biggest bang for their buck?

Mr. WENZEL. Our intent is to make sure that we continue to devote a significant amount of our resources, as I mentioned in our budget proposal for 2004, to address the other areas that you just mentioned. But I also would say that we feel that the $100 million is appropriate because almost one-third of the program right now, $9 billion, is going out to individuals that are not entitled to the EITC. Based on trending, that percent may continue to increase unless we try to do something like the pre-certification. That is a real concern on our part as far as how a significant tax credit program like the EITC where already a large proportion, the money is going to the wrong individuals.

Senator MURRAY. You have estimated that almost one-third of the EITC claims in tax year 1999 should not have been paid due to taxpayer errors. But that percentage does not take into account the changes that were made in the 2001 tax act. Shouldn't that figure be lower now?

Mr. WENZEL. We have not been able to validate that. We should, based on this national research program that we just recently have gone out and done, a random audit, receive information to verify what you just mentioned; however, the information will not be available until next year, about this time, to see what the results were.

Senator MURRAY. So we will not know whether it is still that high until a year from now?

Mr. WENZEL. It is true, we are——

Senator MURRAY. We made changes in the 2001 tax act that should have reduced that. But you are basing what you want to do now back on what happened before we did that act.

Mr. WENZEL. That is correct. That is the latest information that we have that we cited. And despite our efforts in terms of how we approached this in the past, we have not been successful to reverse this trend.

Senator MURRAY. But shouldn't we wait until we get a more accurate estimate of what occurred with the 2001 tax act before implementing this kind of regime that could cause a lot of disruption among many taxpayers?

Mr. WENZEL. Senator, our assessment of this is that we really need it—we could not wait any longer. We needed to go ahead and try this pre-certification as a better way to identify and stop the 30 percent and reduce it significantly.

Senator MURRAY. Your documentation actually indicates that one reason that we have a high error rate is because taxpayers are con-

fused about many of the complex EITC rules. What steps have you taken to simplify these rules so that we can avoid taxpayer confusion?

Mr. WENZEL. We continue to get the input from our National Taxpayer Advocate and her advocates around the country. We ourselves at the IRS are always trying to learn from interested outside groups that give us input, to try to make sure that—the example I gave, in terms of this current effort, is to come up with a form that is easily understood, simplified, as much as possible, including the instructions, so people are not confused.

Senator MURRAY. Mr. Chairman, I would just say that if we do pre-certification and confuse people even more, then we are doing a real disservice to people who actually should be getting the EITC for very good reasons that we have set out before. So I think we have to be very careful. If we have confusing rules now and we add more confusing rules, I do not think it is very fair to low income taxpayers.

Mr. WENZEL. Senator, just in terms of the $100 million I just—and I am sure you are aware of this, but I just wanted to point out that of the $100 million, we asked for about 650 FTEs. About 20 percent of the 650 FTEs will be spent on educating and informing again, trying to reach out and make sure that people know they are entitled to the EITC and trying to clarify for them any misunderstanding. So it is not all totally devoted towards the enforcement side.

Senator MURRAY. Thank you, Mr. Chairman.

IRS FREE FILE INITIATIVE

Senator SHELBY. I want to go back to the free filing and so forth. Are there two separate systems here? One, the free file alliance is free for qualifying taxpayers.

Mr. WENZEL. Yes.

Senator SHELBY. And by that, do you have to have a certain income to qualify?

Mr. WENZEL. Yes, what is referred to as the adjusted gross income, Mr. Chairman. But what these different sites offer in the way of——

Senator SHELBY. What would that be before they could——

Mr. WENZEL. It varies by site. But when you add them all up, at least 68 percent of all taxpayers that would want to avail themselves of one of the 17 sites will have the opportunity to free file. It is not 100 percent.

Senator SHELBY. In other words, you have to have a certain income before you can go to these sites. So it is not for all taxpayers.

Mr. WENZEL. Not right now.

Senator SHELBY. Do you expect it to be for all taxpayers?

Mr. WENZEL. This is a first-year effort.

Senator SHELBY. So you are trying.

Mr. WENZEL. We are trying. It is truly a pilot. The response has been tremendous; 2.1 million people to date have used this option that would not have otherwise. They have had the opportunity to come in and file a return at no cost.

Senator SHELBY. Now the e-file partners are the only entities that the IRS allows to file tax returns; is that correct?

Mr. WENZEL. Through that site, yes. Through IRS.gov, yes.

Senator SHELBY. I wanted to clear that up.

CUSTOMER SERVICE

The IRS' budget request proposes to reduce the individual call service workforce. Some of us are concerned about the implications of the workforce reduction in the individual call service area. The IRS has come a long way in terms of customer service in the years since I chaired this committee last, and we are concerned that a reduction of this size will have a negative impact on the provision of customer service to individual taxpayers.

Mr. WENZEL. We fully agree with you in that regard, Mr. Chairman. We do not want to step back and reduce the service, what we have been able to achieve. Just to give you one measurement——

Senator SHELBY. Because, in a sense, if you reduce the service it will reduce your efficiency, will it not?

Mr. WENZEL. We have a responsibility to provide the best products and services to citizens of the United States, and one of the ways we do that is through our telephone call centers. We want to make sure we maintain and continue to improve the way we do business. We have been successful in improving the efficiency of the telephone operations, particularly in the last 12 months, but our performance goals, as you would review them, would continue to show that we want to improve in all areas, including the quality of the responses we give and also the level of service that we offer on our telephones. We do not intend to step back.

CAMPUS CONSOLIDATION

Senator SHELBY. Electronic filing again. We do not want to get away from that, I think. As more returns are filed electronically, what is the impact on IRS staffing in facilities? It has to go down.

Mr. WENZEL. Absolutely. Because of the 53 million that I mentioned earlier, as a result of that, we are closing one of what we call our submission processing centers.

Senator SHELBY. Brookhaven service center?

Mr. WENZEL. That is the Brookhaven service center, yes. We have eight, what we call individual tax return submission processing centers, and two for just business returns. As of September 30th of this year, not too many months from now, the submission processing operation in Brookhaven will shut down completely and we will go to seven, with plans as electronic filing continue——

Senator SHELBY. What savings will you realize by closing this facility?

Mr. WENZEL. Significant savings.

Senator SHELBY. How will the savings be used?

Mr. WENZEL. We hope in terms of reinvesting back into the IRS to put the savings into our customer service, into enforcement.

Senator SHELBY. What formula or criteria did you use to determine which centers to close and the order in which to close the centers?

Mr. WENZEL. I would be happy to share that with you and your staff, Mr. Chairman, but things like labor and rent savings, the impact on——

Senator SHELBY. Just management positions basically?

Mr. WENZEL. Yes. A whole list of criteria that we came up with.

Senator SHELBY. Okay, we would be interested in seeing it.

Since all taxpayers are still not filing their taxes electronically, are there plans to upgrade the paper returns processing system?

Mr. WENZEL. We are always looking for ways to continue to improve every part of the IRS' operation. The submission processing paper side has been in business for a long time, and even though it has been around for a long time, we have made substantial improvements, and we continue to realize efficiency savings. We will continue to look for additional efficiency savings.

BUSINESS SYSTEMS MODERNIZATION

Senator SHELBY. The IRS has developed an expenditure plan for Congressional approval detailing how funds are to be spent before the funds can be released. The key component of systems modernization is the customer account data engine (CADE), and it is scheduled to be released in June or July of this year. It has experienced numerous delays. Will CADE be rolled out as scheduled, and will it offer improved service to taxpayers?

Mr. WENZEL. This is, of any major business systems modernization project that we have, the most significant project because what it does is completely overhaul our master file. Right now we expect that the first iteration of CADE will be available to us later this year, around July and August. What that is, basically as I mentioned, is the first phase of——

Senator SHELBY. Master file, tell me what you mean.

Mr. WENZEL. Master file is every individual, business, exempt organization, employee plans——

Senator SHELBY. The whole matrix?

Mr. WENZEL. Everything, in terms of individuals and businesses that are housed, currently, on a very outdated system. So it is very sophisticated, very difficult. The PRIME contractors that we have, some of the best companies in the world, realize the challenges here. They are the ones that are doing this work for us, as you know. Right now we have regular meetings and the goal is to stay with the schedule of July or August to have the first version of CADE delivered.

Senator SHELBY. What steps are you taking at IRS to ensure that the business operating divisions are adequately prepared to accept and operate and support these modernize systems?

Mr. WENZEL. That is a very essential part because all of this modernization, when you talk about modernization——

Senator SHELBY. It means nothing without that, doesn't it?

Mr. WENZEL. It means nothing without having your people come along and understand what the new systems offer. So there is a training part, awareness part, all of that is so important, and it is integral to this whole effort.

Senator SHELBY. You do not want to purchase software and no one knows how to operate it.

Mr. WENZEL. That is exactly right. We have seen that happen in some other agencies, and we are not going to let that happen here at the IRS.

Senator SHELBY. GAO has reported that IRS has made progress in implementing modernization management controls and capabili-

ties, certain BSM management capabilities have not been fully implemented they say. GAO reiterated prior recommendations that the IRS correct modernization management weaknesses. We know you have made progress from when I used to benchmark it.

What is IRS's plan and schedule for addressing the GAO's recommendations, including implementing effective procedures for validating contractor development, cost and schedule estimates?

Mr. WENZEL. We have done a number of things based on the input from the GAO's oversight of the IRS, and also our inspector general's oversight of the BSM program. One of the things that we have done is this year, fiscal year 2003, we have slowed down or eliminated some of the projects that we thought we were going to undertake, and really focused on CADE and some of the other critical programs, which has helped us immeasurably.

We have also met with the PRIME contractor and entered into an understanding that a lot of the programs in the future will be cost performance-based type of compensation, rather than just continuing to write a check. That's the expectation; the work will be based on a set cost price or possibly a performance-based price, so there is accountability going back to the PRIME contractor.

The third thing that the PRIME contractor has done, based on their further awareness of the challenges that these efforts offer, is beefed up their experts, their expertise, particularly their senior leadership of the contract, and have brought in some individuals that really understand this better and know how to manage it better, and to work with the IRS leadership in terms of making sure we deliver on BSM this time.

OFFERS IN COMPROMISE

Senator SHELBY. The Offer in Compromise, this initiative has allowed the IRS to reduce the backlog of cases and all new cases are to be processed at one of two centralized sites, and only those offers that cannot be completed there are sent to field offices for resolution. Concerns exist because the program has been costly to operate in comparison to the return on the investment. Have the new initiatives enabled IRS to make the program more cost efficient? What measures are used to make your assessment?

Mr. WENZEL. What we have done is, in two sites, as you mention, one in Brookhaven and one in Memphis, added a total of 600 employees, roughly 300 in each of the locations. They are lower-graded employees. Obviously, to start this up we had to go through an extensive training program for the 600 employees. Now their skill level has really reached the point where they have become quite productive, and we are able to screen out and work in those sites some of the real easy offer in compromises where we do not have to make a one-on-one contact with a revenue officer who is much higher-graded, where there is travel time involved and so forth.

So our key measurement is what you might expect in terms of the quality of the work performed, the efficiency of the work performed. We feel, at this point in time, that now that we have gone through this learning curve, that our decision to go to that kind of an operation is going to really pay the overall benefits that we initially expected.

SECURITY

Senator SHELBY. Information security. News reports that the IRS has not done a good job in making sure that contractors receive appropriate background checks. There have been problems with lock box employee guards and even bomb-sniffing dogs that really could not detect explosives. What is the IRS doing to address these problems? Can these problems have an impact on the safety of IRS employees as well as on the security of the taxpayer data? It is important to have a safe place to work.

Mr. WENZEL. Mr. Chairman, if there is a number one priority at the Internal Revenue Service, it is to ensure the safety of our 100,000 employees around the country. We take seriously and welcome the reviews that have been conducted by the GAO and the inspector general for the IRS, who has also provided us ongoing feedback on things like you just mentioned, in terms of the contract employees. We have responded to those and taken the necessary actions to correct that problem, so that the background checks are done of contract employees, and do the follow-up reviews and make sure it does not recur again.

Ever since September 11th of 2001, we have an ongoing site here in Washington, D.C. with the Inspector General, where cooperatively we are looking at every aspect of physical security in every one of our 795 offices around the country to try to ensure the safety of our employees.

ADDITIONAL COMMITTEE QUESTIONS

Senator SHELBY. That is good to hear.

We appreciate your appearance here today. We will continue to work with you and we believe that we have to measure the expenditures of the taxpayer and you are in a position to set the ground rules.

Mr. WENZEL. Mr. Chairman, thank you for your oversight and support that you provide to the Internal Revenue Service.

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

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

GENERAL

Question. Why is IRS requesting additional staffing in fiscal year 2004, when the positions granted in fiscal year 2003 have not been filled?

Answer. The IRS requested additional funding in fiscal year 2003 for 1,179 FTE to improve customer service and compliance and meet workload increases. However, before we published the fiscal year 2004 budget, a number of unfunded and unanticipated costs arose that reduced the funding available for hiring these additional staff. Since over 70 percent of the IRS Operating budget consists of salaries and benefits, any unanticipated costs we must pay requires the reduction of labor costs (i.e., FTE).

For example, the fiscal year 2002 annual pay raise of 4.6 percent cost an additional $43 million above the 3.6 percent budgeted amount. The IRS had also expected savings resulting from legislative proposals for postage and the Financial Management Service (FMS) levy that Congress did not pass that required us to fund an additional $23 million. The unfunded postage increase raised our postage costs by $22 million. Moreover, an unfunded increase in security costs resulting from the 9/11 tragedy cost the agency an additional $20 million. These changes and others

amounted to $170 million in unexpected, unfunded costs mandatory to meet our mission.

In addition, the extended Continuing Resolution for fiscal year 2003 limited our funding to the fiscal year 2002 level until the appropriation was passed in early 2003. That restriction forced the IRS to concentrate available funds on ensuring a good filing season and prevented the execution of hiring plans. Despite these setbacks, the IRS needs the additional funding in fiscal year 2004 to continue to build the staff necessary to address the enforcement problems that ensure that all taxpayers pay their fair share of taxes.

Question. What formula did IRS use to determine which Service Center to close and what cost savings if any, are derived from this action?

Answer. In the past, all ten IRS submissions processing centers processed returns from both the Individual Taxpayers (IMF) and Business Taxpayers (BMF). Prior to our reorganization the ten centers were identical to each other. Each center processed IMF and BMF returns. Each center also handled Taxpayer Accounts (correspondence/telephones) and Compliance programs for both IMF and BMF. While this was successful, we felt we could improve our Business results, and be more responsive to the Customer/Taxpayers by specializing our organization structure based on our customers. We based the initial IMF Consolidation Strategy of these centers around Wage and Investment (W&I), Small Business/Self Employed (SB/SE), Large and Mid-Size Business (LMSB) and Tax Exempt and Government Entities (TE/GE) customer segments. As a result of this reorganization, we reorganized the ten Processing Campuses into eight W&I and two SB/SE Submission (Return) Processing Centers.

With the increased emphasis on Electronic Filing we have designed a detailed business plan to reduce the number of Processing Centers from eight W&I sites to, eventually, two. This is several years in the future, but this plan will reduce the number of centers every couple of years, providing the public continues to switch from filing paper to electronic returns.

We used economies of scale, labor market factors and real estate costs, as well as the criteria listed below, to determine the order of consolidation of the sites:

—A Program Optimization Model using site specific volumetric and production rates,

—Campus specific Return on Investment for real estate expenditures associated with Submission Processing,

—Detailed potential severance costs associated with a Submission Processing consolidation,

—Qualitative factors such as, operational feasibility, infrastructure and work force impacts.

As Electronic Filing increases and paper returns decrease, consolidation of Submission Processing campuses will result in savings. The IRS' intent is to reinvest these savings to maximize program opportunities in other areas. While there is not a final figure for the Brookhaven Submission Processing consolidation, the initial cost savings projection was approximately $50 million. The projected savings at the Memphis Service Center consist of both Real Estate and Salary costs and are currently projected to be $12.5 million dollars for the period 2004 through 2006. We project an annual cost avoidance of $9.5 million dollars a year starting in 2007. It is too soon to project the cost savings for each center beyond Memphis at this time.

ELECTRONIC FILING

Question. Reports state that the 2002 filing season has been successful with the implementation of e-filing. There should be some cost savings from this program; can you identify savings generated because of this initiative?

Answer. During fiscal year 2002, IRS estimates that the savings generated from e-file were $9.995 million. Savings for fiscal year 2003 are estimated to be $10.369 million. Savings are computed as the costs that would have been incurred for processing the decreased number of paper returns, reduced by the costs of processing them as e-file returns.

Question. The IRS contracted with the Free File Alliance, to provide free online tax preparation and filing services for at least 60 percent of all taxpayers through the IRS Website. Since the 2002 filing date has passed, do you think the Free File Alliance was a success? What changes if any, would you make to this process for the next filing season?

Answer. We did not contract, but rather established and are executing a public-private partnership agreement with the Free File Alliance, LLC.

As of May 31, 2003, the IRS has received over 2.77 million returns through the 17 companies participating with the Free File Alliance. This figure represents over

23 percent of all returns filed online with the IRS (11.7 million). These free tax preparation and e-filing services will continue to be available to taxpayers through October 15, 2003 on the irs.gov web site. Deemed a tremendous success by Treasury, OMB and IRS, the Free File initiative exceeded expectations for the program. Based on the volume of returns received through Alliance members and the relatively small number of comments/concerns sent to the IRS, the Free File initiative was very well received by taxpayers.

The IRS and the Free File Alliance are assessing all feedback and impact of the program on both industry and the IRS. Completion of this process will determine appropriate refinements for the 2004 filing season.

Question. Electronic filing has a number of discrepancies pertaining to e-filing. Explain how free e-filing works? How can an individual qualify for free e-filing?

Answer. In November of 2001, the Office of Management Budget's (OMB) Quicksilver Task Force established 24 e-government initiatives as part of the President's Management Agenda. The task force designed these initiatives to improve government to government, government to business, and government to citizen electronic capabilities. One initiative, EZ Tax Filing (now known as Free File) instructed the IRS to provide free online tax return preparation and electronic filing services to taxpayers. To accomplish this objective, the IRS began working in partnership with the tax software industry to develop a solution. The result was a precedent-setting agreement between the government (IRS) and private sector (Free File Alliance, LLC, a group of tax software companies, managed by the Council for the Electronic Revenue Communication Advancement (CERCA)), that requires tax software companies to provide free online tax preparation and electronic filing services to eligible taxpayers. This agreement requires Alliance members to provide free tax return preparation and electronic filing services to a significant portion of the taxpaying population (at least 60 percent or 78 million taxpayers) through April 15, 2003. Many of these free services will be available for taxpayers with extensions through October 15, 2003. These free services were launched to the public on January 16, 2003 and are being promoted by the IRS and are accessible at www.irs.gov.

The following describes how a taxpayer can participate with Free File:

Determine eligibility.—Upon arrival to the Free File page within irs.gov, the taxpayer must determine his or her eligibility for using a particular company's free service. This eligibility can be determined by two methods: the taxpayer may browse the complete listing of Alliance members and their free services; or the taxpayer can use a "questionnaire" application (i.e., Free File Wizard) designed to help identify those free services for which they may qualify. Each Alliance member's company name is identified and a simple description of the criteria for using their free service is provided. For interested taxpayers, each Alliance member's company or product name is linked to additional information about the company and/or services.

Link to free services.—Upon determining eligibility, the taxpayer can link directly to that Alliance member's free service by clicking on the Alliance member's "Start Now" link. Upon doing so, taxpayers are notified they are leaving the irs.gov web site and are entering the Alliance member's web site.

Prepare and File Income Tax Return.—At the Alliance member's web site, the taxpayer can use the member's online software to prepare and e-file his or her income tax return using proprietary processes and systems. Once complete, the member transmits the taxpayer's return information to the IRS through the established e-file system. Upon receipt, IRS computers check the return information for errors or missing information and send the taxpayer notification of return acceptance or rejection through the Alliance member. Taxpayers will receive notification from the Alliance member.

[NOTE.—Each Alliance member has specific qualifying criteria for its free service. For the 2003 filing season, the members based these requirements on factors such as age, adjusted gross income, State residency, military status, or eligibility to file a Form 1040EZ or claim the Earned Income Tax Credit. Taxpayers who met these requirements can use that member's online software to prepare and e-file their Federal tax return for free. An Alliance member's qualifying criteria may change for the 2004 filing season.]

Question. When the business system modernization of IRS is complete, will all taxpayers be able to file their taxes by e-filing or file on-line from the privacy of one's own home? If not, why not?

Answer. Currently, over 99 percent of all tax returns can be e-filed from home computers or by using an authorized provider. The IRS is systematically removing the last few barriers to e-file to open eligibility to the remaining taxpaying population. However, IRS' Business Systems Modernization program does not have plans to offer direct on-line filing. RRA 98 directed the IRS to work cooperatively with the industry to promote electronic filing. Additionally, the IRS believes that private in-

dustry, given its established expertise and experience in electronic tax preparation, has a proven track record in providing the best technology and services available. As such, the IRS entered into an agreement with the private industry (Free File Alliance), to provide free online tax filing and preparation services to at least 60 percent of the taxpaying population. These free services were offered, during the 2003 filing season, by 17 different companies and were accessible through IRS' web site (irs.gov). The IRS is continuing to work with industry partners to provide opportunities and solutions that will encourage taxpayers to file their tax returns electronically.

MODERNIZATION

Question. What contributed to the delays in the projects in the Business Systems Modernization spending plan submitted to Congress?

Answer. The IRS is modernizing one of the largest and most complex information systems in the world. Since the creation of the IRS in its current form in the 1950s, our mission has evolved, and the volume and complexity of our operations have mushroomed. Our tax system modernization initiative faces several challenges:

—Complex, ever-changing tax laws,
—Extremely high volumes,
  —Over 130 million individual taxpayers,
  —Over 6 million business taxpayers,
  —200 million returns,
  —$2.1 trillion in receipts, $1.5 trillion in electronic payments,
  —Tax refunds totaling over $190 billion,
  —1.5 billion information documents,
  —52 million electronically filed returns,
  —19.2 million combined Federal/State returns,
—Inputs with wide-variation in content ranging from few to many fields of various lengths,
—Seasonal processing with extreme variations in processing loads,
—Hundreds of legacy applications,
—Transaction rates on the order of billions per year and storage measured in the tens of terabytes (trillions of bytes).

Since the Business System Modernization (BSM) effort began, the BSM program office and PRIME contractor have struggled to implement defined and repeatable processes that are necessary for effective and efficient systems development. Due to the complexity of the BSM projects, these management processes have required time to become established. Once all management processes are in place, and as they mature, the program will run closer to cost and schedule estimates and our capacity to initiate additional deliverables will also increase. Also, we have addressed many of the recommendations made by GAO, such as prudently slowing some projects and deferring new ones when management capacity is inadequate, to proceed with an acceptable risk level.

The IRS' systems are woefully obsolete and inefficient for an organization so critically dependent on technology. We are saddled with a collection of computer systems developed over a 35-year period. The most important systems that maintain all taxpayer records were developed in the 1960s. Additional cost and schedule delays arise from the challenge of programming interfaces with these historical systems, which cannot easily share information with the modernized systems.

Initial project budgets and delivery timelines are based on long term plans and strategy and may be developed years before the project start date. As the projects move through the lifecycle and as requirements become fully understood, we have adjusted most project estimates and schedules to reflect the enormous complexity of the systems. Legislative changes in the tax code also impact costs and schedules.

Both the IRS and the PRIME contractor have underestimated the enormous size and complexity of the BSM effort. We are engaged in a comprehensive process improvement initiative to enhance our effectiveness in validating cost and schedule estimates. This includes working with the PRIME contractor to develop and deploy best practice estimating capabilities consistent with Carnegie Mellon University's Software Engineering Institute (SEI), as recommended by GAO. Once all management processes are in place and as they mature, the program will run closer to cost and schedule estimates and our capacity to initiate additional deliverables will also increase.

In addition, given the important juncture we've reached with the first important deliverable for CADE, we have decided to have an outside group of experts take an independent look at the program and report back to us by the end of this summer. We have not yet identified who will conduct this study but expect to do so in the

next few weeks. No work will stop while the review is underway, but this is a good time to assess progress, project risk and whether any midcourse corrections are needed.

Question. Customer Account Data Engine (CADE) is the most critical of the components in the modernization process. When CADE goes live this year will it be able to process all individual and business accounts?

Answer. The first release of CADE will go live later this summer. CADE will begin to process individual returns this year. The system will not, however, process business returns this year. The individual tax returns that CADE will begin to process will only be 1040EZ returns, paper and electronic, for single filers who either fully paid or have a refund due. CADE's first release will not include EITC filers and filers with prior issues. The number of returns included in this first release will be approximately 6 million. Although this is a relatively modest beginning, this first release of CADE contains much of the highly complex infrastructure to support later releases.

CADE will be deployed over 6 years in five releases, each related to a specific taxpayer segment. Each release will deliver functionality to support increasingly complex filing scenarios. At the conclusion of Release 5, CADE will have replaced the Individual Master Files. Subsequent releases of CADE will eventually replace the Business Master Files and Non-Master Files.

Because CADE is one of the most complex projects in the world, we are moving forward carefully based upon positive results from the rigorous testing process, as well as cost and capacity considerations.

PRIVATE COLLECTION AGENCIES

Question. What guidelines does the IRS have in place to protect taxpayer's privacy, when and if the tax collection process is contracted to private collection agencies?

Answer. Under the Administration's proposal, taxpayer protections provided by the Internal Revenue Code (Code), IRS procedures, and other applicable laws, including those relating to taxpayer privacy, would be fully applicable to private collection agencies (PCAs). The taxpayer protections incorporated in the Administration's proposal have been reviewed thoroughly, including consultations with the National Taxpayer Advocate. The National Taxpayer Advocate would have a continuing role in ensuring that taxpayer protections are maintained under this program.

Sections 6103(n) and 7431(a)(2) of the Internal Revenue Code currently permit a taxpayer to pursue legal action against any person who is permitted to receive tax returns and return information for purposes of assisting in tax administration, but who unlawfully inspects or discloses that information. Criminal penalties also may be imposed under I.R.C. §§ 7213, 7213A. These provisions would apply to PCAs. The Administration's proposal would require annual reports outlining the safeguards in place at the PCAs to protect taxpayer confidentiality and PCA compliance with the taxpayer confidentiality provisions.

PCA employees would receive extensive training on taxpayer rights and privacy protections. The IRS' oversight processes, which would include an on-site presence, live and tape monitoring of communications with taxpayers, periodic audits, and performance evaluations, would ensure that taxpayer rights and privacy are fully protected.

PCAs would be required to maintain a dedicated secure physical space with approved access controls to ensure protection of taxpayer data. The IRS would evaluate the integrity of a PCA's computer system to ensure that appropriate access controls are in place to protect taxpayer data. To protect against browsing of taxpayer information, PCAs' systems would be required to maintain a log of accesses to taxpayer information, which would be audited periodically by the IRS. On-site security reviews would be performed to ensure that PCAs implement appropriate access controls to segregated areas where IRS work would be performed. Periodic security audits would be performed to ensure the PCAs maintain ongoing data and physical security.

Question. A pilot project was tried previously, using private collection agencies and it was not a success; what new information do you have that would indicate that this process will work now?

Answer. The Administration's proposal reflects the lessons learned from the pilot program. The primary issues affecting the success of the pilot program, and the manner in which those issues are addressed by this proposal, are set out below.

—*Implementation Period.*—The IRS was required to implement, almost from scratch, the pilot program within the year of the appropriation legislation—i.e.,

within 10 months of enactment. In contrast, planning for this proposal was begun well over a year ago and has involved discussions between the IRS, the Treasury Department, the Office of the National Taxpayer Advocate, the Department of Justice, and prospective contractors. Moreover, even once authorizing legislation is enacted, this proposal contemplates that additional time would be required before the PCA program could begin. This additional time allows the IRS to ensure that the business processes, security and oversight measures, and taxpayer protections are brought on-line and fully tested before the program begins.

—*Funding*.—The pilot program effectively was funded out of IRS appropriations and involved the assignment to PCAs of a range of cases. IRS employees can exercise discretion and enforcement authority which cannot be delegated to a PCA. IRS employees, therefore, should be more effective, compared to a PCA employee, at collecting a range of outstanding tax obligations. Thus, PCAs in the pilot program were destined to be judged as inferior to IRS employees over such a range of cases. In contrast, however, this proposal would involve the careful screening of cases to ensure that only the most appropriate ones are assigned to PCAs so that PCAs can act effectively and efficiently with respect to these liabilities. The Administration's proposal also involves PCAs supplementing, and not displacing, existing IRS resources. Accordingly, the program would add to the net revenue collected.

—*Processing and Communications*.—At the time of the pilot program, IRS computer and communication systems were not adequate for the processing, delivery, and updating of liabilities being handled by the PCAs. These processing and communications issues already are being addressed to ensure that all functions are performed timely in support of the program.

—*Selection of Accounts*.—The pilot program required the IRS to place accounts where the IRS had previously made attempts to collect the monies owed. Consequently, the pilot program involved the referral of many outstanding liabilities to PCAs that did not have realistic collection potential. This resulted in wasted effort by both the PCA and the IRS. Under the Administration's proposal, the IRS would focus on ensuring that the outstanding liabilities that are referred to PCAs are those that not only are within the authority of the PCA to resolve but also represent cases with a sufficient likelihood of payment if a PCA, in fact, were to handle the liability.

—*Taxpayer Information*.—The pilot program overly restricted the amount of information that could be provided to PCAs for purposes of collecting outstanding liabilities. As a result, many cases had to be returned by the PCAs to the IRS due to the PCAs' inability to respond to often straightforward questions about a taxpayer's liability. Under the Administration's proposal, PCAs would have access to specific information regarding an outstanding tax liability (e.g., type of tax, tax years affected, dates of assessment, whether the assessment is based on a taxpayer's own balance due return or an IRS notice, prior payments, and application of prior payments) in order to answer basic, but important, questions that a taxpayer may have regarding the liability. The taxpayer information that would be provided to PCAs would be strictly limited to the information required for the collection of the specific tax liability at issue. PCAs would not receive, for instance, information regarding a taxpayer's total or adjusted income, sources of income, results of IRS examinations, delinquency history for liabilities not being handled by the PCA, or employer information. All existing restrictions imposed by section 6103 of the Code would apply to the PCAs, and taxpayers would have the right to assert a claim against PCA employees who violate those protections.

—*Contract Structure*.—The pilot program involved a fixed-price contract with incentive payments. The Administration's proposal would involve a competitive, fee-for-service, performance-based, incentive contract structure. The performance evaluation would be based on a balanced scorecard that would look to quality of service, taxpayer satisfaction, and case resolution, in addition to collection results. The allocation of accounts among the PCAs participating in the program would be based on this performance evaluation, thereby providing a further incentive for PCAs to respect all taxpayer rights and protections. This compensation structure is modeled on the successful FMS and Department of Education contracts.

—*Oversight*.—The Administration's proposal would involve extensive oversight of the PCAs participating in the program, including direct, on-site monitoring. This oversight would ensure that procedures are followed, and that any issues are identified and resolved early.

QUESTIONS SUBMITTED BY SENATOR TED STEVENS

PUBLIC EMPLOYEES RETIREMENT SYSTEMS RULING

Question. In 2001, the Alaska State legislature passed a bill sponsored by Senator Rick Halsford (S.B. 145) which created the Village Public Safety Officer Program. The bill mandates Village Public Safety Officers are eligible to become a member of the Public Employees' Retirement Systems (PERS) under as 39.35. The IRS is considering the inclusion of Village Public Safety Officers in PERS, however they have not yet rendered a decision. Until the IRS makes a decision, S.B. 145 can't be implemented. In March, I wrote a letter to the IRS requesting a response regarding the status of the IRS' ruling on the inclusion of Village Public Safety Officers in PERS. No response has been received to this date. When can I expect to receive a written response regarding the inclusion of Village Public Safety Officers in PERS, or can you address this question right now?

Answer. The ruling request is under active consideration. Because positions taken by the Pension Benefit Guaranty Corporation and the Department of Labor can be affected by IRS rulings concerning the status of a plan as a governmental plan, we informally coordinate these rulings with those agencies on a taxpayer anonymous basis. We cannot disclose or otherwise make a draft taxpayer ruling available while we are deliberating on a ruling, whether redacted or not. Once the ruling is issued, with the taxpayer's permission we can make a redacted copy available to you.

We plan to forward a redacted copy of our ruling to the aforementioned agencies for their comments in mid-June. We expect their response within 30 days, and, assuming they concur with our proposed ruling or have no concerns or comments that require follow-up, we will issue our decision within a week of receipt.

EXCISE TAX CALCULATION

Question. You have stated one of the goals of the IRS is to ensure that top quality service is provided to each taxpayer through fair and uniform application of the law. It has come to my attention that an Alaskan company called Hawaiian Vacation has been using a handbook published by the Airlines Reporting Corporation to calculate its excise tax for flights from Alaska to Hawaii. According to the handbook, the route from Anchorage to Honolulu is subject to a 4.9 percent tax. The tax table has been used in the airline industry for over 30 years, and during this time, the IRS has not taken issue with the ARC handbook tables.

Recently, the IRS has disputes the use of the ARC handbook and has proposed the tax calculation for the flight between Anchorage and Honolulu is 10.45 percent. Obviously, the IRS' calculation affects Alaskans because this is a tax paid by passengers. In the past, has the IRS rejected the use of the ARC handbook to determine tax rates? If so, name the circumstances in which the use of the ARC handbook was rejected. Will you provide the code section that prohibits the use of the ARC handbook when computing excise taxes?

Answer. Industry tables are useful tools in the calculation of the taxable and excludable mileage for air transportation and are normally published by an entity having no Form 720 filing requirement. Neither the Internal Revenue Code nor Treasury Regulations prohibit or authorize the specific use of industry tables when calculating the excise tax due on taxable air transportation to or from Alaska or Hawaii. However, the underlying formulas and calculations to generate these industry tables must be in compliance with IRC section 4262(b) and applicable regulations.

The Airline Reporting Corporation (ARC) has published tables used in the airline reservation industry for over 30 years. Based on historical files, it appears that the IRS had reviewed tables revised by the Air Transport Association of America (ATA) in 1969. The tables concerned tax rate ratios for 29 TRANSPAC gateway cities. Although the specific mileages were not authenticated, the IRS stated the formula appeared reasonable, with an understanding that the computations were made using the method set forth in Reg, Sec. 49.4262(b)–1(c).

Recently, we determined that the airline reservation industry tables currently include tax rate ratios for over 700 cities to Alaska and Hawaii. It appears they may not conform to the method set forth in the regulations and revenue rulings. For example, all cities in Alaska have the same rate to Hawaii, as well as all cities in an area east from Vermont to Nova Scotia, regardless of the miles involved. In addition, established flight patterns over Kodiak Island in Alaska and Catalina Island in southern California, which are within the United States and taxable, are possibly not considered in the rate tables.

Although IRC Sec. 6103 prevents the discussion of specific taxpayers and their returns, we are able to provide general tax information in response to these questions. The industry table calculates the taxable mileage portion of a trip from Anchorage

to Hawaii to be 4.9 percent of the total miles. The 7.5 percent Federal Excise Tax rate would then be applicable to 4.9 percent of the amount paid for the ticket. Computing the specific mileage when normal flight patterns to Hawaii are over Kodiak Island, the taxable portion of the mileage is more closely reflected at 10.45 percent of the total mileage, because the flight passes over a point that is U.S. territory.

This is a broad-based issue that impacts airlines, charter companies, and travel agencies who have a Form 720 filing requirement, as well as all taxpayers who travel to and from Alaska and Hawaii. In an effort to treat all taxpayers fairly and equally, we hope to resolve the issue with a uniform application of the law. We have agreed to meet with the industry and determine whether this issue can be addressed on a broad scale. We will be including excise, industry and Counsel specialists in this matter to come to a final determination as to the Service's position. There are several options open to pursue this, including Industry Issue Resolution, Tax Advisory Memorandum, or Field Technical Guidance. We will determine the appropriate format and a path of resolution after a review of the underlying information and a discussion with industry.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

WILL THE IRS TRY TO INCREASE EARNED INCOME TAX CREDIT (EITC) PARTICIPATION?

Question. Mr. Wenzel, you stated that you intend to develop your numerical performance goal in no more than 45 days.

Please forward to me your goal and an accompanying detailed description of how you intend to achieve this goal no later than May 26th.

Answer. We are currently developing a methodology to identify the EITC participation rate to allow us to establish a targeted goal. We will provide this goal and accompanying detail by the end of June, as we discussed with your staff.

Question. Some Federal agencies have used paid television advertising in English and Spanish as a method of publicizing their message. For example, the National Highway Traffic Safety Administration spent $10 million to buy primetime advertising utilizing volunteer celebrities to get out its enforcement message on seat belts with great success.

How much does the IRS plan to spend on paid advertising on radio and television in order to boost participation in the EITC program?

Answer. The IRS does not normally use paid advertising for EITC. EITC is promoted primarily through free Public Service Announcements (PSA). In 2003, IRS spent approximately $1.5 million for development and distribution of PSAs (TV, radio, and print media) in both Spanish and English and other related outreach materials. For 2004, we are beginning to plan an EITC awareness and understanding promotion strategy that will focus on encouraging workers eligible for EITC to claim it, while reducing erroneous payments. We have budgeted approximately $1.5 million for this effort.

Question. Will you be using volunteer celebrities to get people's attention?

Answer. In years past, celebrities have appeared in IRS PSAs from time to time. However, we do not actively seek celebrity participation. Celebrities can pose a public relations risk if the celebrity's positive image changes in the future.

Question. You are asking for an additional $100 million for the EITC program. We are told that this funding will go both for your pre-certification effort and to enhance participation.

Precisely what percentage of the $100 million will go toward pre-certification versus outreach efforts?

Answer. Of the $100.2 million:

—$16.2 million is allocated to the Qualifying Child Verification initiative,
—$13.0 million is allocated for Communications and Outreach,
—$11.1 million is allocated to the Filing Status and Income Misreporting initiatives,
—$7.1 million is for operations management,
—$9.9 million is allocated to phone support, and
—$4.5 million is allocated for support from a variety of areas, including Field Assistance, Taxpayer Advocate Service and Appeals.

The vast majority of the remainder ($38.4 million) is allocated to developing business and technological infrastructure. A description of the technology infrastructure that we are developing or acquiring is provided in Appendix I.

SHOULD THE IRS BE ALLOWED TO USE PRIVATE COLLECTION AGENCIES (PCAS) TO HELP COLLECT DELINQUENT TAX DEBTS?

Question. Mr. Wenzel, your agency is seeking legislative authority to use private collection agencies to help collect delinquent tax debts. IRS documentation states that the IRS would be required to closely monitor private collection agencies' activities and performance, including the protection of taxpayer rights. This is particularly important because PCAs would be compensated out of the revenue collected through their activities.

Please explain in detail the precise steps that would be in place to ensure that vigilant oversight would be conducted on PCA activities?

Answer. The IRS would establish an oversight group with responsibility for managing case referrals, monitoring and evaluating PCA performance, monitoring interactions with taxpayers, and reviewing and approving PCA invoices. The oversight group would be required to monitor a statistically valid number of taxpayer contacts by each PCA to evaluate taxpayer treatment and adherence to IRS approved procedures. A manual review of PCA activity on taxpayer accounts would be performed to ensure compliance with approved IRS procedures and overall quality of case handling. A full on-site audit of each PCA by the IRS oversight group would be performed on a regular basis and would be in addition to ongoing quality-control and taxpayer protection monitoring.

The PCA would be responsible for ensuring that each employee who has access to taxpayer account information has completed the appropriate background investigation and non-disclosure forms. The PCA would be required to submit verification of the required background investigation and copies of the non-disclosure forms to the IRS at least 20 days before the employee is permitted to access taxpayer information. In addition, the IRS would adopt tracking procedures developed during the 1996–97 pilot program to ensure that no PCA employee would be granted access to the IRS work site or taxpayer data until he/she successfully completed a satisfactory background determination. These procedures were very successful during the pilot.

The IRS' oversight of PCAs would be similar in many respects to the IRS' oversight of its own employees. For example, the IRS audit system logs for indications of improper accesses to taxpayer information. The IRS also performs oversight of employee work for quality and appropriateness of taxpayer interactions.

PCAs would be required to provide a large amount of information to the IRS, as well as access to various systems, to facilitate IRS oversight. This would include:

—detailed Operational Management Information Systems (MIS) reports,
—telephone Service Level reports,
—audits of employee access to IRS taxpayer data,
—access to PCA collection system for auditing purposes,
—remote telephone monitoring access to authorized IRS personnel,
—PCA employee tracking information,
—PCA employee quality review monitoring evaluations,
—PCA Operational Plans, and
—PCA Business Continuation Plans.

To make certain the IRS promptly hears, evaluates and addresses taxpayer complaints, a PCA would be required to provide to taxpayers, orally and in writing, information on how to report a complaint with the IRS. Any complaint received by the IRS from a taxpayer would immediately be provided to the PCA. If a PCA were to receive a complaint directly from the taxpayer, the PCA would be required to immediately forward the complaint to the IRS.

Upon receipt of a complaint from the IRS or directly from a taxpayer, a PCA would be required to immediately cease collection activity on the account in question and provide to the IRS, by the close of business on the following business day, a copy of its records on the account and any other information relevant to the complaint. The PCA would not be permitted to resume collection activity on the account until IRS resolved the problem and provided the PCA written authorization to resume work. Failure by the PCA to cease collection activity on the account would result in IRS recalling the account from the PCA and, if appropriate, the termination of the PCA's contract.

A PCA also would be required to investigate the complaint and provide a complete report to the IRS within 10 business days of receiving the complaint. The report would include a description of all actions taken to resolve the situation and steps put in place to ensure there are no future occurrences of similar situations.

If a complaint is validated, the PCA would be required to remove the offending employee from the IRS account and take all necessary steps to ensure the employee no longer has any access to taxpayer information. In addition, the PCA's bonus and inventory would be reduced, and the PCA would be subject to a penalty. The IRS

could choose to suspend all contract activity for the PCA either permanently or until the IRS has determined, at its discretion, that the PCA had taken appropriate corrective actions to prevent further complaints.[1] The IRS' determination that a complaint was valid would not be subject to review.

If a potential statutory violation is identified, the IRS also would notify the Treasury Inspector General for Tax Administration (TIGTA). TIGTA may investigate the complaint, depending on the circumstances and seriousness of the complaint. If TIGTA initiates a formal investigation of the complaint, the PCA would be required to cooperate fully with the investigation and coordinate its own management efforts with the IRS and TIGTA. TIGTA would provide a report of its investigation to the IRS Contracting Officer after concluding the investigation.

Question. What mechanisms would be in place to ensure that taxpayer rights are protected and private data is accurately secured in the use of private collection agencies?

Answer. Under the Administration's proposal, taxpayer protections provided by the Internal Revenue Code (Code), IRS procedures, and other applicable laws, including those relating to taxpayer privacy, would be fully applicable to private collection agencies (PCAs). The taxpayer protections incorporated in the Administration's proposal have been reviewed thoroughly, including consultations with the National Taxpayer Advocate. The National Taxpayer Advocate would have a continuing role in ensuring that taxpayer protections are maintained under this program.

Sections 6103(n) and 7431(a)(2) of the Internal Revenue Code currently permit a taxpayer to pursue legal action against any person who is permitted to receive tax returns and return information for purposes of assisting in tax administration, but who unlawfully inspects or discloses that information. Criminal penalties also may be imposed under I.R.C. §§ 7213, 7213A. These provisions would apply to PCAs. The Administration's proposal would require annual reports outlining the safeguards in place at the PCAs to protect taxpayer confidentiality and PCA compliance with the taxpayer confidentiality provisions.

PCA employees would receive extensive training on taxpayer rights and privacy protections. The IRS' oversight processes, which would include an on-site presence, live and tape monitoring of communications with taxpayers, periodic audits, and performance evaluations, would ensure that taxpayer rights and privacy are fully protected.

PCAs would be required to maintain a dedicated secure physical space with approved access controls to ensure protection of taxpayer data. The IRS would evaluate the integrity of a PCA's computer system to ensure that appropriate access controls are in place to protect taxpayer data. To protect against browsing of taxpayer information, PCAs' systems would be required to maintain a log of accesses to taxpayer information, which would be audited periodically by the IRS. On-site security reviews would be performed to ensure that PCAs implement appropriate access controls to segregated areas where IRS work would be performed. Periodic security audits would be performed to ensure the PCAs maintain ongoing data and physical security.

Question. To what degree will the backgrounds of contractor employees be investigated?

Answer. The IRS, following Internal Revenue Manual (IRM) procedures and using input from the National Background Investigations Center (NBIC) would determine the degree of background investigation required in accordance with the risk associated with the job function performed and the taxpayer information being provided to the PCAs. We anticipate PCA employees would undergo a moderate level of background investigation, which includes a criminal activity check, a tax compliance check and verification of personal references.

Question. The Administration is supporting legislation to allow private collection agencies to collect tax debt and be paid out of the proceeds of their collection efforts.

Isn't this in conflict with the 1998 IRS reform legislation that specifically prohibits IRS employees or managers from being evaluated on the amount of taxes they collect?

Answer. Fully consistent with Section 1204 of the IRS Reform and Restructuring Act, the IRS' contracts with PCAs would prohibit a PCA from evaluating a PCA employee based on quotas or collection results with respect to Federal tax debts serviced for the IRS. Moreover, these contracts would require that PCA employee evaluations include taxpayer service as a factor.

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[1] In determining whether to suspend a contract, the IRS would consider the severity and frequency of valid complaints for a PCA (whether related to one or more employees).

The PCAs themselves would be evaluated based on a balanced measure scorecard that would reflect quality of service, taxpayer satisfaction, employee satisfaction and case resolution, in addition to collection results. A PCA therefore will be judged at its, and its employees' effectiveness, at resolving outstanding accounts and, where appropriate, effecting payment of outstanding tax liabilities.

PCAs would have a very strong incentive to fully respect taxpayer rights and protections, including privacy rights. Validated taxpayer complaints and deficiencies identified during the IRS' monitoring and audit of a PCAs would result in significant monetary penalties for the PCA. In addition, the PCA's future allocation of cases would be significantly impacted. Simply put, a PCA that does not fully respect taxpayer rights and protections would soon find itself with a small to nonexistent role in the program.

Question. Congress was concerned that evaluating employees on tax collection success could promote overly aggressive collection techniques. Even if the individual contract employees are not evaluated on how much they bring in, they may be concerned that they won't have a job unless they are bringing in money.

Doesn't this conflict with the provisions of the 1998 IRS reform legislation?

Answer. The Administration's proposal combines carefully restricted PCA activities, careful and continuous oversight, and significant short and long-term penalties and incentives to ensure PCAs and their employees will fully respect taxpayer rights and protections.

PCAs would focus on taxpayers who are likely to pay their outstanding tax liabilities, either in full or in installments, if they were located and contacted. These are functions that do not require the exercise of discretion and which would not involve enforcement actions. PCAs may be provided by the IRS with a specific statement that can either be sent or delivered verbally to taxpayers regarding the benefits of paying an outstanding tax liability, and the potential consequences of failing to do so. PCAs would be prohibited from threatening or intimidating taxpayers, or otherwise suggesting that enforcement action will or may be taken if a taxpayer does not pay the liability. In no case would a PCA be permitted to take enforcement action against a taxpayer.

As described in previous responses, PCAs and their employees would be subject to extensive oversight and audit. A violation by a PCA of a taxpayer protection provided by the Internal Revenue Code (Code), IRS procedures, or other applicable laws, including those relating to taxpayer privacy, would have real short-term and long-term consequences to the PCA and its employee, including, where appropriate, contract termination.

Question. I understand that under current law, if an IRS employee misuses taxpayer information, the injured taxpayer can recover damages from the U.S. government.

Would that be the case with private contractors?

Answer. The existing protections against unauthorized disclosure of returns or return information would apply to PCAs and their employees. Sections 6103(n) and 7431(a)(2) of the Internal Revenue Code permit a taxpayer to pursue legal action against any person who is permitted to receive tax returns and return information for purposes of assisting with tax administration, but who unlawfully inspects or discloses that information. Criminal penalties also may be imposed under I.R.C. 7213 and 7231A.

Question. IRS employees are routinely charged with frivolous claims of misconduct by noncompliant taxpayers. These charges are investigated by IRS or the Treasury Inspector General for Tax Administration.

Who would do the investigating and who would pay the cost of investigations of charges against contract employees?

Answer. The process generally would be similar. The IRS would establish an oversight group with responsibility for managing case referrals, monitoring and evaluating PCA performance, monitoring interactions with taxpayers, and reviewing and approving PCA invoices. The oversight group would be required to monitor a statistically valid number of taxpayer contacts by each PCA to evaluate taxpayer treatment and adherence to IRS approved procedures. A manual review of PCA activity on taxpayer accounts would be performed to ensure compliance with approved IRS procedures and overall quality of case handling. A full on-site audit of each PCA by the IRS oversight group would be performed on a regular basis and would be in addition to ongoing quality-control and taxpayer protection monitoring.

The PCA would be responsible for ensuring that each employee who has access to taxpayer account information has completed the appropriate background investigation and non-disclosure forms. The PCA would be required to submit verification of the required background investigation and copies of the non-disclosure forms to the IRS at least 20 days before the employee is permitted to access taxpayer infor-

mation. In addition, the IRS would adopt tracking procedures developed during the 1996–97 pilot program to ensure that no PCA employee would be granted access to the IRS work site or taxpayer data until he/she successfully completed a satisfactory background determination. These procedures were very successful during the pilot.

The IRS' oversight of PCAs would be similar in many respects to the IRS' oversight of its own employees. For example, the IRS audit system logs for indications of improper accesses to taxpayer information. The IRS also performs oversight of employee work for quality and appropriateness of taxpayer interactions.

PCAs would be required to provide a large amount of information to the IRS, as well as access to various systems, to facilitate IRS oversight. This would include:

—detailed Operational Management Information Systems (MIS) reports,
—telephone Service Level reports,
—audits of employee access to IRS taxpayer data,
—access to PCA collection system for auditing purposes,
—remote telephone monitoring access to authorized IRS personnel,
—PCA employee tracking information,
—PCA employee quality review monitoring evaluations,
—PCA Operational Plans, and
—PCA Business Continuation Plans.

To make certain the IRS promptly hears, evaluates and addresses taxpayer complaints, a PCA would be required to provide to taxpayers, orally and in writing, information on how to report a complaint with the IRS. Any complaint received by the IRS from a taxpayer would immediately be provided to the PCA. If a PCA were to receive a complaint directly from the taxpayer, the PCA would be required to immediately forward the complaint to the IRS.

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If a complaint is validated, the PCA would be required to remove the offending employee from the IRS account and take all necessary steps to ensure the employee no longer has any access to taxpayer information. In addition, the PCA's bonus and inventory would be reduced, and the PCA would be subject to a penalty. The IRS could choose to suspend all contract activity for the PCA either permanently or until the IRS has determined, at its discretion, that the PCA had taken appropriate corrective actions to prevent further complaints.[2] The IRS' determination that a complaint was valid would not be subject to review.

If a potential statutory violation is identified, the IRS also would notify the Treasury Inspector General for Tax Administration (TIGTA). TIGTA may investigate the complaint, depending on the circumstances and seriousness of the complaint. If TIGTA initiates a formal investigation of the complaint, the PCA would be required to cooperate fully with the investigation and coordinate its own management efforts with the IRS and TIGTA. TIGTA would provide a report of its investigation to the IRS Contracting Officer after concluding the investigation.

The IRS would pay for an initial number of the background investigations (75), and the PCA would bear the cost for any additional background investigations after the first 75.

Question. How would IRS decide which cases to give to contractors?

Answer. The IRS is currently evaluating the cases that would be referred to PCAs. In general, the cases the IRS would refer to PCAs are cases where the taxpayer has a reasonable likelihood of paying the outstanding tax liability if contacted by telephone. These cases would include situations where a taxpayer has filed a return indicating an amount of tax due but has not sent in full payment of that amount (so-called "balance-due" taxpayers). These cases also would include situations where the taxpayer has made three or more voluntary payments of tax that the IRS has assessed (e.g., after having failed to file a return or report all income

[2] In determining whether to suspend a contract, the IRS would consider the severity and frequency of valid complaints for a PCA (whether related to one or more employees).

received). The IRS would not refer cases for which there is any indication that enforcement action would be required to collect the tax liabilities or cases in which the taxpayer disputes the amount of the liability or the existence of the liability.

The IRS anticipates that it initially would refer only cases relating to the Form 1040 series of returns, i.e., individual taxpayers. These cases also would include tax liabilities of Small Business/Self-Employed (SB/SE) taxpayers and sole proprietors who file a Form 1040 with a Schedule C, E, or F. Although the IRS would use PCAs to help address both new cases as well as those cases that currently are not to be addressed due to resource and collection priorities, the IRS does not intend to refer cases that are over 6 years old.

The IRS is currently evaluating the potential inventory of cases that may be appropriate for referral. The IRS is developing more detailed screening criteria to eliminate cases likely to result in a referral back to the IRS or that otherwise would have a low probability of collection by the PCA. In addition, the IRS is examining whether commercially available credit data could assist in identifying and prioritizing the potential inventory for PCA placement.

Question. Wasn't funding to analyze which cases could be given to contractors cut in this year's budget?

Answer. Collection Contract Support (CCS) was initially part of the Filing & Payment Compliance (F&PC) Modernization project. Although this project is now on hold, the IRS has identified fiscal year 2003 funding for critical needs, including analysis and development of predictive models that will place the appropriate accounts with PCAs should legislation be enacted. We have engaged an industry leader in the credit and risk management scoring process to develop these models for use with CCS.

While the empirical models that are envisioned for F&PC are ultimately desirable for the modernized IRS, the commercially available models presently planned for use in CCS will provide valuable insight to the IRS on which accounts can be best resolved in the PCA environment.

HAS THE IRS IMPROVED ITS CUSTOMER SERVICE?

Question. For the 2002 filing season and so far in this year's filing season, taxpayers have received correct responses to questions approximately 85 percent of the time.

What is the IRS doing to improve this rate?

Answer. The IRS utilizes several methods to continually address quality issues.

—The IRS monitors error data from the Centralized Quality Review System on a daily basis and provides ongoing feedback about top errors to frontline employees. The Centralized Quality Review system is conducting in-depth analysis of fiscal year 2003 Filing Season data to make recommendations on correcting problem areas.

—Frontline managers and local review staffs continually listen to the responses given to customers on the toll free telephone lines to ensure responses are correct and complete and to provide performance feedback to frontline employees.

—The IRS is working continually to improve tools used by frontline employees to respond to customer inquiries. These tools include the Service Wide Electronic Research Program, the Electronic Accounts Resolution Guide, and the Tax Law Probe and Response Guide.

—Employees responding to tax law inquiries are specialized in their respective topics and tested before being permitted to take live calls.

The IRS has accumulated data from each toll-free site on challenges faced during the fiscal year 2003 filing season and actions taken to overcome these challenges. This information is being used to plan for fiscal year 2004 and beyond to eliminate barriers to providing world-class customer service.

Field Assistance initiated several actions to improve the accuracy of responses given to taxpayers who visit Taxpayer Assistance Centers (TAC). Some of the actions are:

—*Monitor Employee Performance*.—TAC managers are monitoring 12 tax law counter contacts for each technical employee during the year. At least six of the contacts will be monitored during the filing season. To place the monitoring commitment into the proper context, Field Assistance had 1521 permanent and 335 seasonal and permanent part time employees as of March 2003. Considering that tax law represents only 10 percent of the total workload and the geographic dispersion of our TACs this is a significant number of reviews.

—*Employee Counseling*.—Counseling is provided when we identify an improper referral to a publication. We follow up with education and role playing to demonstrate proper use of the Publication Method. The Publication Method is a

technique to "walk" a taxpayer through a publication to cover all appropriate probing questions and illustrates the correct answer to his/her question.

—*Training Assessment Battery (TAB)*.—TAB will be administered to all employees and managers to identify skill levels and training needs. The TAB includes four modules that align directly with the four-stage training curriculum for Tax Resolution Representatives (TRRs).

—*Employee Certification Process*.—We have completed the first round of employee certifications. The certification process requires employees to correctly answer three out of three questions on four tax law topics (social security benefits, education credit, earned income tax credit and dependents). Employees will only be allowed to answer taxpayers' questions on topics for which they have been certified.

—*Anonymous Managerial Visits*.—The sample plan requires 30 anonymous visits monthly per Area. Results of the visits are provided to the employee's manager within one business day for follow-up for potential quality improvement.

—*Anonymous Headquarters Quality Assurance Visits*.—Our Headquarters Quality Assurance staff is required to make monthly anonymous visits to the TACs. Results of the visits are also provided to the employees' managers.

—*Error Trend Reports*.—Issued by Headquarters Quality Assurance staff when we identify errors. Areas are required to follow up on the errors identified and take appropriate actions to improve the accuracy of responses given to taxpayers who visit the TACs.

Question. How accurate are the answers supplied by employees using the IRS toll-free help phone lines?

Answer. Using fiscal year 2003 cumulative as of May 23rd, for the 2003 filing season the accuracy rate for tax law is 82.25 percent and accuracy rate for accounts is 88.11 percent.

Question. What is the result of reviews of the quality of walk-in service to taxpayers at IRS Taxpayer Assistance Centers?

Answer. The results of Field Assistance quality reviews and Treasury Inspector General for Tax Administration (TIGTA) reviews of the quality of walk-in service at TAC's during fiscal year 2003 are:

Field Assistance Quality Review Results.—The cumulative accuracy rate through April 2003 is 87 percent based on 840 questions asked nationwide.

TIGTA Results.—The cumulative accuracy rate through April 2003 is 68 percent based on 445 questions asked. We disagree with including referrals to publications and service denied responses in computing the accuracy rate. When recomputed to reflect only answers that are technically correct or incorrect, the cumulative accuracy rate is 73 percent. [NOTE.—The term "service denied" includes situations where the IRS employee did not answer the taxpayer's question, did not refer the taxpayer to a publication, another employee, the toll-free telephone number or offer to prepare a written referral for the question. The IRS employee may have told the taxpayer that no one was available to answer their question and that they should come back the next day.]

Question. Is there separate data available regarding the accuracy of information given in response to inquiries pertaining to EITC?

Answer. Yes. Cumulative through April 2003, IRS has achieved an 81.4 percent accuracy on Earned Income Tax Credit (Tax Law) for inquiries to our telephone assistors.

The accuracy results for EITC questions for our walk-in offices are as follows:

Field Assistance Quality Review Results.—The cumulative accuracy rate through April 2003 for EITC questions is 96 percent based on 69 questions asked nationwide.

TIGTA Results.—The cumulative accuracy rate through April 2003 for EITC questions is 70 percent based on 96 EITC questions asked. As stated above, we disagree with including referrals to publications and service denied in computing the accuracy rate. When recomputed to reflect only answers to EITC questions that are technically correct or incorrect, the cumulative accuracy rate for EITC questions is 79 percent.

IRS MODERNIZATION

Question. It seems that for more than a decade, IRS has been modernizing its computer systems. Obviously, this has been a challenge.

Why has it taken so long and why is it not completed? Despite improvements, the major modernization projects continue to experience significant delays, cost increases, management difficulties, and reductions in deliverables.

Answer. The IRS is modernizing one of the largest and most complex information systems in the world. Since the creation of Internal Revenue Service (IRS) in its current form in the 1950s, our mission has evolved, and the volume and complexity of our operations have mushroomed. Comparable to no other in the world today, our tax system modernization initiative faces several challenges:

—Complex, ever-changing tax codes,
—Extremely high volumes,
  —Over 130 million individual taxpayers,
  —Over 6 million business taxpayers,
  —200 million returns,
  —$2.1 trillion receipts, $1.5 trillion in electronic payments,
  —Tax refunds totaling over $190 billion,
  —1.5 billion information documents,
  —52 million electronically filed returns,
  —19.2 million combined Federal/State returns,
—Input with wide-variation in content ranging from few to many fields of various lengths,
—Seasonal processing with extreme variations in processing loads,
—Hundreds of legacy applications, and
—Transaction rates on the order of billions per year and storage measured in the tens of terabytes (trillions of bytes).

As you know, past modernization attempts have yielded small improvements, but have been largely unsuccessful. A critical question moving forward was whether or not the IRS could learn from these failures to become more successful at managing modernization. At the direction of Congress and to maximize the likelihood of success, the IRS awarded the PRIME contract to provide leadership in the development of the IRS long-term vision of tax administration including; systems integration and engineering, best practices in business process reengineering and business solution, software acquisition/development and program/project management capability.

Notwithstanding the complexity of our modernization effort, we are experiencing the same challenges faced by private industry in developing and deploying technology projects. The CHAOS report, published by the Standish Group, evaluated the causes for success and failure of technology projects. The Standish Group research shows a staggering 31.1 percent of projects will be canceled before they ever get completed. Further results indicate 52.7 percent of projects will cost 189 percent of their original estimates. The Modernization projects are realizing a success rate equal to or greater than the success rate experienced by private industry.

The Modernization program is delivering real benefits for taxpayers, tax practitioners and the IRS, and we are supporting an aggressive deliverable schedule. In addition to the accomplishments realized by project releases in fiscal year 2001 and 2002 discussed in the response to question 39d, planned deliverables for fiscal year 2003 include functionality for Internet Employer Identification Number (EIN), Customer Account Data Engine (CADE), Human Resources (HR) Connect and e-Services.

Initial project budgets and delivery timelines are based upon the long term visioning and strategy and sometimes developed several years before the project start date. As the projects move through the lifecycle and requirements become fully understood, most project estimates and schedules have been adjusted to reflect the enormous complexity of the systems. Additional costs and schedule delays also arise from legislative changes and the need for the modernized systems to interface with the existing legacy systems.

We are engaged in a comprehensive process improvement initiative to enhance our effectiveness in validating cost and schedule estimates. This includes working with the PRIME contractor to develop and deploy best practice estimating capabilities consistent with Carnegie Mellon University's Software Engineering Institute (SEI), as recommended by GAO. Following the present rollout of cost and schedule estimating enhancements our focus will transition to ensuring increased accuracy and reliability of estimates. Once all management processes are in place, and as these mature, the program will run closer to cost and schedule estimates and our capacity to initiate additional deliverables will also increase.

The modernization effort is a major challenge. As the GAO noted in its January assessment, modernization remains a high risk area. It stated, "The scope and complexity of the program are growing—the challenge for the IRS is to make sure the pace of systems acquisition projects does not exceed the agency's ability to manage them effectively." Given the important juncture we have reached with the first important deliverable for CADE, and the need to ensure future success of the program, we have decided to have an outside group of experts take an independent look at the program and report back to us by the end of this summer. We have not yet iden-

tified who will conduct this study but expect to do so in the next few weeks. No work will stop while the review is underway, but this is a good time to assess progress, project risk and whether any midcourse corrections are needed.

Finally, because of the importance of successfully achieving modernization, the new Commissioner recently appointed a new position, the Deputy Commissioner for Operations Support, who will supervise the Chief Financial Officer, Chief Information Officer, the Chief Human Capital Officer, Agency Wide Shared Services and the Service's IT and physical security operations. The Deputy Commissioner for Operations Support will own the modernization program and drive productivity across the organization in order to improve service to taxpayers.

IRS FINANCIAL MANAGEMENT

Question. The Acting Inspector General has found that IRS lacks, on an ongoing basis, the timely, accurate, and useful information needed to make informed management decisions.

How do you respond to this charge?

Answer. The IRS is in the process of implementing the Integrated Financial System, a Joint Financial Management Improvement Program (JFMIP)-certified, commercial off-the-shelf software application that addresses the legislative requirements for the IRS in support of the financial and revenue accounting, property and procurement processes. Release 1 is scheduled for agency-wide deployment in October 1, 2003.

This release will:

—Improve the capability to meet internal/external requirements related to management controls and financial reporting, including cost accounting;

—Improve the timeliness, quality, and utility of administrative activity data provided to IRS managers, as well as to central agencies, so they can make effective business decisions; and

—Address several Remediation Plan action items, and address GAO concerns regarding lack of integrated financial management systems at IRS.

With the implementation of IFS Release 1, the IRS expects to dramatically improve the timeliness, accuracy, and usability of the information required to make informed management decisions.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

IRS ON PRIVATIZING TAX COLLECTION

Question. The Administration is supporting legislation to allow private collection agencies to collect tax debt and be paid out of the proceeds of their collection efforts. This seems to me to be in conflict with the 1998 IRS reform legislation that specifically prohibits IRS employees or managers from being evaluated on the amount of taxes they collect. Congress felt that evaluating employees on tax collection success promoted overly aggressive collection techniques. Even if the individual contract employees are not evaluated on how much they bring in, they will know that they won't have a job unless they are bringing in money. Isn't that in conflict with the provisions of the 1998 IRS reform legislation?

Answer. The Administration's proposal combines carefully restricted PCA activities, careful and continuous oversight, and significant short and long-term penalties to ensure PCAs and their employees will fully respect taxpayer rights and protections. Fully consistent with Section 1204 of the IRS Reform and Restructuring Act, the IRS' contracts with PCAs would prohibit a PCA from evaluating a PCA employee based on quotas or collection results with respect to Federal tax debts serviced for the IRS. Moreover, these contracts would require that PCA employee evaluations include taxpayer service as a factor.

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taxpayer privacy, would have real short-term and long-term consequences to the PCA and its employee, including, where appropriate, contract termination.

Question. It's my understanding that under current law if an IRS employee misuses taxpayer information the injured taxpayer can recover damages from the U.S. government? Would that be the case with private contractors?

Answer. The existing protections against unauthorized disclosure of returns or return information in would apply to PCAs and their employees. Sections 6103(n) and 7431(a)(2) of the Internal Revenue Code permit a taxpayer to pursue legal action against any person who is permitted to receive tax returns and return information for purposes of assisting with tax administration, but who unlawfully inspects or discloses that information. Criminal penalties also may be imposed under I.R.C. 7213 and 7231A.

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Answer. The process generally would be similar. The IRS would establish an oversight group with responsibility for managing case referrals, monitoring and evaluating PCA performance, monitoring interactions with taxpayers, and reviewing and approving PCA invoices. The oversight group would be required to monitor a statistically valid number of taxpayer contacts by each PCA to evaluate taxpayer treatment and adherence to IRS approved procedures. A manual review of PCA activity on taxpayer accounts would be performed to ensure compliance with approved IRS procedures and overall quality of case handling. A full on-site audit of each PCA by the IRS oversight group would be performed on a regular basis and would be in addition to ongoing quality-control and taxpayer protection monitoring.

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Question. How would the IRS decide which cases to give to contractors? Wasn't funding to analyze which cases could be given to contractors cut in this year's budget?

Answer. The IRS is currently evaluating the cases that would be referred to PCAs. In general, the cases the IRS would refer to PCAs are cases where the taxpayer has a reasonable likelihood of paying the outstanding tax liability if contacted by telephone. These cases would include situations where a taxpayer has filed a return indicating an amount of tax due but has not sent in full payment of that amount (so-called "balance-due" taxpayers). These cases also would include situations where the taxpayer has made three or more voluntary payments of tax that the IRS has assessed (e.g., after having failed to file a return or report all income received). The IRS would not refer cases for which there is any indication that enforcement action would be required to collect the tax liabilities or cases in which the taxpayer disputes the amount of the liability or the existence of the liability.

The IRS anticipates that it initially would refer only cases relating to the Form 1040 series of returns, i.e., individual taxpayers. These cases also would include tax liabilities of Small Business/Self-Employed (SB/SE) taxpayers and sole proprietors who file a Form 1040 with a Schedule C, E, or F. Although the IRS would use PCAs to help address both new cases as well as those cases that currently are not to be addressed due to resource and collection priorities, the IRS does not intend to refer cases that are over 6 years old.

Collection Contract Support (CCS) was initially part of the Filing & Payment Compliance (F&PC) Modernization project. Although this project is now on hold, the IRS has identified fiscal year 2003 funding for critical needs, including analysis and development of predictive models that will place the appropriate accounts with PCAs should legislation be enacted. We have engaged an industry leader in the credit and risk management scoring process to develop these models for use with CCS.

While the empirical models that are envisioned for F&PC are ultimately desirable for the modernized IRS, the commercially available models presently planned for use in CCS will provide valuable insight to the IRS on which accounts can be best resolved in the PCA environment.

BUSINESS SYSTEMS MODERNIZATION

Question. I am concerned about the requested funding levels for the IRS business systems modernization program. The budget request for this year is just $429 million, about $21 million or 5 percent below the initial fiscal year 2003 request and $79 million or 14 percent below the level recommended by the IRS Oversight Board.

a. Are you committed to a robust Federal investment to continue the business systems modernization program at IRS?

Answer. Yes. We firmly believe we are making progress on our commitments, are leveraging our precious resources, and are managing the considerable risk inherent in a program of the enormous size, complexity, and sensitivity. The current BSM program funding level for fiscal year 2003 is $407 million (including available appro-

[3] In determining whether to suspend a contract, the IRS would consider the severity and frequency of valid complaints for a PCA (whether related to one or more employees).

priations from previous years). The President's Budget proposes an increase to $429 million in fiscal year 2004.

The $429 million enables us to provide a balanced program that builds out essential infrastructure, delivers taxpayer value, improves internal operations and is within our ability to manage and implement.

The BSM program has been steadily implementing management processes based on best practices in cost and scheduling planning, configuration management, risk management, management progress reporting, acquisition management and others. We feel the management processes coupled with our governance process will strike the proper balance between delivering business value, building critical infrastructure, and ensuring control and effectiveness. As the management processes mature, the program will run closer to cost and schedule estimates.

In addition, the modernization effort is a major challenge. As the GAO noted in its January assessment, modernization remains a high risk area. It stated, "The scope and complexity of the program are growing—the challenge for the IRS is to make sure the pace of systems acquisition projects does not exceed the agency's ability to manage them effectively."

Given this assessment and the important juncture we have reached with the first important deliverable for CADE, we have decided to have an outside group of experts take an independent look at the program and report back to us by the end of this summer. We have not yet identified who will conduct this study but expect to do so in the next few weeks. No work will stop while the review is underway. But this is a good time to assess progress, project risk and whether any midcourse corrections are needed.

Question. b. What is the Administration's five-year run out for the business systems modernization—both in the annual appropriations request and the annual BSM program (expenditure plan) level?

Answer. In fiscal year 2001 we developed a Tax Administration Vision and Strategy (TAVS) and an Internal Management Vision and Strategy (IMVS) to guide the BSM program. TAVS and IMVS reflected our priorities (the sequencing plan). Some critical projects like CADE were already started, but future projects are generally chartered from the sequencing plan that we developed as part of TAVS and IMVS. We also developed an Enterprise Architecture (EA) that added significant functional and technical detail to TAVS and IMVS. The EA includes an Enterprise Transition Plan that further details the TAVS and IMVS sequencing plan.

The request for $429 million was determined after extensive analysis of: (1) the requirements for in-progress projects begun prior to fiscal year 2004; (2) the TAVS and IMVS sequencing plan; (3) funding the Custodial Accounting Project and Integrated Financial System to correct material weaknesses in financial management; (4) improving IRS e-gov functionality with e-Services and Modernized e-file; (5) maintaining adequate management reserve; (6) the Business Systems Management Office (BSMO) capacity to manage the program and projects; and finally, (7) the ability of the business units to absorb new software vis-a-vis training and implementation impacts. In requesting the $429 million, we believe we have set a realistic funding level that will allow us to continue the investments begun prior to fiscal year 2004 and initiate critically needed systems software and hardware for business operations.

As the IRS moves forward in its modernization efforts, funding requests will be developed after careful consideration of our long-term strategy, the sequencing plan and the priorities in the President's Management Agenda, as well as our ability to manage and absorb new functionality and business processes.

Question. c. The program's development growth has generally been sustained through a combination of annual appropriations and carryover from prior year appropriations so that this year's (2003) program level is $450 million (the $370 million appropriation + carryover from prior years). I am concerned that prior year carryover funding will pretty much be exhausted after 2003. So how can the BSM program—as it enters into a critical period next year for a series of major projects—maintain its momentum if the program level in 2004 actually drops below the anticipated level for 2003?

Answer. The current BSM program funding level for fiscal year 2003 is $407 million, including carryover from prior years. The President's Budget proposes an increase to $429 million in fiscal year 2004. The requested funding level of $429 million will allow us to continue the investments begun prior to fiscal year 2004 and initiate critically needed systems software and hardware for business operations.

Question. d. OMB seems to be pushing expenditure of funds for this program into more internal IRS information technology applications rather than robustly funding the development of major activities that benefit the four major IRS business units.

Can you explain what you are doing to guarantee that the products developed by the BSM are going to be used by the IRS' business units?

Answer. Guiding the BSM Program is our Tax Administration Vision and Strategy and Internal Management Vision and Strategy, both of which are reflected in the BSM Enterprise Architecture. The business units developed these during late 2002 and early 2001 and keep them current.

As we develop products based on the business priorities reflected in our sequencing plan, we have management processes that deeply invest the business units in leadership and ownership positions across the life cycle. One example is our Executive Steering Committees (ESC), which are chaired by the business unit. The Deputy Commissioner for Large and Mid-Size Business LMSB heads the Filing and Processing Management Sub-ESC and the Deputy CFO heads the Internal Management Sub-ESC, for example.

Our integrated project teams have representation from all the relevant affected business areas, including information technology, and all key designated roles, such as the Requirements Director, are always from the business units. There are many other examples of how bonded the systems people and the business people are in this process, but hopefully the examples above convey the flavor of what we are doing to ensure deep business engagement and ownership from the outset.

Our programs to date have addressed improved tax administration, internal management, and building technical infrastructure. Establishing a new secure online infrastructure to support tax administration applications like the very popular "Where's My Refund?" is one achievement we cite with pride. We have delivered several other tax administration applications (a new customer communications system, a new system for tax computations for use by LMSB revenue agents, and a new Internet Employer Identification Number system) and one major internal management system (human resources).

This summer we will implement a new Internet-based system to enable streamlined communications with tax practitioners, and the first release of CADE, which will be the first step in replacing the old master files with a modernized taxpayer account data system. This fall we will implement two new internal management applications, a new core financial system, replacing our current financial system, and a new custodial accounting system. Next January, we will launch electronic filing for large businesses and tax-exempt organizations.

As you can see, this represents an ambitious, but balanced (across tax administration and internal management) portfolio.

Question. I am very supportive—as have the House and Senate Appropriations Committees—of the efforts made to advance Business Systems Modernization (BSM) by its systems integrator—the PRIME Alliance. In fact, it was this Subcommittee in the fiscal year 1997 Treasury Appropriations bill that set the whole BSM/PRIME concept in motion. I am concerned, however, about a couple of items and would like your review of several matters.

a. Currently, about $50 million are spent each year on Tier B projects that are designed to be the next generation of applications for certain IRS business units, yet these funds are not controlled by either BSM or the PRIME. I am concerned about the failure to make sure that the right hand and the left hand are not only coordinated, but marching in lock step with each other—something only settled by putting these funds under the control of BSM and the PRIME. Can you apprise the Subcommittee of your position on this concept and provide for us a detailed idea of how we guarantee the kind of program integration on IRS IT activities that are necessary for BSM to succeed?

Answer. The BSM Business Integration Office is responsible for ensuring that strategically linked Tier B projects are under the BSM governance structure. In this case the Sub-Executive Steering Committees have oversight responsibility for Strategic Tier B projects along with Tier A projects, thus insuring project integration. In addition each modernization project contains a Transition to Support Plan, which details Operations & Maintenance activities after the modernized system is deployed.

These investments are not as large, dramatic or far reaching as the BSM program. They are small-scale investments that provide bridge systems until modernization arrives or, in some cases, are the modernized end-state solutions. All investments or projects within this portfolio are selected through the IRS' integrated prioritization process. A major component of this prioritization and selection process is a thorough engineering analysis to ensure that the proposed systems are compliant with the modernized enterprise architecture and do not duplicate what is being developed by the BSM program. This engineering analysis also ensures that these projects will run on the modernized or BSM infrastructure. And, finally, the engineering analysis checks for duplication with legacy system enhancements.

In order to support continuation of modernization efforts the newly appointed Deputy Commissioner for Operations Support will supervise the CFO, CIO, the Chief Human Capital Officer, Agency Wide Shared Services and the Service's IT and physical security operations. The Deputy Commissioner for Operations Support will own the modernization program and drive productivity across the organization in order to improve service to taxpayers.

Question. b. I am also concerned that an increasing amount of the funds appropriated for BSM are not flowing through the PRIME Alliance. When Congress directed the IRS to initiate BSM in fiscal year 1997, we were emphatic that a private sector integrator needed to be brought in to do the job. Yet by bypassing the PRIME, and splintering BSM funds in multiple directions, it appears the IRS—in the wake of Commissioner Rossotti's departure—is trying to return to a position of itself being the systems integrator. That is at odds with the original Congressional intent for the program and President Bush's Management Agenda. What can you do to make sure that we let the private sector serve as the systems integrator for this program as was intended?

Answer. The table below was recently prepared for House Congressional testimony. It shows the total amount of obligated funds since we awarded the PRIME contract. Over the life of the contract the PRIME has received approximately 75 percent of all obligated BSM funds. During the last two full fiscal years, 2001 and 2002, the PRIME has received approximately 76 percent of the obligations each year. Because of the long Continuing Resolution and the recent approval of the revised fiscal year 2003 Business Systems Modernization Expenditure Plan, we do not yet have comparable fiscal year 2003 numbers available.

We do not believe that the numbers indicate that the share of funds going to PRIME has decreased significantly. It is not the intention of the IRS to move away from the Congressional intent of having the private sector serve as systems integrator for the BSM program.

PRIME CONTRACTOR AND OTHER IRS SUPPORT CONTRACTORS

	BSM	
	Obligated	Expended
PRIME	$771,031,696	$634,725,415
MITRE	52,801,406	49,440,693
Other	202,236,866	171,071,729
Total	1,026,069,968	855,237,837

APPENDIX I.—TECHNOLOGY REQUIREMENTS FOR EITC CAN BE CATEGORIZED BY PRE-FILING, FILING, AND POST-FILING ACTIVITIES [1]

System Component	Description
PRE-FILING TECHNOLOGY COMPONENTS	
CERTIFICATION DATABASE	Database containing certification status (entered during Filing); Database may contained imaged documents.
AUTOMATED INFORMATION SYSTEM	System for taxpayers to check certification status through multiple channels, including Internet, Phone (ACD/IVR), E-File terminal, etc.
FILING STATUS SYSTEM	System to build taxpayer profiles from historical data to identify Filing Status errors in post-filing in batch.
CHOICEPOINT SYSTEM	System to import and store third-party data (Choicepoint).
EITC UNDER REPORTER SYSTEM	System to analyze and access historical AUR information and identify taxpayer fitting certain criteria (i.e. repeater offenders).
EITC CONTACT CENTER/ACCTS MANAGEMENT.	Complete call center solution that allows CSRs to access all EITC information; DSTs; Ability to transfer calls to external contractor; Includes application to access imaged documents.
FILING TECHNOLOGY COMPONENTS	
EITC E-FILING SYSTEM	System that enables taxpayers to electronically submit certification documentation.
CERTIFICATION SYSTEM	System to capture certification information during processing; Includes OTA-like Decision Support Tools to aid in decisions; Provides certification status to end-users; allows for scanning, sending, and viewing of documents (16 M) to central location.

APPENDIX I.—TECHNOLOGY REQUIREMENTS FOR EITC CAN BE CATEGORIZED BY PRE-FILING, FILING, AND POST-FILING ACTIVITIES [1]—Continued

System Component	Description
FILING STATUS SYSTEM	System to capture new Filing Status information at time of processing.
MATCHING SYSTEM	System to match taxpayer reported information against information stored in databases to determine if filing requirements have been met.
TECHNOLOGY MODIFICATIONS	Master File and other systems modifications to separate and freeze only EITC portion of return (instead of freezing the entire return).
POST-FILING TECHNOLOGY COMPONENTS	
RISK-BASED COMPLIANCE SYSTEM	System to analyze and identify trends in non-compliance; This system will aid in compliance strategies and case selection (can leverage F&PC RBSS).
COMPLIANCE DATA SYSTEM	System that allows Tax Examiners to access multiple databases containing EITC information.
FILING STATUS COMPLIANCE SYSTEM	System to access and analyze filing status information (internal and third-party) and identify errors in batch at the time of filing; Includes automated case building and issue-based notice generation; Provides all relevant Filing Status information to Tax Examiner; Includes OTA-like Decision Support Tools.
AUR MODIFICATIONS	Systems changes to AUR that would allow EITC cases to be identified, analyzed, and worked separately from other AUR cases; Includes changes to AUR to include the expected change in EITC in the AUR dollar discrepancy.
SUPPORT SYSTEMS	
MIS	System that provides all management information requirements, including pre-filing, filing, and post-filing activities; Includes OTA-like Decision Support Tools.
WORKFORCE/INVENTORY MANAGEMENT SYSTEM.	System to predict and manage workload and inventory in pre-filing, filing, and post-filing activities; Includes OTA-like Decision Support Tools.

[1] System includes applications, database, infrastructure, maintenance, etc.; DST—Decision Support Tools.

SUBCOMMITTEE RECESS

Senator SHELBY. Thank you. Thanks for your appearance.

The subcommittee is in recess.

[Whereupon, at 2:50 p.m., Wednesday, April 9, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004

THURSDAY, MAY 8, 2003

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

The subcommittee met at 10:14 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby, Campbell, Brownback, Stevens, and Murray.

DEPARTMENT OF TRANSPORTATION

STATEMENT OF NORMAN Y. MINETA, SECRETARY

ACCOMPANIED BY DONNA McLEAN, ASSISTANT SECRETARY OF TRANSPORTATION FOR BUDGET

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. The committee will come to order. Welcome, Mr. Secretary. We are pleased that you are doing better, and as I told you, we will be walking briskly down the hall together. We are pleased to see you here today. I know it has been a difficult year for you and I hope that the remainder of 2003 is better.

I look forward to our discussion this morning on the Department of Transportation's 2004 budget request. I hope we will also have an opportunity to uncover how the budget request relates to your authorization proposals and your other goals for the Department.

I first want to commend you, Mr. Secretary, for proposing a budget that does not impose any new user fees. With our economy struggling to recover, I believe that now would be the worst time to increase the burden on transportation users. Our goal should be to do more with less and to relieve unnecessary impediments to efficiency in the transportation system.

In addition, I look forward to obtaining greater detail about the proposal to establish a new $1 billion infrastructure performance and maintenance program for highway projects that can be constructed quickly, and how those funds would be allocated to enhance transportation systems and relieve congestion.

The budget request for the Federal Transit Administration proposes the most significant changes from previous fiscal years. I am

skeptical that consolidation of programs and distribution by formula of transit dollars will improve the delivery of transit services or capital improvements. Formula fights can be distracting and the Federal role in transit should be more than simply revenue sharing.

Instead, I believe that we should structure transit funding to improve rural connectivity, eliminate the bias toward rail capital projects, focus Federal investment on key projects that might not otherwise get built but have a significant impact, and put in place oversight procedures for early identification of the risk associated with project execution.

While funding for the highway program is not what I had hoped for, and is less than what we provided in the omnibus, it is better than what the RABA-like mechanism would have provided, and considerably better than some of the rumors that were circulating last December. Nevertheless, I believe that the highway obligation limitation needs to be increased and I look forward to working with you to further that goal.

Other than that, I view this budget basically as a status quo budget. I know that the Department has focused almost exclusively on TSA last year and on transitioning Coast Guard and the TSA to the Department of Homeland Security. But I did expect a bit more in this budget proposal on where you wanted to take the remainder of the Department.

I am as concerned about what is missing from the budget request as I am with what it includes. Highway fatalities are headed in the wrong direction, increasing for the fourth consecutive year. And just as troubling, alcohol-related accidents and fatalities increased again for a third time in as many years.

Yet, there is no new initiative to increase seatbelt use, reduce drunken driving, or to do anything differently at NHTSA other than consolidating several existing State grant programs or shifting funds for grant programs from FHWA to NHTSA.

I think that we can do better. Two years ago, Senator Murray and I provided funding for Click It or Ticket campaigns. After struggling with NHTSA to get them to use the money, the program had a positive impact on the national seatbelt usage rate. This shows why we need to make greater use of targeted, data-driven programs.

If they work, you will have my support to grow the initiative. If they do not, we will try something else, even if that means upsetting some of NHTSA's partners. The only thing that is not acceptable I believe is not trying new things to reduce the carnage on our highways.

With regard to passenger rail, I must say that I am disappointed there once again. The Department has failed to provide the leadership, I believe, that is necessary to transform Amtrak. While the Congress waits for a legislative proposal that embodies the principles of reform that you articulated last June, your representative on the Amtrak board of directors has supported a budget that is an all-out effort to preserve the current failed system.

Amtrak's budget assumes a Federal subsidy that is twice as much as what was included in the President's budget, but does not contemplate even minor changes to the current structure. Amtrak's

hostility to reform was further demonstrated when Amtrak's CEO abandoned his commitment to fully recover the cost of State-supported lines as soon as private rail companies offered to provide the service for the States at a much lower cost.

In a similar vein, I have impressed upon both your predecessors and the FAA administrator that something needs to be done to contain the cost growth of the FAA. Over the past 9 years, the FAA operations budget has grown 65 percent, including a proposed 8.1 percent growth in the budget request for 2004. By comparison, aircraft operations, the primary driver for FAA operations activities, have declined 10 percent since 2000. In a budget constrained environment it is unsustainable to have unchecked costs at the FAA.

This is a perennial item on the Inspector General's top ten management challenge list, yet nothing ever seems to get done. Like Amtrak, ignoring the issue of cost growth of the FAA's operation budget will not make it go away and is a disservice, I believe, to the American taxpayer.

Finally, Mr. Secretary, I want to raise what I believe is an emerging challenge for the Department and the FAA: the economic trade and regulatory implications of a consolidated European Union Member States open skies or open aviation area concept.

Whether an open aviation area multilateral agreement is a good idea or not, I believe that the die is cast and that the European Union will be working in a much more coordinated manner with regard to International Civil Aviation Organization regulatory and safety issues. That presents enormous challenges and potential risks for the United States given the opportunity for mischief that can intentionally or unintentionally creep into standards consideration and creation.

This is an important and a very complicated area and I encourage you to put some of your best people on it and to provide a clear and comprehensive statement of where you believe the United States should head in this regard in order to maintain our preeminence in aviation.

Mr. Secretary, we have an obligation to do better than just delivering the status quo and I look forward to working with you toward that end. It is good to see you again.

Senator Murray.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman. First let me join with you in saying how pleased I am to see Secretary Mineta back before this subcommittee. We all know that Secretary Mineta has worked far harder than he should have during his recuperation from surgery. I suspect that his leadership of the Department during this period was far more involved than his doctors would have liked. I want to publicly thank you for all the extra effort during these last few months.

I know they have been difficult ones but our Nation and our entire transportation enterprise is better off because of your selfless commitment, Mr. Secretary, and we thank you.

Just a few minutes ago, I had the opportunity to introduce Ms. Annette Sandberg to the Senate Commerce, Science, and Transportation Committee. She is Secretary Mineta's Acting Administrator

at the Federal Motor Carrier Safety Administration. I think the President made an excellent choice in asking that she be appointed as the permanent Administrator of that agency. Ms. Sandberg was the first woman to serve as the head of a State police force, having served as chief of the Washington State force for 6 years. I was really honored to introduce her to the Commerce Committee today and I have great faith in her ability to advance the cause of truck safety at that agency.

With the passage of the Homeland Security Act, the reorganization of the Department, and the reorganization this committee, both Secretary Mineta and this subcommittee have an opportunity to refocus and redouble our efforts on the core missions of the Department of Transportation. For the last 2 years we have been focused on the urgent security needs in all of the transportation modes. With that responsibility now vested in another department and another Appropriations Subcommittee, we can focus on alleviating congestion on our runways and our highways, and minimizing the number of transportation-related fatalities.

This morning I would like to focus on four areas of the President's budget proposal: highway safety, aviation, highway construction, and Amtrak. Mr. Chairman, as you mentioned in your statement, we have experienced the fourth consecutive year of increased fatalities on our highways and that unacceptable record must be reversed. As I look at the President's budget request for 2004 for the Department of Transportation, I see a mixed bag. There are increased resources to address highway safety, and this subcommittee will need to pursue whether the requested levels are sufficient to really change behavior, especially involving drinking and driving.

In the area of aviation, increased resources are requested for the FAA's operations budget. However, given the financial problems facing our airlines, the FAA has some major new challenges. The FAA is charged with inspecting and certifying the safety procedures for all of our airlines. At the same time, the airlines are increasingly contracting out maintenance to entities that have minimum Federal oversight. Indeed, the FAA has its own standard requiring increased scrutiny of the safety practices of airlines that are operating in bankruptcy? It is not yet clear that the FAA even has enough inspectors on its payroll to fulfill its own standard. It is also not clear that the President's 2004 budget provides the kind of resources that will enable the FAA to meet its standard if airlines are still operating in bankruptcy in 2004.

In the area of highways, the President is calling for a cut of $2.3 billion or 7.3 percent. This request is far preferable to the $8.6 billion cut that the Administration requested last year, but it is still moving, I believe, very much in the wrong direction. As a Senator whose home State includes Seattle, a city with the third worst traffic congestion in the Nation, I can tell you that a further retreat in the Federal investment in our Nation's highway infrastructure is not the right way to go.

Finally, let me turn to Amtrak. The Administration has requested $900 million. That is a reduction of 22 percent below the de facto 2003 appropriations. Last year, the President requested only $521 million. Further, this Administration never articulated

precisely how the railroad could avoid bankruptcy at that level of funding. So this year's request, at least in dollar terms, is an improvement.

With the $900 million request, the Administration may be on its way to earning a seat at the table when it comes to a meaningful discussion with Congress as to Amtrak's future. But for the Administration to be a meaningful partner with us in that discussion, the Administration needs to submit a comprehensive reauthorization proposal for Amtrak. That proposal was due to Congress over a year ago. We still have not seen it yet, though the Deputy Secretary recently testified to the authorizing committees about some of the concepts that we can expect to see in the document. But we will not be able to decide if $900 million is enough until we have seen the Administration's actual proposal.

One thing I do know about this legislation is it is not Secretary Mineta's fault we have not seen it yet. I can only hope that in his last 30 days on the job that OMB Director Daniels will take it upon himself to see to it that this piece of business is taken care of before he leaves the Government.

So in conclusion, I want to thank Secretary Mineta for being with us here this morning. I want to thank him as well for the invitation to introduce his soon-to-be-confirmed Federal Motor Carrier Safety Administrator. I look forward to having a dialogue with him this morning about our shared goals of alleviating congestion and saving lives.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Campbell.

STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator CAMPBELL. Thank you, Mr. Chairman. Welcome to my friend and former colleague from the House side days, Secretary Mineta. Our State of Colorado is the third fastest growing State, Mr. Chairman, behind Nevada and Arizona. Certainly we face the same problems all fast-growing States do. We have transportation problems that are huge. We have one great big construction job on I–25 between Denver and Colorado Springs that we call T-Rex for an appropriate reason; because the thing is a monster if you try to drive through there with the ground tore up and the old bridges coming down, new ones going up, and so on.

I have to associate myself with the comments of Senator Murray and say that the President's budget I think is inadequate. I worry that a lot of these contracts that have been let are going to just leave the States hanging with their projects half done and without enough money to finish them.

But I do want to thank you for your past support, Mr. Secretary, for that particular project in Colorado because it is a very unique project. It uses what is called a design-built process which combines light rail, highway, bike, pedestrian, and other transit options all into one. I think that when it is finally done it is going to really become a model for the country. So I want to thank you for that, and also for the help you have given us with the sixth runway at DIA that is under construction, as you know, and will be done shortly.

One concern I do have that really carries over from last year, Mr. Chairman, is the hours of service that the Federal Motor Carriers Safety Administration has implemented. I went to the hearings before we delayed that for a year last year. I had my staff go to two of them; I just went to one. I was convinced then that the Administration had already made a decision and they were just doing perfunctory things of listening to people complain. But they are implementing that, and requiring the truckers to stay off the road two more hours, which sounds good on the surface.

But I have a CDL, as you probably know, Mr. Chairman. Still have a couple of Class A trucks and go to those a lot, and I think that there are some real downsides to it. The truckers themselves, as you know in any kind of cold climate, they do not shut those things off. That means they sit in truck stops or on off-ramps and on-ramps, which are becoming more crowded all the time, or in rest stops, highway rest stops that are run by the States usually. They have to keep them on to stay warm. I do not know how we say that we are going to save fuel by not putting it to productive use and just keeping them running while they are sitting there.

Secondly to that, most of the truckers that I know, they get bored silly, so they just spend most of their time and most of their money running the video games and doing the things that now you can do at these big RV truck stop combinations.

We talk about safety. It is my understanding that if you do implement these hours and you have the same amount of shipping of merchandise, that means you are going to have more trucks on the road to offset the ones that are just sitting idle for those extra hours. For the life of me, I cannot understand how that is an increased safety feature when you say there are going to be more 18-wheelers on the roads instead of less.

I am going to ask the Secretary, if I can stay long enough, to give me his opinion about the present state of that when we get into questions and answers. But it is certainly one of my big concerns.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF SENATOR SAM BROWNBACK

Senator SHELBY. Senator Brownback has submitted a written statement he would like to have included for the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR SAM BROWNBACK

Mr. Chairman, I would like to thank you for holding this hearing today and inviting The Honorable Secretary Mineta to testify before us. There are two issues of particular importance to the State of Kansas that I hope the Secretary will address today. First, is that of the aviation industry and the need to bolster aviation and aeronautics research and development. In particular, I would like to highlight a bill I recently introduced with Senator Hollings, S.788, the Second Century of Flight Act. Second, I would like to address the issues of short line railroads and the needs there for track rehabilitation and preservation.

Just last week in the Committee on Commerce, Science, and Transportation we marked-up the Federal Aviation Administration (FAA) Reauthorization bill. S.788, The Second Century of Flight Act addresses many of the concerns currently facing the aviation sector. And I was extremely pleased that my Colleagues on the Commerce Committee agreed to include three out of the four titles of that bill in the FAA Reauthorization.

This bill would create a national office to coordinate aviation and aerospace research activities within the U.S. Government and encouraging public-private co-

operation. Additionally, this bill creates a national office to focus on a next generation air traffic management system and establishes a new educational program to train the next generation of aeronautics engineers and mechanics.

I am sure it is a goal of all of ours to ensure that the United States continues to lead the world in aeronautics and aviation safety, technology, and efficiency.

Additionally, an issue that should be of importance to all of us in the room is the future of "short line" local freight railroads. These short lines account for roughly half the rail miles in Kansas. These lines gather tens of thousands of carloads of grain and start them on their way across the country and for export abroad. However, government disincentives forced the prior owners of these light density lines to neglect investment in the infrastructure, and now the weight of loaded railroad cars are growing ever heavier. This has forced many of these light density lines to abandon operations.

Last year, the Senate addressed these issues through Senate Bill 1220. That bill would have established a capital grant program for rehabilitation and improvement of tracks and related structures on small railroads to being the infrastructure up to a level permitting safe and efficient operation. Unfortunately, that bill never saw action on the Senate floor during the 107th Session of Congress. The Members in this room should make a commitment to this issue, realizing the important and impact short line operations have on highway miles.

Again, Secretary Mineta, thank you for being here today. I look forward to hearing your responses to some of the questions I have for you.

Senator SHELBY. Mr. Secretary, your written statement will be made part of the record in its entirety. You may proceed as you wish.

STATEMENT OF NORMAN Y. MINETA

Secretary MINETA. Mr. Chairman, thank you very much, to the members of the subcommittee as well, for this opportunity to appear before you today. Before I begin, let me offer my congratulations to you, Mr. Chairman, for taking the helm of this very important subcommittee.

Senator SHELBY. We swap it back and forth. But let's do not do it soon.

Secretary MINETA. Again, I appreciate this opportunity to be before you, and all the members of the subcommittee, who have extended to me a very warm welcome. I have enjoyed the opportunity to work with all of you in terms of advancing the cause of transportation in our great country. I want to thank you, Senator Murray, for taking the time to introduce Annette Sandberg at the Commerce hearing on her nomination. As the acting administrator of the Federal Motor Carrier Safety Administration she has already been subjected to a great deal of work in the short time she has been there.

Mr. Chairman, I would also like to introduce our Assistant Secretary of Transportation for Budget, Donna McLean, who, with your permission will be sitting at my side to assist me with any details on questions that come up.

I am pleased to share with you the Department of Transportation's 2004 budget. President Bush is requesting $54.3 billion for the Department, including more than $14 billion, or 27 percent, that is being targeted to support my number one priority, safety. As you have indicated, highway traffic deaths are starting to go up. For the last 15 months, my senior management team has spent a great deal of time focused on the security threats that face transportation. But this year I have challenged my team to bring that same passion, that same innovation and what I hope will be the same outstanding success on a simple but important goal: improv-

ing safety and saving lives while continuing to improve America's transportation system.

REAUTHORIZATION OF SURFACE AND AVIATION PROGRAMS

As you all are very well aware, the current laws authorizing vital surface and air transportation programs expire in the next few months. Accordingly, our 2004 budget includes the foundation for proposed legislation addressing our Nation's future transportation needs. President Bush recently presented to the Congress his aviation reauthorization legislation, the Centennial of Flight Aviation Authorization Act, or Flight-100. Consistent with this proposal, the President's 2004 budget requests $14 billion for the FAA. We are currently finalizing our proposed surface transportation reauthorization legislation and anticipate its delivery to you shortly.

Although a few details are still under discussion within the Administration let me simply say this, the Administration's forthcoming reauthorization proposal will serve as the largest surface transportation investment in our Nation's history. I firmly believe that the Administration's proposal, when enacted by the Congress, will dramatically further our efforts to grow the Nation's economy without imposing any new gasoline taxes.

Now as a former member of Congress who spent considerable time on the other side of this microphone, I know it is important to determine what the total amount of funding will be. But as all of you know, what we spend is only part of the challenge in legislation we will work together on. How we spend it is just as critical. That is why our proposal will be more than simply a spending plan. It is a true blueprint for investment.

Our proposal will include a dedicated commitment to saving lives by consolidating and expanding Federal safety programs, increasing funding flexibility for State and local authorities, encouraging innovative financing tools, accelerating environmental reviews by building on President Bush's executive order on environmental stewardship, and finally, simplifying transit programs to foster a seamless transportation network.

Now the President's 2004 budget supports these principles by requesting $30.2 billion for highway programs, $1.2 billion for motor carrier and highway safety, and $7.2 billion for transit.

AMTRAK

In addition to our proposals to support our highways and airways, President Bush is requesting $900 million for Amtrak. But this funding comes with a very strong message. Amtrak must undergo significant reform. Last week our Deputy Secretary of Transportation, Michael Jackson, and our Federal Railroad Administrator, Alan Rutter, testified before your colleagues in the Senate and in the House on the Administration's vision for a strong national intercity passenger rail system. I believe that America deserves a national rail system that is driven by sound economics, fosters competition, and establishes a long-term partnership between States and the Federal Government.

Mr. Chairman, this vision cannot be achieved without a fundamental reform of Amtrak. Simply put, America can no longer afford the status quo. I am personally committed to working closely with

all of you, the Congress, the States, industry, and labor leaders to develop a financially healthy system that provides a viable national passenger rail service to America.

PREPARED STATEMENT

Let me close by again thanking you for the opportunity to testify today. I have worked with all of you over the years on these issues and I look forward to tackling them again with you. I pledge that we will work closely with this subcommittee, Mr. Chairman, and with the entire Congress as we consider the 2004 budget. Now I look forward to responding to any questions that you might have.

[The statement follows:]

PREPARED STATEMENT OF NORMAN Y. MINETA

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Administration's fiscal year 2004 budget request for the Department of Transportation. President Bush is requesting $54.3 billion for the Department including over $14 billion, or 27 percent, targeted to support our number one priority—safety. But before I outline the specifics of our 2004 budget, let me briefly speak to our making safety a priority while we improve our Nation's transportation system.

For the Department of Transportation, 2003 will be a year of special focus on highway and aviation safety. For the last 15 months, we at the Department of Transportation have spent a great deal of our time making transportation secure and responding to the threats of terrorism. This was absolutely necessary. We've made great progress.

In the aftermath of September 11th, the Department of Transportation had a laser-like focus on security. Two months ago, we successfully handed off to the new Department of Homeland Security the United States Coast Guard and the Transportation Security Administration—two of their largest and high profile agencies.

The Department of Transportation is proud to have provided strong leadership and steady support to the United States Coast Guard for more than 35 years. I am particularly proud of our work standing up the Transportation Security Administration from its creation through its first full year of operation. Indeed, this was a monumental task—one in which we performed under the intense glare of the public spotlight. It was a task that many of the so-called "experts" said was undeliverable.

On November 19, 2001, the day that the TSA was created, there were only 33 Federal Air Marshals nationwide. At that time, there was a poorly qualified, poorly equipped screener service at the airports, with substandard supervision. In less than one year and under wartime conditions, we recruited, trained, and deployed thousands of Air Marshals. We recruited over 300 highly qualified Federal Security Directors to oversee more than 429 airports in the country.

Through an unprecedented partnership with the private sector, we processed over a million applications, and hired, trained, and deployed more than 50,000 passenger and baggage screeners who provide world-class security and world-class customer service.

All of this was done while meeting 37 mandates—36 of which were set by you the Congress in the Aviation and Transportation Security Act. The 37th was my own. I told my colleagues to be sure and meet the other 36. I am proud to say that the stellar employees of the Department of Transportation performed spectacularly—designing and delivering, on time and in working order, the Transportation Security Administration. When you look at the airline security system on September 12, 2001 and our system today, I am tremendously proud of the Department of Transportation and I am grateful to the Congress and this Committee for the cooperation we received.

We at the Department of Transportation look forward to continuing to work closely with our colleagues in the U.S. Coast Guard, the TSA, and throughout the Department of Homeland Security to ensure that America's transportation system remains safe, secure and efficient.

Now for this year, and going forward, I have challenged my senior management team to focus the same passion and the same innovation spent on security over the last year on a simple but profoundly important goal: improving safety and saving lives. Once again, I would like you in Congress to be our partners and achieve the same historic record of performance.

As I stated at the outset, more than one quarter of President Bush's 2004 budget is dedicated to ensuring the highest levels of safety across America's transportation infrastructure. The Administration's reauthorization proposals for both surface and air transportation programs will provide evidence of our continued commitment to safety. As you all know, those vital programs will expire in September. In anticipation of this, our 2004 budget request includes the foundation for proposed new legislation to address our Nation's transportation needs over the next four to six years.

We recently presented to the Congress President Bush's aviation reauthorization legislation—The Centennial of Flight Aviation Authorization Act, or Flight-100. We look forward to working with the members of this Subcommittee and with the entire Congress on swift passage of both this key aviation legislation, and the upcoming surface transportation legislation.

Let me share with you several principles of our aviation and surface transportation reauthorization proposals.

—Our proposals will include an emphasis on consolidating and expanding Federal safety programs.
—For the surface transportation programs, we will include increased funding flexibility for State and local authorities.
—We will continue to encourage innovative financing tools.
—We will propose efficient environmental stewardship processes that facilitate transportation infrastructure projects without compromising the environment.
—Finally, we will continue a strong emphasis on public transportation by simplifying transit programs and fostering a seamless transportation network.

The $14 billion requested by President Bush for the Federal Aviation Administration in 2004 will further ensure the highest possible levels of safety throughout the aviation system.

Flight-100 improves safety oversight of operators, repair stations and others, while tightening enforcement of the FAA's stringent safety and maintenance regulations. Because at the same time travel demand for air service will inevitably return to, and exceed, pre-September 11th levels in the future, we cannot afford to reduce our commitment to investing in the Nation's air traffic control system and our airports. Equally important, we cannot take our eye off the safety goal: to reduce aviation fatality rates by 80 percent over the period 1996 to 2007.

To meet both safety and mobility needs, the budget proposes to spend a greater portion of the accumulated cash balances from the Airport and Airway Trust Fund. The President's budget request and our reauthorization proposal provide $2.9 billion in fiscal year 2004 for facilities and equipment. In 2007, that figure rises to $3.1 billion.

Our proposal also provides $7.5 billion for FAA operations and maintenance in 2004 to improve efficiency—an 8 percent increase over the 2003 enacted level—and supports implementation of the Operational Evolution Plan, the acceleration of airspace redesign, and future air traffic controller staffing needs.

Turning to our soon-to-be presented surface transportation proposal, let me begin with a fundamental principle: the President and his Administration are committed to maintaining guaranteed funding levels that link highway spending to Highway Trust Fund receipts.

Our proposed program spends at a level that keeps the Highway Trust Fund balance relatively constant. The proposed obligation limitation for 2004 is $29.3 billion. When comparing the Administration's 6-year surface transportation reauthorization proposal in total to the six years of TEA–21, the President proposes an overall increase of 19 percent. The fiscal year 2004 budget accomplishes this increase without proposing new user fees.

For the Federal Highway Administration, the fiscal year 2004 budget request proposes that all revenue from gasohol taxes be deposited directly in the Highway Trust Fund rather than the current approach that deposits gasohol taxes into the General Fund. If enacted, this one change will add more than $600 million of available funding to the Highway Trust Fund for each year of the authorization cycle.

In addition to spending estimated Highway Trust Fund receipts, our proposal also unveils a new $1 billion Infrastructure Performance and Maintenance initiative to fund preservation and congestion alleviation projects that can be implemented quickly. Totaling $6 billion over the authorization period, this funding will target projects that address traffic congestion and bottlenecks, and improve pavement conditions.

Every year, more than 42,000 people die on our Nation's roads and highways. This is unacceptable—we can and must do a better job to save lives.

Reducing highway fatalities is "priority one." That is why the President's budget request includes $665 million for the National Highway Traffic Safety Administration to reduce fatalities, prevent injuries, and encourage safe driving practices. Of

NHTSA's 2004 funding request, $447 million will support grants to States to enforce safety belt and child safety seat use and reduce impaired driving.

The Federal Motor Carrier Safety Administration, too, is focusing on ways to prevent fatalities and injuries resulting from accidents involving commercial motor vehicles. The 2004 budget request includes $447 million to address these critical safety issues. We will also continue to emphasize a comprehensive safety inspection program at the southern border so Americans can be assured that trucks entering the United States from Mexico meet our Federal safety regulations.

The Administration's 2004 budget request includes $7.2 billion to strengthen and maintain our public transportation systems and includes $1.5 billion to fund 26 "new starts" projects that will carry over 190 million riders annually when completed.

In addition to our proposals to support our highways and airways, President Bush is requesting $900 million for Amtrak. But this funding comes with a strong message: Amtrak must undergo significant reform.

Last week, my Deputy Secretary Michael Jackson and my Federal Railroad Administrator Allan Rutter testified before your colleagues in the Senate and the House on the Bush Administration's vision for a strong national intercity passenger rail system. I believe that America deserves a national rail system that is driven by sound economics, fosters competition, and establishes a long-term partnership between states and the Federal Government.

Mr. Chairman, this vision cannot be achieved without the fundamental reform of Amtrak. Simply put, America can no longer afford the status quo, and I am personally committed to working closely with the Congress, the states, and industry and labor leaders to develop a truly healthy and viable national passenger rail system.

Finally, I want to share with you President Bush's request for our maritime programs. I am pleased that this Committee has recently received the jurisdiction of all transportation modes including maritime. I believe maritime transportation issues, particularly our ports, are critical to the success of a truly intermodal transportation system. Waterways, canals and rivers were one of our Nation's first transportation systems. From the great explorers Lewis and Clark, to today's Ready Reserve Force supporting our troops in the Middle East, maritime shipping has moved generations of people and vital supplies.

The recent strike at our West Coast ports clearly indicated the importance of our ports to the national economy. This Congress can recognize that one of the true definitions of intermodalism and one of the great economic challenges of the next two decades will be our ability to move freight quickly and efficiently. To do so means recognizing that America is a maritime nation and that moving freight intermodally starts at the water's edge with our ports.

The Maritime Administration (MARAD) continues to support essential transportation and intermodal connections for domestic and international trade. President Bush requests $219 million to continue MARAD's efforts to expand and enhance capacity of our Nation's maritime infrastructure. One of MARAD's continuing challenges is the disposal of obsolete ships that potentially pose an environmental risk to our nation's waterways. The 2004 budget request includes $11.4 million for removal of the highest risk ships.

My prepared remarks focus on only a part of the whole picture. Yet each organization within the Department of Transportation contributes indispensably to accomplishing the goals I have outlined.

Let me finish my testimony by returning to the issue of safety. On 9/11 this Nation was stunned by the degree of destruction and loss we felt as a Nation by those horrific events. Each of us look back on that day and know exactly where we were when we heard the news. Yet each day thousands—thousands—of individuals experience their own moment of destruction and loss when the daily toll of death and injury occur on our Nation's roads and highways.

Frankly, we have been too complacent about finding new and innovative ways to collaborate and end this plague on America. I invite this Committee to join in finding new ways and new energy for better solutions. Last year we created a legacy of achievement. We can do it again.

Thank you again for the opportunity to testify today. My management team and I will work closely with you, and with the entire Congress, as you consider the 2004 budget and I look forward to responding to any questions you may have.

HIGHWAY REAUTHORIZATION

Senator SHELBY. Mr. Secretary, I have a number of questions and I think the other participants here do too.

We have heard for months that the Department's TEA–21 reauthorization proposal will be ready for release in 10 more days. Mr. Secretary, is the proposal ready to be transmitted to the Hill or will it be ready in 10 more days? I am interested, Mr. Secretary, not only because of its relevance to this year's budget request, but also the Banking Committee, which we have authorizing jurisdiction of transit and I as chair, am anxious to begin work on the reauthorization, to work with you on that.

Secretary MINETA. Mr. Chairman, the budget is at the printers and we anticipated that well within the 10 days we will have all of that material to you.

Senator SHELBY. Thank you. Mr. Secretary, virtually every highway safety expert that we have consulted has stated that increasing seatbelt usage is the most important way to reduce highway fatalities. That is why 2 years ago Senator Murray, who chaired the committee then, and I worked together to dedicate funds for a national seatbelt paid media mobilization and enforcement campaigns, what are commonly referred to as click-it-or-ticket campaigns. The positive effects of these mobilizations to increase seatbelt usage rates are undeniable. According to NHTSA's evaluation, seatbelt usage increased by 8.6 percent.

In the omnibus we again set aside funds and directed NHTSA to continue to fund click-it-or-ticket, and also expand this approach to target alcohol-related driving, which we are all concerned about. Mr. Secretary, with the demonstrated success of the program, why isn't funding specifically identified in your budget proposal to continue these campaigns in the year 2004? In other words, this is a program that Senator Murray and I and others have seen the benefit of.

Secretary MINETA. Mr. Chairman, you are absolutely correct. In fact on Monday I am going to be participating in a click-it-or-ticket kickoff campaign. In our budget, I believe we have something like $204 million for occupant safety programs. What we want to do is to be able to increase seatbelt use. We have 18 States that have primary laws on seatbelt use, so one of our efforts is to try to get more States to go from secondary to primary laws relating to seatbelt use. Florida last week was considering it, but unfortunately at the last minute they did not take the bill to the floor. Massachusetts, I believe did complete their passage of primary seatbelt law usage this last week. We have many of the State legislatures that are in session where we are working actively with them in order to get primary seatbelt use laws on the book.

Senator SHELBY. I know you have a long-term interest, you did in your legislative career in safety. You put seatbelt laws in use, bringing it up, pushed alcohol driving down. We are making progress, are we not, those two together?

Secretary MINETA. Also on DUI (driving under the influence), we are bringing an increased amount in the 2004 request where we will have $148 million to address impaired driving fatalities. This is to increase the number of highly visible sobriety checkpoints and other programs where we are working with the State highway patrols. In fact when Annette Sandberg was at the National Highway Traffic Safety Administration (NHTSA) she undertook a very active program because of her relationship with the International Associa-

tion of Chiefs of Police and her working knowledge of being able to work with State agencies. So we are continuing that program under the 2004 budget request that Annette started at NHTSA. We are actively pursuing both programs as they relate to seatbelt usage and the whole issue of occupant protection, including a heavy emphasis on impaired driving.

AVIATION

Senator SHELBY. A recent commission on the future of U.S. aerospace industry has raised serious questions about the competitiveness of U.S. firms in the global marketplace. It blamed this situation on, among other things, restrictive Government regulations, protectionist policies, and a failure to invest in technology innovation. I guess the question comes about, is America, Mr. Secretary, at risk of losing its position of preeminence in aviation?

Secretary MINETA. This is a subject that I know that we are pursuing within the Department of Transportation and within the Administration. That is, to what extent should the Government be working with industry in order to promote their specific goals in terms of trade practices? Just yesterday there was an article in the Wall Street Journal about Airbus moving away from Pratt & Whitney and looking at just European engines. That is the kind of thing that I think we ought to be looking at in terms of our own department.

Senator SHELBY. How can the Transportation Department headed by you, how can you help?

Secretary MINETA. I think we can help in terms of making sure that there are not any competitive impairments to our industries to be able to work closely with other manufacturers. In this instance, if there is a policy on the part of Airbus just to deal with, let us say Rolls Royce, or with their own other engine manufacturers in Europe, then I believe that kind of trade practice is something we ought to be earmarking as a subject of our interest.

INFRASTRUCTURE PERFORMANCE AND MAINTENANCE INITIATIVE

Senator SHELBY. Mr. Secretary, infrastructure performance and maintenance initiative. Do you envision this program as a new apportionment program for the States or as a new discretionary program administered by FHWA?

Secretary MINETA. The monies will go into the formula program. Since the $1 billion is to be used for projects that can be started very quickly, and if States do not use their apportioned amounts, then we will draw that back and then reshuffle that money back out to other States that are using the money very quickly. But it will be distributed under the formula that goes out to the States. To the extent that the States do not use the money, then we will pull it back and, as I say, redistribute that money back out to other States that are utilizing IPAM for quick projects.

Senator SHELBY. If this is a discretionary program, what criteria would you propose to evaluate project eligibility? Give us some examples.

Secretary MINETA. Those projects will be judged very similar to how we judge programs under the Surface Transportation Program.

FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION

Senator SHELBY. The FAA reauthorization. What actions will FAA and the Department take to ensure the agency operates within the amount that you are suggesting in the next 4 years?

Secretary MINETA. As you know, the operations account is something that is a very tight budget issue and Administrator Blakey is working on that matter as we speak. We are trying to make sure that we can do this without any staff layoffs, and to make sure that the safety of the flying public remains paramount. The operations budget is very key to that. Because of the pressures on the operations budget we are looking at all alternatives to make sure that we can deliver safety to the American flying public.

AMTRAK

Senator SHELBY. Briefly, Amtrak appropriation. The 2003 appropriations bill placed a number of new requirements on Amtrak's ability to obtain their Federal subsidy. I am interested in your thoughts on how those requirements are working, the interplay between FRA and Amtrak, and what, if any, changes that you would propose to improve your oversight of the railroad for the 2004 bill.

Secretary MINETA. Mr. Chairman, the requirements that were placed in the omnibus bill in terms of requiring us to get a business plan from Amtrak, and to get definitive cost implementation schedules, all of that has now come to the Department of Transportation from Amtrak. We have found that this has been very helpful in terms of our formulating our 2004 budget as well as imposing on Amtrak these kinds of requirements so that we will have the detailed information we need in order to make decisions and choices to fulfill Amtrak's needs. The requirements that were laid out were adhered to by both Amtrak and DOT, and we have found those to be very, very helpful.

Senator SHELBY. Thank you. I will pick it up in another round.

Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman.

Mr. Secretary, your FAA administrator is about to enter into new labor negotiations with most of her unions, and one thing that could certainly sour those negotiations is the current talk we have heard about the potential for furloughs of FAA employees in the current fiscal year. Those rumors of furloughs persist even if you were given more than 99 percent of what you requested for FAA Operations this year. Although you just said that you did not want to go that way, if you do not, what other belt-tightening measures are you going to implement in order to keep everyone on board?

Secretary MINETA. Because of their needs, the FAA Administrator is trying to make sure that she takes a look at all of the costs that are under operations. I believe that the whole issue of trying to avoid furloughs is paramount as she does her work on operations.

Senator MURRAY. Can you be more specific about what other things you are going to do in order to comply with the amount of money that you have if you do not do furloughs?

Secretary MINETA. For instance, the whole issue of what to do on her telecommunications budget within the operations part of FAA, is being looked at along with hiring freezes.

Senator MURRAY. Is there going to be a reduction in the available overtime for air traffic controllers this summer?

Secretary MINETA. With a sufficient number of air traffic controllers, we are hoping to reduce the number of overtime hours. We are making sure that we have the right number of air traffic controllers so that we can do it without the use of overtime hours.

Senator MURRAY. There is also another issue of retiring air traffic controllers and lack of backfilling for those vacancies. In fact we have already had controllers at one of our major air traffic control facilities complaining quite publicly actually about vacant positions that are not being filled and about the skies over Chicago not being safe to fly. Are you confident we are going to have the necessary funds to fill vacancies at that facility as well as sustain staffing at your other air traffic control facilities throughout this year?

Secretary MINETA. On Chicago specifically, I think there is a problem there, but it is an issue of the management there utilizing the air traffic controllers in the most efficient way possible. I believe, that with the reports that I saw earlier, that there are many of the air traffic controllers who just are not being utilized properly because of the management team there. But nevertheless, I think Chicago is adequately staffed. The overall picture is that in order to deal with this retirement bubble that is coming up, we are also going to have 302 air traffic controllers that are included in this budget. It takes us about 3 years to have a hired air traffic controller to be at a full performance level.

Senator MURRAY. I would just say that I think there is a real concern that we are not hiring those fast enough to meet that 3-year requirement. So we will be watching that carefully.

Secretary MINETA. We believe that the whole level of operations will not be coming back until about the year 2006, and because of the reduced number of operations right now, we feel what we are doing on hiring air traffic controllers anticipates that operations increase when it occurs in 2006.

AMTRAK

Senator MURRAY. Let me turn to Amtrak. I earlier pointed out that you are seeking a 22 percent cut in the total level of funding for Amtrak. Testimony by your Deputy Secretary indicates that the Administration views any amount over $900 million as excessive and unaffordable. You still have not submitted the Amtrak reauthorization bill that was due last year, but your Deputy Secretary has testified regarding, as I said, some of the concepts that are going to be in your legislation; concepts including dramatically increased cost-sharing by the States for receiving Amtrak service, and a requirement that Amtrak compete against other potential bidders to operate your intercity passenger trains.

A great deal of Deputy Secretary Jackson's testimony focused on the 17 so-called long distance trains that serve the vast majority of our country. Amtrak's annual Federal subsidy is over $1 billion a year and the company has almost $5 billion in total debt. If we eliminated those 17 long distance trains tomorrow, it would save

the company absolutely nothing this year. It would take 5 years before the elimination of those trains even saved $200 million. The annual subsidy for these trains, while high on a per-passenger basis is a pittance compared to the Federal subsidy that is granted to the trains operating the Northeast corridor.

Mr. Secretary, when you finally submit your reauthorization proposal for Amtrak, will we find that the Northeast corridor trains and the non-Northeast corridor trains will be subject to equal treatment?

Secretary MINETA. Absolutely. The reason that the Northeast corridor gets treated differently in certain respects is because the underlying tracks do belong to Amtrak there. Our intent is to eventually have two entities; one an operating entity, namely Amtrak, and the other dealing with the infrastructure of rail.

Senator MURRAY. Will there be identical cost-sharing requirements by the States?

Secretary MINETA. The State would be required to agree to a 50/50 match.

Senator MURRAY. The Northeast corridor and the non-Northeast corridor, will their cost-sharing requirements be identical?

Secretary MINETA. Let me ask. In the long-term it would be a 50/50 match. It would be the same cost-sharing.

[The information follows:]

Recently, the Department of Transportation completed its legislative drafting of a bill entitled the "Amtrak System Stabilization, Improvement, and Streamlining through Transition Act." The purpose of the bill is to undertake a restructuring of intercity passenger rail transportation in the United States that will allow it to compete successfully with other modes of transportation. We are now seeking final administration approval through OMB's legislative clearance process. The administration will work to expedite clearance as quickly as possible and hopes to transmit the text of the legislation to Congress shortly. Following the transmittal of the bill to Congress, we can address the question of implementation of the cost-sharing requirements of the Northeast corridor and the non-Northeast corridor.

Senator MURRAY. In the long run. Will they be implemented on the same schedule?

Secretary MINETA. I think what we would have to do on the Northeast corridor is to bring the tracks up to a level that would be satisfactory. Because of the lack of investment in infrastructure, the roadbed for the Northeast corridor needs a great deal of work. We feel that before we turn it over to the Northeast corridor companies, or the States, that we would have to bring those railbeds up to a certain standard.

Senator MURRAY. Mr. Secretary, Amtrak is currently carrying $3.8 billion in long-term debt and another $1 billion in short-term debt. It is estimated that roughly 65 percent of that debt is attributable to improvements that have been made to that Northeast corridor. Your Amtrak reauthorization proposal is going to propose the development of a Federal-State compact to operate that Northeast corridor with the States taking on considerable additional requirements to operate and maintain that corridor. Will you be expecting this new compact between the Federal Government and the States in the Northeast corridor to take over the 65 percent of Amtrak's outstanding debt which is attributable to the improvements that have been made in the Northeast corridor?

Secretary MINETA. Frankly, we have not determined that issue yet on the assumption or transfer.

Senator MURRAY. I think it is a very important question, Mr. Secretary, and we would like to hear from you as soon as possible. If they are not going to take the debt, who is going to pay Amtrak's debts when you go into that compact? So I hope to hear from you.

[The information follows:]

Recently, the Department of Transportation has completed its legislative drafting of a bill entitled the "Amtrak System Stabilization, Improvement, and Streamlining through Transition Act." The purpose of the bill is to undertake a restructuring of intercity passenger rail transportation in the United States that will allow it to compete successfully with other modes of transportation. We are now seeking final administration approval through OMB's legislative clearance process. The administration will work to expedite clearance as quickly as possible and hopes to transmit the text of the legislation to Congress shortly. Following the transmittal of the bill to Congress, we can address the question of who is going to pay Amtrak's debts on the Northeast corridor.

SOUND TRANSIT

Senator MURRAY. I just have a few seconds left. I do have one other question I want to ask you about, Mr. Secretary, because Seattle is now the third most congested city in the Nation. Two years ago, you recommended that the proposed Seattle light rail project take a timeout for the purpose of getting its house in order, and getting the cost and scope of the project under control. I joined with you in that decision and with the help of your FTA Administrator and Inspector General, a lot of progress has been made. I have worked very carefully with Sound Transit in Seattle to ensure that they have reformulated their light rail project so that you and your staff are fully satisfied that their cost estimates and their construction plan are achievable. This project certainly reached a major milestone when your administration included $75 million in your budget for 2004 and announced your plan to revise the existing Full Funding Grant Agreement.

Can you tell me this morning, based on what you know about the improvements that have been made in the planning and financing of this project, do you currently have any reservations surrounding your request for $75 million in 2004?

Secretary MINETA. Not at all. We are very confident about the revised plan and we appreciate your work in working with the Sound Transit System. I personally have a great deal of confidence in the Executive Director of the system there. I think she has gone a long way in helping both the system as well as the working relationships between FTA, your office, and the Sound Transit System, and has been able to come up with a great plan.

Senator MURRAY. I agree. Can you tell me when you expect a revised Full Funding Grant Agreement to come to Capitol Hill on that project?

Secretary MINETA. That is something I will have to submit to you. I am not sure that we have a set schedule yet.

[The information follows:]

On January 19, 2001, the Department of Transportation approved the Full Funding Grant Agreement (FFGA) for the Central Puget Sound Regional Transit Authority. At the time the project was approved, major changes in the project's tunnel alignment were being discussed. The Department has withheld funding for the project until a number of financial and timing issues are resolved and Congress had

time to adequately review the grant agreement. On July 7, 2003, the Department's Office of Inspector General (IG) issued a report on its audit of the project. The Federal Transit Administration (FTA) has concurred with the IG's recommendation, stating that it will request that the Sound Transit Board of Directors formally agree to actions specified in the IG's recommendations. FTA will closely monitor Sound Transit's continuing financial responsibility to operate, maintain and reinvest in its existing transit system as well as the Initial Segment, as is the practice under all FFGAs. Further, FTA will not execute the FFGA prior to written notification from the Sound Transit Board of Directors of their agreement to take the actions specified by the IG.

Senator MURRAY. All right. Thank you very much, Mr. Secretary, and thank you, Mr. Chairman.

Senator SHELBY. Senator Campbell.

HOURS OF SERVICE

Senator CAMPBELL. Thank you, Mr. Chairman. I would like to ask the Secretary one general question about hours of service and something specific to Colorado before my time is up.

Mr. Secretary, very frankly, I have to tell you, I think the people that wrote the revision of hours of service neither know the significance of the trucking industry in America or the precarious position they are in; either one. I understand that over 1,000 companies, trucking companies went out of business last year, went into bankruptcy. I know that repossession of trucks are at an all-time high. Even with that, there are a shortage of drivers even for the remaining trucks. It is something like 95 percent of everything that moves in America, every portable thing that you can think of travels on a truck. So I think it is a very significant industry and I am really concerned about this change of hours of service.

I would like you to, if you could, tell me, tell the committee where the rulemaking has changed and where we are on it.

Secretary MINETA. Senator Campbell, as you know, this rule was released about 3 weeks ago, I believe. The effective date of the Hours of Service rule will be January 4, 2004. I think, from what I can gather, since we had issued the original notice of proposed rulemaking we got something like 53,000 comments during the comment period. The Federal Motor Carrier Safety Administration went through all of those comments.

Senator CAMPBELL. How many of the 53,000 would you say were supportive or opposed to changing?

Secretary MINETA. As I recall, we had a substantial percentage of the 53,000 that were supportive of the rule. This is the first time since I believe 1939, that we have revised the hours of service rules in a significant way. This rule is supported by the American Trucking Association. I think the major opposition comes from the independent drivers.

Senator CAMPBELL. The ATA represents the large fleets. I think it is called OOIDA or something, represents the little guys, the ones I am really concerned about losing their homes.

It is also my understanding though that these hours of service are almost impossible to monitor with the Mexican trucks that will be coming north now under the NAFTA agreement. They have a log book, but they do not have to keep up with them in Mexico.

Secretary MINETA. They will be subjected to the same requirements once they are able to come in to the United States. We in-

tend to enforce the law on hours of service against the Mexican drivers as we would U.S. drivers, or Canadian drivers.

Senator CAMPBELL. Thank you. I guess the proof will be in the pudding to see if it works or not. I am absolutely convinced though it is not going to work to the benefit of either drivers or small truck owners, or to the country at large that has to do a lot of shipping.

COLORADO BLOOD-ALCOHOL STANDARDS

Let me ask just a couple related to Colorado. Colorado is one of the few States that has a two-tier system relating to blood-alcohol content. We have a driving while ability impaired is a lesser charge where the blood alcohol content is less than .05 percent and .09 percent. During the authorization of TEA–21 Federal funds were tied to each State requiring them to lower the blood alcohol content to .1 percent if the States did not change their laws. If they did not then the States were going to be penalized and funds withheld. That is going to cost Colorado about $50 million a year.

If the Colorado law already requires a stricter requirement under blood alcohol content, why should the State be penalized, if it is more strict than the Federal requirement now?

Secretary MINETA. Senator, I will have to get together with you on that because I am not familiar with the requirement.

[The information follows:]

To qualify for an incentive grant under Section 163, and to avoid a sanction under Public Law 106–346-Appendix, sec. 351, 114 Stat. 1356A–34, 35 (Section 351), a State must enact and enforce a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed the per se offense of driving while intoxicated or an equivalent per se offense.

The State of Colorado does not currently have a driving while under the influence (DUI) per se law that is stricter than the requirements of 23 U.S.C. Section 163 or that meets the requirements of Section 163. The State's standard DUI per se offense applies at .10 BAC (Colo. Rev. Stat. Sec. 42–4–1301(6)(a)). The .05 to .09 provisions relate to permissible inferences that are not a part of Colorado's DUI per se law. Rather, the inferences allow the evidence of a person's blood alcohol concentration to be deemed relevant and possibly admitted in a prosecution for DUI or driving while ability impaired (DWAI). These inferences are merely permissible, not mandatory. Accordingly, these provisions cannot be utilized by the State of Colorado to demonstrate compliance with the requirements of Section 163.

ASR–11

Senator CAMPBELL. All right, I appreciate that. One other one you may have to look up. We have an airport that has been waiting for years and years to get a radar system called an ASR–11. I know Senator Murray also has been waiting, and Senator Stevens too. I understand that that radar system, there are some concerns about its viability and that has really halted the installation. Could you give me a status report on the certification of that ASR–11? You probably do not have that right there in your notes either, but if you could get back to me. The county that I have been working on for years trying to get one is called Eagle County, right in the middle of those mountains. Very predictably dangerous place to land when we have high peaks all around and bad snowstorms and so on. So I would appreciate it if you could——

Secretary MINETA. I will get back to you on that, sir.

[The information follows:]

ASR–11 is a joint FAA and Department of Defense procurement program intended to replace aging Airport Surveillance Radar Models 7 and 8, which are nearing the end of their service life and becoming more difficult to maintain. The ASR–11 system is an integrated system that includes a primary radar system and associated beacon system. The ASR–11 will provide digital radar input to new automation systems such as Standard Terminal Automation Replacement System (STARS).

Results of operational tests have proven the system suitable for operational use. The FAA proposes to formally certify the ASR–11 system for national use by August 2003.

The FAA has met with Eagle County Airport and Eagle County Commissioner representatives to discuss possible surveillance solutions to address Eagle County's air traffic surveillance needs. Work is continuing with local and regional personnel to define and evaluate potential improvements. A recommendation and business case is expected by November 2003.

Senator CAMPBELL. All right, thank you. I have no further questions, Mr. Chairman.

Senator SHELBY. Senator Brownback.

STATEMENT OF SENATOR SAM BROWNBACK

Senator BROWNBACK. Thank you, Mr. Chairman. I appreciate being able to join your subcommittee for the first time. It is a pleasure to be here. Mr. Secretary, glad to have you here as well.

Secretary MINETA. Thank you, sir.

AVIATION INDUSTRY

Senator BROWNBACK. I want to focus my comments on two areas. One is on the aviation industry itself. I understand the chairman made some comments about this as well. Wichita, in my State, the general aviation manufacturers in that State are headquartered in Kansas. Boeing has a huge plant in the State. This has been an industry that has been decimated in recent times. We had 30 percent layoffs, employment layoffs. That is bad enough. But it is an industry that is somewhat use to the cyclical nature. At least the general aviation manufacturers, not so much Boeing.

But when I met with the industry leaders in December something really troubling came up. I had all the leaders of the industry in a meeting and they were saying—they are used to in general aviation, the gamma groups are is the used to kind of an up and down nature of the industry.

But what they are seeing take place is that as they are strapped for cash, they are needing research money to develop the next wave of products, the next wings, the next engines, the next fuselage of the products. They are having countries come to them and saying, we will pay for the research and the development of the wing, a Japanese company but it is backed by the government. Saying, we will pay for the development of the wing of this new product, but you have to manufacture the wing then in Japan.

Or China is doing a similar sort of push where the government is paying for the research and then using that as a hook to leverage the jobs coming to that country, to where the industry may be fundamentally restructuring now, as we speak, because the companies are strapped for cash. They are strapped to make the next wave of products. They need the research money to get the next wave of products, and they are getting it from foreign governments that are being backed by companies there that are then saying, we

have to manufacture the wing or the engine or whatever the piece may be.

So we may end up being just an assembler of aviation products rather than the developer and lose all the jobs underneath the system. So at the end of the day, the product still comes out of Wichita, but it did not really come out of Wichita. It came out of China or Japan or India or Europe.

To me this is a very troubling trend. We have been a leading aviation researcher, manufacturer since flight began, since the Wright brothers. It seems to me that we are on the edge of losing that. Five years ago, if the numbers I have are correct, we put about $1 billion a year into aviation research as a government. This is a combined set of sources. NASA had a major piece of that. Now we are about $500 million a year, so we have cut that in half at the same time the rest of the world is investing.

Now you can say, okay, it is another manufacturing set of jobs; maybe we are going to end up losing those too. But these are the highest wage, highest skilled manufacturing jobs in the world. People bid heavily for them. What I think we are doing is we are in the process of losing them by virtue of not paying attention.

If we were losing them just as direct company on company competition, I can handle that. But not if it is a government-subsidized research basis on it, and then the company coming in privately. If that is the case, we either should back them down in trade negotiations or we should subsidize.

So I am coming to you with this issue. I put forward a bill with Senator Hollings and the Commerce Committee, Second Century of Flight. Calls for a coordinator on the overall aviation research. It calls for more investment in aviation research. It calls for incentives to draw the next wave of engineers into aviation research. It is Senate bill 788. It has cleared through Commerce Committee as the authorizing. All but one title of it has cleared through the Commerce Committee. I would ask that you would look at that and I would hope would aggressively get behind it or something like it, because we are really losing this business.

And I would appreciate it if you would be willing to consider bringing in these aviation business leaders in a roundtable. I think they would be more than willing to come, or gather at the conference, a conference call, and ask them the same questions about the restructuring of the industry, because this is happening right below the surface. The company stays in Wichita but the product and the jobs are actually coming in from other places. It should not be happening that way. I would hope you could back more in the way of aviation research or specifically this bill.

If you would care to comment, I would appreciate it.

AVIATION RELATED RESEARCH

Secretary MINETA. As I understand it, Titles I, II, and III of your bill were incorporated into the aviation reauthorization legislation that the Commerce Committee took up last week.

Senator BROWNBACK. That is right.

Secretary MINETA. We look forward to working with the committee on the structure as you have outlined it in S. 788.

This issue goes back to something earlier that the Chairman mentioned and Senator Murray has an interest in as well. That is, to what extent can we do Federal research, without being accused of subsidizing the aviation industry? This is something that we deal with the European Union on all the time. When we went through the Aviation Stabilization Act and we reimbursed airlines for losses in that period subsequent to September 11th, the Europeans were complaining that we were subsidizing our airlines in terms of their operations. All we were saying was, we were reimbursing them for their operational losses as a result of my grounding all the planes on the 11th of September, and for that subsequent period before the airlines got back into operation.

Whenever we get into research, we do research on wings and to the extent that Boeing uses that research to build a plane, or Gulfstream, or Beech, or anyone else, then we get accused of subsidizing the firms. The earlier question that the Chairman was asking is something that I want to get into because I think that, as you have indicated, we have somewhat lost our technology edge in terms of aviation.

I remember being on the Science Committee in the House and I remember saying to Dan Goldin, what happened to the "A" in NASA? It was National Aeronautic and Space Administration (NASA), but the aviation budget was going down, down, and down. I was fearful that it was going down so much that Langley, Wright-Patterson, and Ames Research Center at Moffett Field would also be cut back. I believe that the problem with NASA, is that their research budget still goes down because all of it is being sucked up by the space station. The FAA's research program is done mostly by NASA.

Senator BROWNBACK. If I could ask you, because the time is so short, if your agency could really start a study of what is taking place, because if other countries are doing this, then we should start a trade action against them. Particularly Boeing, we are down to now 50 percent or below of market share, and that is all by a subsidized Airbus that has come in and taken that market share. We should be taking trade actions against Airbus. I would hope your agency would push on that. Or if we are not going to do that, that we would equal the European subsidy and then make them sue us in the trade courts.

Secretary MINETA. You are absolutely correct, Senator Brownback. About 4 months ago, I had asked our Under Secretary for Policy to start taking a look at this whole issue. Then yesterday, there was a article in the Wall Street Journal about Airbus pulling back from Pratt & Whitney so they could look exclusively at European engines. That prompted me to tear that article out and send it to Jeff Shane to, again, make sure that we are pursuing this issue.

[The information follows:]

The Department of Transportation continues to closely monitor issues concerning possible subsidies and potential unfair trade actions. In all cases of possible unfair trade practices, the administration seeks compliance with international trade obligations and is prepared to employ appropriate bilateral and World Trade Organization mechanisms to achieve that outcome.

Senator BROWNBACK. I would urge it. I have got an issue I will submit to you for the record of short line railroads and the need for help on short lines, because on moving freight that are key for a State like mine. But I will submit that.

Mr. Chairman, thank you.

Senator SHELBY. Thank you, Senator.

NEW ENTRANT PROGRAM

Mr. Secretary, I have a few more questions. You have been very patient. The FMCSA budget proposes a total of $33 million for implementation of the new entrant program. Given that there are approximately 50,000 new entrants every year now, how many audits does the Department actually expect to conduct if this program is fully funded?

Secretary MINETA. Mr. Chairman, I am not sure.

Senator SHELBY. Do you want to get back with me on that?

Secretary MINETA. I will get back to you on that, sir.

[The information follows:]

FMCSA will conduct safety audits on all new entrants within the first 18 months of carrier operations consistent with current law and regulation. The agency anticipates that 31,800 audits will be conducted in fiscal year 2004. This will be accomplished using both Federal and State safety inspectors: State inspectors will conduct an estimated 19,800 audits and Federal personnel an estimated 12,000 audits. The balance of audits will be completed within the first 6 months of the following fiscal year, consequently meeting the 18-month legislative requirement to conduct audits on the full estimated annual population of 50,000 carriers. This program will continue on a cyclical basis as approximately 40,000–50,000 new entrants are expected to apply for interstate operating authority annually.

Senator SHELBY. I just want to add this to it. If we cannot expect to conduct an audit of every new entrant, what consideration has been given to phasing in the program or setting up some sort of criteria for prioritizing these new entrants that will be audited? You can do that for the record.

Secretary MINETA. We will include that as well.

[The information follows:]

FMCSA will conduct safety audits on all new entrants. With the funds requested in fiscal year 2004, FMCSA will ramp-up the New Entrant program by hiring 67 contracted auditors and 32 oversight personnel; make facilities improvements; and train Federal, contract, and State staff.

Audits will be conducted on a first in/first out rolling basis. New entrants will be audited no sooner than 90 days after they start operating. This will provide FMCSA with a 90-day window to obtain roadside inspection data from the new entrants, as well as allow carriers time to stabilize their safety processes after starting their new businesses. FMCSA will contact these carriers at the 90-day point with the intent of completing the audit as close to that point as possible.

By the end of the third quarter of fiscal year 2004, the program should be operating at full capacity and FMCSA plans to cover any backlog of audits not completed in fiscal year 2004 during the first 6 months of fiscal year 2005 in order to meet the 18-month legislative requirement to conduct audits on the full population of carriers subject to an audit.

MARITIME ADMINISTRATION TITLE XI PROGRAM

Senator SHELBY. Title XI, guaranteed loan program; get into that. What plans, if any, do you have to help assist the shipping industry in securing financing? You are familiar with the program, the MARAD program?

Secretary MINETA. Yes, sir. The only one we have right now is the Title XI program.

Senator SHELBY. It has taken a downturn. Since 2000, the program has paid out almost $500 million in defaulted loans. What steps are you taking to help get this program back on track?

Secretary MINETA. This has been a real issue because I think we have had defaults amounting to something like $489 million.

Senator SHELBY. It is a lot of money, $500 million.

Secretary MINETA. Yes, sir. I believe we are requesting $4.5 million in the 2004 budget in this program. We are looking at the recommendations that will be forthcoming from an Inspector General report on this whole issue of the Title XI program.

FAA OPERATIONAL ERRORS

Senator SHELBY. In 2001, FAA began replacing air traffic control supervisors with controllers who assume supervisory duties and were designated as controllers in charge (CIC). According to an Inspector General's April 2003 report, the number of operational errors that occurred while a CIC was supervising an area in calendar year 2001 increased 46 percent compared to calendar year 2000. Has FAA determined the reason for the increase? If so, do you know what corrective actions the FAA leadership have taken or has planned? If you do not know offhand, you can get back to me.

Secretary MINETA. Let me get that for the record.

[The information follows:]

The Federal Aviation Administration investigates all incidents involving operational errors. In the course of these investigations, the agency looks for causal factors and makes appropriate adjustments to correct identified problems, which may affect safety. Since the CIC expansion in January 2001, FAA has not seen the program impact safety and has not seen an increase in operational errors. In fact, the records show an overall decrease in operational errors of 11 percent from fiscal year 2001 to 2002. Below is a table that reflects the data for fiscal year 2001–May, 2003.

	Operational Errors
Fiscal year 2001	1,193
Fiscal year 2002	1,061
Fiscal year 2003 (through May)	714

Senator SHELBY. Absolutely. Forty-six percent is a big number.

AIRPORT COMPETITION

Airport competition. Secretary Mineta, AIR–21 included a provision that prevents certain large and medium hub airports from receiving AIP funds or collecting new PFCs unless they submit competition plans to the Department of Transportation. It is my understanding that each year these airports must submit competition plans on an annual basis and are required to provide detailed information on an extensive list of items.

I will support any proposal that will increase competition in the commercial airline industry. Are you aware if air carriers have received access to gates and other facilities as a result of the competition plan requirements?

Secretary MINETA. I know the competition plans are being submitted, that those plans have opened up opportunities for new entrant carriers——

Senator SHELBY. It is so important; competition.

Secretary MINETA. Where you have a dominant carrier, they will probably be at gates 1 through 43, and the new entrant carrier will be at gate number 89. That is part of the whole issue that we are trying to deal with in having the airports submit these competition plans, so that we can make sure that the playing field is level.

Senator SHELBY. Absolutely.

Secretary MINETA. Especially today with traffic being down.

Senator SHELBY. Is it having an effect yet? Because that is the bottom line.

Secretary MINETA. I do not think so yet, because a number of the gates are still retained by carriers and they will not release them.

Senator SHELBY. They will not release them although they do not need them?

Secretary MINETA. Right. But, I suppose where the airlines have what they call a majority in interest clause, the dominant carrier can be pretty aggressive in determining when they release those gates.

Senator SHELBY. Absolutely. We found that out here from oversight. But at the same time, it stifles competition.

Secretary MINETA. That is right. You are absolutely correct.

Senator SHELBY. What we are interested in, and you are too, is competition in the marketplace.

Secretary MINETA. Right.

Senator SHELBY. We all benefit, do we not? All the airlines will ultimately benefit because they will have to change their business model to compete, or disappear. That is the nature of the business. It is tough.

I saw that the Department included a placeholder for competition plans in its FAA reauthorization proposal. Are you proposing to expand, Mr. Secretary, the current requirements? If so, is it necessary?

Secretary MINETA. I am not sure what you are referring to under placeholder.

Senator SHELBY. Competition plans, we saw that the Department included a placeholder for competition plans in its FAA reauthorization proposal. The question is, are you planning to, or proposing to expand the current requirements? The placeholder, we wonder what is going to happen there?

Secretary MINETA. Let me find out. Mr. Chairman, it is my understanding that the Administration, I assume through the Domestic Policy Council, is looking at the whole issue of the airline industry as it is today. So part of this whole effort is to deal with the competition that exists. It is my understanding that this was just a placeholder put in place for the Administration to eventually come up with a program relating to competition in the airline industry.

[The information follows:]

U.S. DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, DC, May 20, 2003.

The Honorable JOHN MCCAIN,
Chairman, Committee on Commerce, Science, and Transportation, United States Senate, Washington, DC, 20510.

DEAR MR. CHAIRMAN: The Department of Transportation requests your Committee's consideration of the enclosed two legislative proposals for inclusion in pending bills to reauthorize activities of the Federal Aviation Administration (H.R. 2115 and S. 824).

The two proposals are intended to strengthen the ability of United States air carriers to compete domestically and internationally. The effects of September 11 on airline traffic and, consequently, on the financial health of U.S. air carriers have been exacerbated by the war in Iraq and by SARS. Given the growing external pressures to which aviation is being subjected, the Department has continued to identify ways to give U.S. airlines the tools necessary to respond to market forces since Secretary Mineta transmitted our FLIGHT–100 Act proposal to Congress in March.

The proposal to allow greater access to foreign capital markets would expand the resources potentially available to U.S. carriers as they restructure their operations in response to the challenges of today's domestic and international aviation realities. Raising the ceiling on the percentage of voting shares that can be owned by foreign citizens (without changing the requirement that U.S. carriers be controlled by U.S. citizens) would be consistent with foreign investment restrictions that apply to airlines in European Union countries and those of other U.S. bilateral partners. Achieving a consistent approach in the investment area could facilitate the United States' reaching new aviation agreements, thus expanding opportunities for U.S. carriers.

The second proposal would expand the number of airports covered by the requirement (added by AIR–21 in 2001 to title 49) requiring certain large and medium hub airports to submit a plan for increasing competition along with any PFC request or AIP grant application. The expansion would be from approximately 38 to 50 airports, including large gateway airports that are not now covered.

The Department has devoted a considerable amount of time to reviewing competition plans and offering suggestions as to what actions airport officials could take to enhance competitive airport access. As a result of the plan filings and suggestions by the Department, some positive pro-competitive steps have been taken at the 38 airports required to file a plan. Such steps include making gates and related facilities more available and access requirements more transparent, pre-approving leasing and subleasing arrangements, monitoring gate use, converting exclusive-use gates to common-use and recapturing unutilized gates. Low-fare air carriers benefited from the competitive actions by airport officials. In this regard, at 29 of the 38 airports, new or expanded entry/service has occurred. Large air carriers have also benefited through new lease arrangements and gate-change accommodations.

To build on the success of the AIR–21 competition plan requirement, we are proposing to expand the number of airports required to file a plan to include all large hub airports. This expansion will capture several facility-constrained airports. We are also proposing that airports (1) actively monitor how frequently their gates are used, (2) develop uniform gate-assignment protocols and notify all carriers when gates become available, (3) adopt fair sublease arrangements, (4) develop procedures to disapprove proposed subleases that would restrain competition, (5) prevent the use of majority-in-interest clauses that limit the airport's ability to develop projects necessary to enhance carrier access, and (6) implement dispute resolution procedures. These additional requirements will provide a framework by which all air carriers are given full, fair and transparent competitive airport access.

We appreciate the Committee's support to date for the Department's proposal transmitted on March 25 and would ask for favorable consideration of the enclosed proposals. The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to the submission of these proposals to the Committee for its consideration.

Sincerely yours,

KIRK K. VAN TINE.

SEC. ___. AIR CARRIER CITIZENSHIP.

Section 40102(a)(15)(C) of title 49, United States Code, is amended by striking "75" and inserting "51".

SEC. ___. COMPETITION PLANS.

(a) Section 47106(f) of title 49, United States Code, is amended—

(1) in paragraph (2) by—

(A) adding the following after "gate-assignment policy,": "requests for access or accommodation by new entrant and incumbent carriers, responses thereto, and reasons for any denials of such requests,"; and

(B) adding a new sentence at the end of the paragraph as follows: "A competition plan under this subsection shall also include a justification as reasonable and not unjustly discriminatory (i) for any differential or variance in fees and/or terms of use for gates and associated facilities (including overnight parking) charged to existing and prospective carriers, respectively; and (ii) for any failure to provide access, such as by undertaking the activities listed in subparagraph (4) below within 90 days of a carrier's request.";

(2) in paragraph (3), by striking subparagraphs (A) and (B) and inserting the following:

"(A) that has more than .25 percent of the total number of passenger boardings each year at all such airports and at which 1 or 2 air carriers control more than 50 percent of the passenger boardings; or

"(B) that has more than 1 percent of the total number of passenger boardings each year."; and

(3) by inserting at the end new paragraphs (4), (5) and (6) as follows:

"(4) GATE AVAILABILITY.—In the case of a covered airport, as defined in paragraph (3) of this section, the airport owner or operator shall demonstrate that it will make gates and related facilities (including overnight parking) available, and otherwise provide access to new entrant and other requesting carriers by, e.g., undertaking the following activities:

"(A) developing dispute or complaint resolution procedures including timelines, to resolve complaints by new entrants or other requesting carriers about access;

"(B) specifying and publishing requirements for a new entrant to acquire a gate and for an incumbent carrier to expand;

"(C) providing an airport competitive access liaison;

"(D) developing procedures to monitor actual utilization of all gates and overnight parking positions and to make this data available to the Secretary and to the public;

"(E) maintaining a uniform policy of notifying all carriers (both incumbents and potential new entrants), of gate availability and having fair and transparent gate assignment protocols, including timelines for access;

"(F) adopting comparable policies and procedures for subleasing of gates by tenant carriers;

"(G) adopting dispute resolution procedures, including timelines, for disputes about sublease fees, terms, and conditions, including ground handling;

"(H) adopting caps on sublease fees and ensuring that non-tenant fees do not include charges for unneeded services;

"(I) adopting policies to review and approve or disapprove proposed subleases with explicit authority, in current and future lease agreements, to disapprove proposed subleases that would restrain competition by a new entrant air carrier, a carrier offering competitive service, or a carrier that is not dominant at the airport;

"(J) making majority-in-interest clauses in air carrier lease and use agreements inapplicable to an airport development project necessary to enhance access by an air carrier; and

"(K) posting the submitted competition plans required under this subsection and the comments of the Secretary in a publicly available location, including a website if such internet website exists.

"(5) PLAN APPROVAL.—The Secretary may disapprove a competition plan that is not in accordance with this subsection and guidance established by the Secretary. The Secretary shall provide written notification of the disapproval to the sponsor, which shall include specific findings regarding the basis for the disapproval.

"(6) WITHOLDING APPROVAL.—(A) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this subtitle following disapproval of a plan under subparagraph (4) only if—

"(i) the Secretary provides the sponsor or a covered airport 30 days to address specific findings in the notice of disapproval;

"(ii) the Secretary provides the sponsor of a covered airport an opportunity for a hearing; and

"(iii) not later than 180 days after the later of the date of the application or the date the Secretary notifies the sponsor of the disapproval of the plan,

"(B) The 180-day period may be extended by—

"(i) agreement between the Secretary and the sponsor; or

"(ii) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

"(C) A person adversely affected by an order of the Secretary withholding approval may obtain review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner."

(b) Section 47107(a) is amended—

(1) in paragraph (1) at the end of the sentence, by adding ", which includes providing competitive access.";

(2) by adding at the end the following new paragraph:

"(21) in the case of a covered airport, as defined in section 47106(f)(3), the airport owner or operator will demonstrate that it will make gates and related facilities (including overnight parking) available and otherwise provide access to new entrants and other requesting carriers by undertaking the following activities:

"(A) developing dispute or complaint resolution procedures, including timelines, to resolve complaints by new entrants or other requesting carriers about access;

"(B) specifying and publishing requirements for a new entrant to acquire a gate and for an incumbent carrier to expand;

"(C) appointing an airport competitive access liaison;

"(D) developing procedures to monitor actual utilization of all gates and related overnight parking positions and to make this data available to the Secretary and to the public;

"(E) maintaining a uniform policy of notifying all carriers (both incumbents and potential new entrants), of gate availability, and having fair and transparent gate assignment protocols, including timelines for access;

"(F) adopting comparable policies and procedures for subleasing of gates by tenant carriers;

"(G) adopting dispute resolution procedures, including timelines, for disputes about sublease fees, terms, and conditions, including ground handling;

"(H) adopting caps on sublease fees and ensuring that non-tenant fees do not include charges for unneeded services;

"(I) adopting policies to review and approve or disapprove proposed subleases with explicit authority, in current and future lease agreements, to disapprove proposed subleases that would restrain competition by a new entrant air carrier, a carrier offering competitive service, or a carrier that is not dominant at the airport;

"(J) making majority-in-interest clauses in air carrier lease and use agreements inapplicable to an airport development project necessary to enhance access by an air carrier; and

"(K) posting the submitted competition plans required under section 47106(f) and any comments of the Secretary on the plan in a publicly available location, including a website if such internet website exists.".

SEC.____. AIR CARRIER CITIZENSHIP. This provision raises the maximum percentage of an air carrier's voting stock that can be held by foreign citizens (in the aggregate) from 25 percent to 49 percent. The change is intended to create greater access for U.S. airline companies to the global capital marketplace without affecting any requirements in current law or Department of Transportation precedent that are intended to ensure that U.S. airlines are controlled by U.S. citizens. The amendment would bring U.S. foreign investment restrictions into line with those of the European Union and other countries.

SEC. ____. COMPETITION PLANS. This section would expand covered airports to all large hub airports in addition to those medium hubs that have two or less carriers with 50 percent or more of boardings. It would clarify that compliance with the existing AIP grant assurance on reasonable access includes providing competitive access. It also would require a new AIP grant assurance to increase opportunities for competition at covered airports and the use of gates and related facilities at these airports by requiring covered airports to develop dispute resolution proce-

dures, publish requirements for gate access, appoint a competitive access liaison, monitor usage of gates and aircraft parking positions, notify carriers of the availability of gates and of sublease opportunities on a uniform basis, adopt fair protocols for gate assignment and for processing of subleases, adopt caps on sublease fees, develop procedures to disapprove proposed subleases that would restrain competition, prevent the use of majority-in-interest clauses to airport development projects necessary to enhance air carrier access, and to post the competition plan on the airport's web site. Covered airports would be required to provide information on these initiatives in their competition plans and to justify any differences in the fees and/or terms of use imposed on existing and prospective carriers, respectively, and on any failure to provide access within 90 days of a carrier's request. Non-covered airports would be encouraged to adopt these initiatives and procedures and would be expected to rectify any practice that is found to hinder access. This section would also provide explicit authority to the Secretary for disapproval of a competition plan and would establish hearing procedures for covered airports whose AIP entitlement funds are withheld based on a competition plan disapproval.

Senator SHELBY. Mr. Secretary, this will be my last question hopefully. This is in the transit area.

TRANSIT REAUTHORIZATION

I must tell you that I am disappointed in what I am hearing about the transit reauthorization. I am especially interested in transit this year because, as you know, I chair the Banking Committee and I am involved with Senator Murray very much in transit on this committee. I would hope that you would take a fresh look, Mr. Secretary, at the transit program and propose modifications that would improve rural connectivity, improve project oversight, provide more tools and options for States, urban centers, and localities in dealing with their transit challenges, and to nudge the program toward providing comprehensive transportation solutions as opposed to transit band-aids.

I would have thought that the budget constraints you faced in formulating your proposals would have pushed you at least in some of these directions. I am hearing that the only thing the Administration's proposal is likely to do is call for greater reliance on formula programs, and for program growth to come from innovative financing. That concerns me. What is innovative financing? Can you tell us what considerations you think are most important in improving the transit program?

Secretary MINETA. First of all, this has been an interest of mine for quite awhile. As you will recall, when we had ISTEA we changed the name of UMTA, the Urban Mass Transit Administration to FTA, the Federal Transit Administration, in order to point out that transit is not only an urban matter but it is a rural issue as well. This has been an interest of mine, and this year in our 2004 submission we increase. For transit we increase that by 20 percent as it relates to rural areas. That includes the rural representation on MPOs as well in terms of how rural representation gets treated in the MPOs.

So I think that what we are trying to do is to make sure that there is what you refer to as rural connectivity. This is something that the Administration is interested as well.

Senator SHELBY. Thank you. Senator Murray.

AIRLINE INDUSTRY SUBSIDIES

Senator MURRAY. Thank you, Mr. Chairman. I just have one comment and one question. My comment is that I second what Senator Brownback was discussing with you in terms of the airline industry. We are deeply concerned about the impact of subsidies, and I hope that you pursue this with the Trade Secretary Representative, Ambassador Zoellick, and have a conversation with him about this because I think we are setting ourselves up for a very bad place if we do not seriously take a look at this. I look forward to working with you on that.

SOUTHERN BORDER

Let me just ask you, because 2 years ago this subcommittee imposed a number of strict new safety requirements that had to be met before you could allow Mexican trucks into the United States. According to the IG, you have fulfilled every one of those safety requirements. But as soon as that took place, the Ninth Circuit Court of Appeals ruled that you could not open the border because the Administration never prepared the required environmental impact statement. Just a few weeks ago, you asked the Ninth Circuit to rehear that case. Your request was denied and you now appear to have a choice between appealing to the Supreme Court on this or going forward and preparing the environmental impact statement. I wondered which course you were going to take?

Secretary MINETA. We have not decided that yet. We have until the 9th of July, I believe, in order to make a decision.

Senator MURRAY. If the Supreme Court hears an appeal, it is likely that you will not get a decision well into 2004. Have you looked at the fact that it might be much more timely to go ahead and do the environmental impact statement?

Secretary MINETA. I think we are looking right now at the time that it would take to complete the environmental impact statement (EIS) as compared to appealing. We have not come to a decision yet on which approach to take.

Senator MURRAY. Thank you, Mr. Chairman.

Senator SHELBY. We are joined by Senator Stevens, the chairman of the full committee. Senator Stevens.

STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. Thank you very much. It is nice to see you, Mr. Secretary.

Secretary MINETA. Good to see you, sir.

TRUCK MONITORING

Senator STEVENS. I am searching right now for the name of the program that was described to me yesterday that Alaska is not included in. It is a program whereby trucks are monitored throughout the southern 48 States that contain hazardous substances. I was just notified yesterday that the trucks that come up to Alaska through Canada and up the Alaska Highway into Alaska do not have that program. I am sorry, I just do not remember the name of it.

I did not know that, and one of the reasons is, of course, our trucks pass through Canada and it is a satellite tracking program to make sure that we have absolute control over those trucks that contain hazardous materials. There are only a few of those trucks that come up to Alaska that are Department of Defense. Most of the Defense-oriented transportation comes by barge and goes up the Alaska railroad. But there are a considerable number of private concerns that do use that tracking system to bring these trucks into Alaska. I wanted to call it to your attention and urge your review of it because it is my understanding that the Defense Department is unwilling to spend money for this system to go to Alaska since they have such a small portion of coverage as far as hazardous materials coming to Alaska by truck; virtually none, as a matter of fact.

Secretary MINETA. Senator, I will have to look into that matter and get back to you.

TRACKING OF HAZARDOUS MATERIAL

Senator STEVENS. I apologize. A senior moment here. I cannot remember the name of the program. But I do hope, Norm, you will look at it because we did not know—we have a considerable amount of hazardous material that comes into Alaska. It is a very tough thing to get it through Canada as a matter of fact. But I think if we provided this tracking system it might improve our relationship with our neighbor, but certainly it has something to do with rates for the people who have those trucks. If they do not have this coverage, the rates for insurance are much higher.

So I am speaking really for the trucking industry from the State of Washington that primarily brings hazardous materials into our State. It is something that was just never called to our attention and I would like to find some way to cure it. They have asked us to add $4 million to your budget. That is what I am here for, to cover the cost of adding that satellite coverage for hazardous material tracking as it comes through Canada and through Alaska. I would appreciate it if you get the time——

Secretary MINETA. I will look at it and get back to you, Mr. Chairman.

[The information follows:]

FMCSA has a $2.5 million on-going operational field test of vehicles with security technologies, including satellite tracking that involves 100 trucks from 8 trucking companies, 4 shippers, and 4 consignees of hazardous materials in various segments of the hazardous materials industry. The goal of the project is to demonstrate the effectiveness of technologies in improving both safety and security, and to quantify the costs and benefits of implementing these technologies in the HAZMAT industry. In addition, FMCSA is about to commence a $2 million project to demonstrate satellite tracking of untethered trailers.

Another related initiative is FMCSA's Supplemental Notice of Proposed Rulemaking to establish a Federal HM permit program for carriers of the most dangerous hazardous materials. As part of this proposed rulemaking, currently in Departmental review, FMCSA is considering a requirement for carriers of these materials have a system to communicate with the driver. We expect that satellite tracking and communications systems will be widely used to satisfy this requirement. In addition, the Research and Special Programs Administration (RSPA) is working on a Notice of Proposed Rulemaking that may require communication systems for larger numbers of hazardous materials shipments.

DOT is undertaking demonstration projects to promote the safety, security, and efficiency benefits of satellite tracking systems for the trucking industry. We believe

that through projects such as our two demonstration projects the industry will, on its own accord, begin to incorporate these technologies. The implementation of these systems will likely be further promoted as the Department finalizes security regulations for hazardous materials. As the untethered trailer tracking demonstration project is still in the planning phase, we will examine whether Alaska is an appropriate venue for this effort.

Senator STEVENS. I will find that name, Norm, and send it to you today. Thanks.

Senator SHELBY. Thank you, Senator Stevens.

ADDITIONAL COMMITTEE QUESTIONS

Mr. Secretary, we appreciate your appearance today. We know we have asked some questions that you will answer for the record.

Secretary MINETA. Yes, sir.

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

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

INFRASTRUCTURE AND PERFORMANCE MAINTENANCE INITIATIVE

Question. Has the Department identified any specific examples of the types of facilities that would be funded if the new "infrastructure performance and maintenance initiative" were authorized? If so, could you provide those examples to the Committee?

Answer. The intent of the Infrastructure Performance and Maintenance (IPAM) initiative is to focus the use of Federal funds on two types of Federal-aid highways projects: system preservation and the elimination of chokepoints. System preservation projects include a range of activities from preventative maintenance (e.g., cleaning and resealing of pavement joints or the restoration of rust resistant bridge paint) to minor reconstruction. During TEA–21, the States made good investments in system preservation, and the physical condition of highways and bridges has improved. The system preservation component of IPAM should help maintain this positive trend.

The second category of eligibility under IPAM would be the elimination of traffic chokepoints. IPAM spending for congestion reduction would be targeted to traffic bottlenecks, not the widening of long stretches of highway. Likely projects would include intelligent transportation initiatives and the limited alteration of existing facilities. This would include improvements to interchange ramp, added auxiliary lanes, short sections of added through lanes and intersection modernization.

In either case—system preservation or chokepoint elimination—the goal is to fund projects that are ready to go and that can be completed in a relatively short timeframe, providing timely improvements for the Nation's road users.

HIGHWAY SAFETY INITIATIVES

Question. The Department's budget appears to propose a safety program that is very different from the programs of the past. Knowing that both Click-It-or-Ticket mobilizations and impaired driving mobilizations have proven to be extremely successful the Department still chose to specifically exclude them from the budget request. What then is being proposed that will yield even better results?

Answer. The National Highway Traffic Safety Administration (NHTSA) intends to continue the "Click It or Ticket" and "You Drink & Drive. You Lose." mobilizations in 2004, and beyond. Early in calendar year 2003, NHTSA solicited input from the Governors Highway Safety Association and the highway safety offices of the fifty States, the District of Columbia and Puerto Rico. Given the solid commitment to continuing the mobilizations that was expressed, NHTSA does not believe that it is necessary to earmark grant funds to the States for this purpose. States can use their Section 402 grants funds to support these efforts.

AMTRAK REFORM PROPOSAL

Question. Mr. Secretary, as I mentioned in my opening statement, we are all eagerly awaiting an Amtrak Reform proposal. You talked about it last year, Michael

Jackson has talked about it this year and we have yet to see a concrete proposal. When may we expect some type of formal legislative proposal for Amtrak reform?

Answer. The Secretary of Transportation transmitted the Administration's intercity passenger rail legislative proposal—The Passenger Rail Investment Reform Act of 2003—to Congress on July 28, 2003.

SHIP DISPOSAL

Question. The Maritime Administration is tasked with the disposal of all obsolete vessels from the National Defense Reserve Fleet by September 30, 2006. There are more than 130 vessels presently in the fleet awaiting disposal, and MARAD has only disposed of 14 vessels over the past 3 years.

I would like for you to keep me updated on how you plan to accomplish this task. This is a serious and expensive endeavor that really needs to be resolved.

How does MARAD plan to dispose of these vessels by the statutory deadline? If additional vessels are accepted from the Navy and other sources, what strategies does MARAD have in place for the fleet to keep the program on schedule?

Answer. As the Federal Government's ship disposal agent, MARAD acquires obsolete ships into its fleets on a continuous basis. Additional vessels to the 130 already in custody will significantly increase the disposal challenge faced by MARAD. MARAD's only disposal options from 1994–2000 were domestic ship sales and occasional ship donations, which resulted in 12 vessel sales for recycling and 5 vessel donations. Prior to 2001, MARAD did not have the authority to pay for dismantling services; thus, there was no ship disposal budget. The vessels that accumulated in the 1990's (the backlog) are now in poor condition, and account for approximately 75 of the 130 ships on hand. Disposal of the vessel backlog, while acquiring even more obsolete vessels, is a significant challenge.

The deadline of September 30, 2006, established in the National Defense Authorization Act of 2001, will be difficult to reach because the Fleet is projected to receive 15 additional ships in each of the next 3 years. When this goal was established 2 years ago, there were 115 vessels in the Fleet. Since then, 16 vessels have been removed; however, MARAD received an additional 31 obsolete ships during that period.

The program priority remains focused on disposal of MARAD's 27 high-risk, nonretention vessels (20 in the James River Reserve Fleet (JRRF), Virginia; 5 in the Suisun Bay Reserve Fleet, California; and 2 in other locations—Mobile, Alabama, and Portsmouth, Virginia).

MARAD anticipates removing a minimum of 25 vessels from the Fleet through domestic and export disposal recycling using the fiscal year 2003 appropriation of $11.1 million, coupled with $20 million in funding from the Department of Defense. Proposals received thus far for the export of ships for recycling clearly indicate that export is the most cost-effective method because of higher demand for recyclable materials, lower labor costs, greater industrial capacity and greater competition. The ability to export ships for recycling will expedite the elimination of high-risk ships, significantly mitigate the environmental threat of oil discharge at the Fleet sites, and reduce the total number of obsolete vessels significantly.

Ship disposal methods currently available, and the industry's response to MARAD's announcements, indicate that the cost-effectiveness of ship dismantling is based on economies of scale. The current contract with the United Kingdom involving the removal of 15 ships for $14 million is one example—the higher the number of ships, the greater the yield of steel and other recyclable materials. Many of the Program Research & Development Announcement (PRDA) proposals involving export contain costs to the Government that are significantly lower than current and anticipated costs for domestic dismantling. While the domestic dismantling industry has limited capacity, higher costs and limited competition, MARAD is currently in the process of awarding contracts to four domestic companies to recycle 10 ships. Ship dismantling/recycling is heavy industrial work—low tech and labor intensive. It involves the handling and disposition of hazardous materials, and thus has some inherent risks regardless of where the work is done. Although foreign facilities are not subject to worker and environmental laws as domestic facilities are, the foreign industry must demonstrate to MARAD and the EPA that they can accomplish responsible vessel recycling that protects worker safety and health.

Other initiatives include:

(a) *National environmental best management practices (BMP) for preparing vessels for use as artificial reefs*.—This is an interagency effort involving MARAD, the Environmental Protection Agency (EPA), Navy, United States Coast Guard, National Oceanic and Atmospheric Administration, Army Corps of Engineers, National Marine Fisheries, and other agencies, that MARAD initiated in 2002 with a projected

completion in the spring of 2004. Establishing best practices will standardize the ship preparation guidelines on a nationwide basis, thus facilitating the application and vessel preparation processes, and aiding the States and MARAD in estimating the costs associated with ship preparation for artificial reefing.

(b) *Fuel removal for JRRF vessels*.—MARAD continues to assess the risks associated with the removal of oil from obsolete ships prior to disposal. A PRDA was posted in fiscal year 2003; however, the proposals received did not offer any technologies, methodologies or innovations to make oil removal a cost-effective option. MARAD's policy has been that the safest and most cost-effective method of removing oil, and thus mitigating the risk of oil discharges from our obsolete ships, is to remove the oil during the ship dismantling process and not beforehand. MARAD continues to pursue opportunities to assess the feasibility and cost-effectiveness of oil removal technologies beyond traditional pumping methods. The goal is to identify cost-effective methods for the safe removal of some fuels, while the vessels are awaiting disposal. Heretofore, traditional oil pumping methods have not been cost-effective in removing significant quantities of oil to mitigate the threat of oil discharges into the environment.

(c) *Streamlining the artificial reefing application review and approval process*.—The current application process required of coastal States to acquire vessels to be used as reefs, and the subsequent Federal agency review and approval process, is cumbersome and time consuming. MARAD, jointly with all the Federal agencies involved in the artificial reefing process, is working to streamline the process.

(d) *Discussions with the Mexican Government*.—MARAD and EPA are exploring opportunities that mutually benefit Mexican vessel recycling facilities and MARAD, by providing a possible source of cost-effective and environmentally responsible vessel recycling.

(e) *Global Action Program (GAP)*.—MARAD has begun preliminary discussions related to partnering with interested Basel Convention countries, the International Maritime Organization, and the International Labor Organization in an international program to promote environmentally responsible and sustainable ship disposal.

(f) *Army Corp of Engineers (ACOE) and Louisiana barrier island stabilization using obsolete vessels*.—MARAD has held preliminary discussions with the ACOE related to a potential pilot project and feasibility study to test the effectiveness of using obsolete vessels to stabilize the shorelines of barrier islands.

HIGHWAY-RELATED FATALITIES

Question. The Department's goal for highway-related fatalities in 2004 is 1.38 per 100 vehicle miles traveled. The budget seems to indicate that the two major reasons for the lack of significant progress in reducing overall highway-related fatalities can be directly attributed to motorcycles and pedestrians. What then is the Department doing to address and reduce the number of fatalities between these two groups? I ask because the budget appears to assume a steady rate among these groups and a necessity to focus on passenger cars and light trucks.

Answer. NHTSA's fiscal year 2004 budget request addresses the action items in the NHTSA Motorcycle Safety Program document released in January 2003 and the National Agenda for Motorcycle Safety developed in collaboration with motorcycle safety partners.

A new fiscal year 2004 initiative will address a concern that motorcycle training programs accommodate all those who seek training. NHTSA plans to work with identified State rider education and training programs to develop and implement long-range strategic plans to make training available for all those who need it and in a timely fashion. NHTSA will continue research on motorcycle lighting as a means to improve motorcyclist conspicuity and will continue research on motorcycle braking systems.

Additionally, NHTSA will: conduct research on crash avoidance skills; conduct research on motorcyclists conspicuity; support projects to reduce impaired riding by developing and testing activities that may include peer-to-peer efforts, social norm models, enforcement efforts, and motorcycle impoundment; and collect and analyze motorcycle crash, injury, and fatality data and compare motorcyclists who successfully completed formal rider training to those who have not.

Pedestrian crashes are addressed through a combination of public information, legislation, enforcement, engineering, and outreach strategies. NHTSA will: fund competitive demonstration projects designed to involve the law enforcement community to improve pedestrian safety; develop a community guide to tackle the challenges of implementing comprehensive pedestrian safety programs; explore the feasibility of developing and disseminating a school crossing guard curriculum; and de-

velop community-level Safe Routes to School workshops to increase pedestrian safety around schools.

NHTSA will also disseminate tools to encourage communities to promote safe walking. Non-traditional partners, such as smart growth coalitions or local government commissions, will be identified and encouraged to incorporate pedestrian safety into their organizations' missions. NHTSA will continue its partnership with the Federal Highway Administration to incorporate infrastructure improvements with behavioral safety principles.

REQUIREMENTS FOR AMTRAK TO RECEIVE FEDERAL SUBSIDY

Question. The Fiscal Year 2003 Appropriations Act placed a number of new requirements on Amtrak's ability to obtain their Federal subsidy. What, if any changes to those requirements would you propose to improve the Department's oversight of the railroad for the 2004 bill?

Answer. The Fiscal Year 2003 Appropriations Act's new requirements on grants to Amtrak are built upon reforms required by the Department as conditions to the fiscal year 2002 loan under the Railroad Rehabilitation and Improvement Financing (RRIF) program. These requirements have resulted in a significant improvement in the way Amtrak does business and should be continued. While additional reform is needed in the way intercity passenger rail service is provided in this country, such reforms should be part of comprehensive authorization legislation and are included in the legislation that the Secretary of Transportation transmitted to Congress.

PATRIOT ACT

Question. The Patriot Act requires a background check on all drivers transporting Hazardous Materials. When TSA was transferred to the Department of Homeland Security, the background investigative authority for the HAZMAT endorsement was also transferred as was the ability to grant that endorsement to CDL holders. However, the Department has requested money in the 2004 budget to continue to pay for these background checks. While I recognize that there is an outstanding contract between Motor Carriers and Lexis-Nexis to provide these services, I am concerned that this will be an ongoing request in future budgets. What is the Department doing to work with TSA to transfer this financial responsibility as well?

Answer. The Fiscal Year 2004 President's Budget includes $3 million for FMCSA to implement Section 1012 of the Patriot Act. These funds would be obligated for the existing Lexis-Nexis contract. The Department has developed a memorandum of understanding between TSA and FMCSA, with FMCSA delegating day-to-day contractual administrative management responsibilities to TSA for the Lexis-Nexis contract. There will be no further financial responsibility for the Department beyond fiscal year 2004.

IMPROVING PAVEMENT RIDE QUALITY

Question. One of the Department's Strategic and Performance Goals is to increase the percent of pavement on the National Highway System with acceptable ride quality to 93.1 percent. Can you tell me how, with less highway funding, this budget proposes to reach this goal?

Answer. The Department's performance goal for 2004 is to increase the percent of travel with acceptable ride quality on the National Highway System to 93.0. In addition to normal Federal-aid construction funds, the Department proposes to utilize research and technology funds to develop products and deliver technology that will improve pavement smoothness during initial construction and pavement ride quality over the life cycle of highways. Specific examples include improved pavement smoothness specifications, best practice guides for construction, improved pavement profile measurement equipment and profile analysis software.

Additionally, specific initiatives will be focused on the 10 States where 76 percent of the travel on highways with unacceptable ride quality exists. The Department will initiate development and delivery of customized workshops focused on addressing specific needs in these States.

HIGHWAY PERFORMANCE AND MAINTENANCE INITIATIVE (IPAM)

Question. The budget purposes a new, $1 billion highway performance and maintenance initiative which targets "ready-to-go" highway projects that address traffic bottlenecks and improve infrastructure conditions. How will the funds be distributed to the States? What specific guidance will be given for expenditures of the funds? Will States be allowed to reimburse themselves for already completed projects meeting the required criteria? In developing this new initiative were any specific projects

identified that would meet the criteria? If so, could you provide a list of those projects and the characteristics that qualify them for the new initiative?

Answer. The funds would be distributed by formula with 25 percent of the funds distributed based on each State's relative share of Federal-aid lane-miles, 40 percent based on each State's relative share of vehicle-miles of travel on Federal-aid highways and 35 percent based on each State's relative share of contributions to the Highway Account of the Highway Trust Fund. There would be a one-half percent minimum for each State. This formula is the same as is being used for the Surface Transportation Program.

States would have 6 months to obligate their IPAM funds. This is consistent with the requirement that the funds be used for ready-to-go projects. After the 6-month deadline, un-obligated funds would be withdrawn from States and distributed to other States that could obligate the funds by the end of the fiscal year. We do not anticipate that States will find it difficult to comply with the 6-month timeframe.

States would not be allowed to reimburse themselves for projects meeting the required criteria that are already completed or are already underway using the advance construction provisions of title 23. The intent of the IPAM program is to quickly initiate and deliver projects and their benefits to the public. Allowing the use of IPAM funds to reimburse already completed projects or projects that are already being advanced using other approaches would defeat this intent.

Program guidance would also clarify eligible projects for IPAM funds by further defining the types of projects that would be eligible. The selection of projects to be carried under the IPAM program would be a State prerogative.

The IPAM does not create new eligibilities for Federal-aid highway funds. The intent is to focus the use of Federal funds on two types of projects on Federal-aid highways, system preservation and the elimination of chokepoints. System preservation projects include a range of activities from preventative maintenance to minor reconstruction. During TEA–21, States made good investments in system preservation and the physical condition of highways and bridges has improved. The system preservation component of IPAM should help maintain this positive trend.

The second category of eligibility under IPAM would be the elimination of traffic chokepoints. Reducing congestion is a great and costly challenge. IPAM spending for congestion reduction would be targeted to traffic bottlenecks, not the widening of long stretches of highway. Likely projects would include intelligent transportation initiatives and the limited alteration of existing facilities. This would include interchange ramp improvements, added auxiliary lanes, short sections of added through lanes and intersection modernization.

ADDITIONAL FTE'S

Question. The budget requests 12 new FTE for the purposes of "enhancing the oversight of major projects; improvements to the security of our critical information systems; upgrades to our information technology infrastructure; and FHWA's share of the costs to consolidate all DOT modes located in Lakewood, Colorado, into one facility." Could you provide a breakdown of exactly how these new FTE will be utilized in each of the areas specified in the description? Provide a prioritization for each of these 12 FTE based upon need.

Answer. The 12 FTE that are requested in fiscal year 2004 will be used specifically to enhance major projects oversight and fulfill FHWA's commitment of having a dedicated oversight project manager on each mega-project. All 12 FTE are considered equal and will be used as environmental commitments of the projects are entered into.

FHWA will designate Mega-Project Oversight Managers who are personally accountable for proper Federal oversight and establish Integrated Product Teams to assist the oversight manager. The addition of the 12 FTE is essential for FHWA to perform its stewardship and oversight role. The responsibilities of each mega-project oversight manager include:

—Representing FHWA before other Federal agencies, State Transportation Agencies (STA), local agencies, consultants, and contractors on all project delivery and oversight issues.

—Briefing FHWA upper management, the Office of the Secretary of Transportation, and the media on project status, and significant project activities and issues.

—Monitoring environmental commitments and ensuring that they are incorporated into the plans and specifications.

—Overseeing the review and approval of plans, specifications, and estimates for appropriate application of design standards and criteria, conformance with poli-

cies and regulations, traffic-safety features, reasonableness of estimated costs, and proper specifications and other contract provisions.

—Monitoring and reporting cost and schedule changes and updates, analyzing project status for reasonableness and accuracy, and managing changes to minimize impacts to costs and schedules.

—Ensuring cost containment strategies such as value engineering, constructability reviews, design-to-cost strategies, and up-front planning to minimize contractor risks are incorporated. Coordinating with FHWA bridge engineers for design reviews of major structures.

—Ensuring FHWA laws and requirements for Federal-aid construction contracts are incorporated, such as Buy America, Davis-Bacon minimum wage rates, Disadvantaged Business Enterprise and affirmative action requirements, records of materials and supplies, etc.

—Conducting project inspections to verify compliance with standard engineering practice, and providing technical assistance.

—Providing assistance and direction to the STA on the proper application of Federal funds, designated funding, and innovative financing programs.

—Reviewing the Initial Finance Plan and Annual Updates, coordinating with the STA and Headquarters Office, and ultimately accepting the initial plan and updates.

—Promoting technology transfer to and from the project.

FISCAL YEAR 2004 FTE REQUIREMENT FOR ACTIVE (AND FUTURE) MAJOR PROJECTS

Projects	Status	Current Staffing Level	Fiscal Year 2004
I–80/San Francisco-Oakland Bay Bridge (East Span), CA	Active	1	1
SR 210/Foothill Freeway	Active		
I–25/I–225 Southeast Corridor, CO	Active	1	1
New Haven Harbor Crossing, CT	Active		1
Miami Intermodal Center, FL	Active		1
I–4/I–275 Tampa Interstate, FL	Active		1
New Mississippi River Bridge, IL-MO	Active		1
Central Artery/Ted Williams Tunnel, MA	Active	5	3
Central Texas Turnpike, TX	Active	1	1
I–10/Katy Freeway, TX	Active		1
I–95/Woodrow Wilson Bridge, MD	Active	2	2
I–95/I–495 Springfield Interchange, VA	Active	1	1
I–64/Hampton Roads Third Crossing, VA	Active		2
I–94/East-West Corridor, WI	Active		1
New Ohio River Bridges, KY-IN	Future		1
I–94/Edsel Ford Freeway, MI	Future		1
Mon/Fayette Expressway, PA	Future		1
I–635/LBJ Freeway (West Section), TX	Future		1
I–405 Corridor/SR 509 and I–5/SR520/Alaskan Way Viaduct, WA	Future		2
Totals		11	23

INTELLIGENT VEHICLE INITIATIVE

Question. The budget request discusses an example of an Intelligent Vehicle Initiative (IVI) to develop driver assistance systems that will reduce the number and severity of crashes and goes further to discuss systems currently under development to "warn drivers of dangerous situations and recommend corrective actions, or in some cases, even assume partial control of vehicles to avoid collisions." Where is this research being conducted, who is participating and when do you anticipate the research will be completed? Additionally, is there a coordinated effort with the automobile manufacturers to develop and test these systems?

Answer. The work under the IVI program is being conducted in a series of coordinated contracts and cooperative agreements with the Department of Transportation's (DOT) partners in the public and private sectors, as well as universities and other research institutions. DOT's partners were chosen because they are the critical organizations needed to develop and deploy effective systems. They include seven of the largest automobile manufactures (General Motors, Ford, DaimlerChrysler, Toyota, Nissan, BMW and Volkswagen), the largest technology suppliers to the U.S. automotive industry (Delphi Delco, Visteon, TRW and DENSO), heavy truck manufacturers (Freightliner, Mack, Volvo Trucks, and Navistar International),

the State Departments of Transportation for California, Minnesota and Virginia, and finally several commercial and transit fleet operators.

Under the IVI program, DOT is working on crash countermeasures that address the largest types of crashes (rear-end, road departure, intersection and lane change) and the factors that cause the crashes. The understanding of the crash problem and development of effective solutions varies in levels of maturity. Consequently, the IVI program is a long-term effort that is designed to produce incremental results. DOT's previous efforts already have led to the deployment of vision enhancement, adaptive cruise control and lane tracking systems. DOT's current activities are expected to support deployment of rear-end and road-departure collision-avoidance systems for passenger cars in the next 2 to 5 years. Intersection collisions are a more complicated problem that will require vehicle and infrastructure cooperative systems. Therefore, DOT does not expect these systems to be available for 8 to 10 years.

The IVI program coordinates with automobile manufacturers at several levels. Overall strategic planning is coordinated through a Light Vehicle Industry Federal Advisory Committee Panel. DOT is working with a partnership of General Motors, Ford, Daimler-Chrysler, Toyota, Nissan, BMW and Volkswagen to study various enabling research issues. We are currently conducting studies with this partnership on driver workload, forward collision warning, enhanced digital maps and dedicated short-range communications (DSRC). DOT is also working directly with General Motors and Delphi-Delco on a Field Operational Test of Rear-end Collision Avoidance Systems for passenger cars. We also have a Field Operational Test for Road Departure Collision Avoidance Systems for Passenger cars with Visteon.

ADOPTION OF SAFETY COUNTERMEASURES

Question. One of FHWA's anticipated accomplishments is a "greater adoption and understanding by States of the safety benefits of countermeasures, including rumble strips and related roadside hardware, particularly on rural roads." What percentage of highway fatalities does FHWA attribute to hazardous roadway conditions? What specific programs will FHWA pursue with the States to promote these particular countermeasures? Will FHWA encourage States to utilize a majority of their safety funding for this purpose? If not, how will FHWA ensure greater adoption of countermeasures by the States?

Answer. J.R. Treat's "Indiana Tri-Level Study—A Study of Pre-Crash Factors Involved in Traffic Accidents" attributes 34 percent of highway crashes to the roadway as a cause or contributing factor. Treat's study is based on on-site reviews of actual highway crashes. The study recognizes that many crashes involve multiple factors related to the roadway, the driver and the vehicle. The percentages include crashes where there is more than one causal factor.

FHWA pursues a number of programs to address infrastructure-related safety opportunities. One key area of focus is working with the American Association of State Highway and Transportation Officials (AASHTO) on the development and implementation of guidebooks which address areas of emphasis within the AASHTO Strategic Highway Safety Plan. Several of these areas of emphasis address roadway and roadside features, including newly-released guidebooks on run-off-road collisions, collisions in intersections without signals, head-on collisions, and collisions involving trees in hazardous locations.

In addition to these partnering efforts with the AASHTO, FHWA issued a Technical Advisory on shoulder rumble strips last year to help States design and install them on rural National Highway System segments. The Mississippi Department of Transportation installed and tested different rumble strip designs combined with pavement marking overlays on rural roads. Initial evaluations indicate improved safety on rainy nights due to more visible pavement markings and audible rumble strip warnings. Also, FHWA reviews crash test data on new roadside hardware to verify its effectiveness and compliance with current crash test evaluation criteria. To provide States, local agencies and other interested parties information on which roadside hardware can be used safely, FHWA posts letters of acceptance for new hardware on its roadside safety website, http://safety.fhwa.dot.gov/report350hardware. Since 1998, over 240 letters have been posted on guardrails, bridge rails, crash cushions, sign and light poles and work zone traffic devices.

FHWA encourages States to use their safety funding for a variety of safety countermeasures based on a strategic approach to highway safety that identifies key problems and the most effective countermeasures. For example, studies on two-lane rural highways show that crash rates decline as shoulders are added or widened. Rumble strips may not be the most effective countermeasure on these narrow roads. Each State must identify and evaluate its particular safety needs to make the best use of its safety funding. FHWA is working with States to develop goals and per-

formance measures to improve their safety performance. Accurate data on crash causation forms the basis of a strategic approach to highway safety that also encourages State adoption of effective countermeasures.

STATE SPENDING ON HAZARD ELIMINATION PROJECTS

Question. How much of current highway safety funding is utilized by States for hazard mitigation projects? Please provide a breakdown for each State for 2000, 2001 and 2002?

Answer. The chart that follows shows the funds obligated by the States for hazard elimination projects during fiscal years 2000–2002.

State	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002
Alabama	$597,579.25	$10,461,385.53	$1,385,519.46
Alaska	834,666.00	861,301.22	804,812.00
Arizona	0	1,124,342.00	3,890,823.00
Arkansas	2,056,734.00	436,375.00	28,142.00
California	11,250,001.87	17,940,935.96	16,401,450.91
Colorado	2,273,901.00	2,279,921.00	2,389,313.00
Connecticut	1,705,329.88	1,858,893.25	2,084,266.35
Delaware	828,325.00	414,768.35	0
District of Columbia	0	0	0
Florida	3,349,934.00	3,516,589.00	5,050,791.00
Georgia	2,336,036.69	1,902,328.28	542,338.25
Hawaii	790,219.00	635,143.00	0
Idaho	140,692.00	1,145,248.00	451,065.25
Illinois	8,913,513.02	10,305,632.69	8,976,229.72
Indiana	3,518,335.67	2,229,913.41	1,127,612.56
Iowa	450,000.00	2,266,100.00	1,079,943.13
Kansas	1,808,724.51	5,146,482.47	3,187,743.50
Kentucky	1,936,379.04	1,845,245.72	719,869.66
Louisiana	1,239,652.00	1,187,013.71	3,901,352.15
Maine	1,094,811.91	267,029.07	521,805.41
Maryland	0	3,264,098.00	2,619,436.00
Massachusetts	0	0	0
Michigan	8,279,378.92	10,087,363.35	8,781,312.87
Minnesota	3,282,132.09	1,962,307.15	5,321,754.92
Mississippi	4,018,145.00	2,072,571.00	1,981,001.00
Missouri	6,067,894.55	7,803,017.92	4,541,348.70
Montana	1,538,908.82	1,281,269.85	1,294,459.86
Nebraska	502,392.48	1,474,977.84	1,009,775.23
Nevada	65,112.40	276,392.79	2,175,028.65
New Hampshire	775,905.97	899,448.32	812,840.72
New Jersey	5,030,912.00	143,842.00	4,117.00
New Mexico	0	0	0
New York	12,842,632.00	9,916,012.00	9,339,778.00
North Carolina	4,530,423.00	4,714,589.00	7,392,083.00
North Dakota	896,162.06	620,700.44	476,702.67
Ohio	6,858,605.00	6,858,605.00	6,773,562.00
Oklahoma	2,540,771.10	2,320,514.07	1,193,435.63
Oregon	1,109,536.00	1,642,846.33	1,020,490.96
Pennsylvania	2,138,876.83	1,733,185.18	1,781,980.73
Rhode Island	859,495.64	196,365.90	1,339,574.70
South Carolina	2,392,535.29	2,315,590.40	2,279,377.00
South Dakota	1,996,928.47	573,514.78	1,765,831.43
Tennessee	3,211,638.35	2,161,580.31	1,519,477.87
Texas	17,222,270.82	13,680,765.93	9,754,310.11
Utah	−30,240.62	83,489.08	116,520.09
Vermont	0	0	0
Virginia	1,561,569.00	1,804,992.00	3,412,329.92
Washington	1,556,759.93	649,197.25	2,280,643.14
West Virginia	0	713,917.00	41,097.00
Wisconsin	3,872,858.70	899,648.48	4,427,545.59
Wyoming	487,993.00	1,477,222.00	1,104,907.00
Total	138,734,431.64	147,452,671.03	137,103,799.14

INTERSECTION SAFETY

Question. Intersection safety due to cooperative efforts of FHWA, AASHTO, and ITE has been identified as another anticipated accomplishment. Will State and local governments also be involved in this cooperative effort? Could you provide specific examples as to how intersection safety will actually be accomplished in order to make intersections safer for pedestrians and bicyclists?

Answer. State and local governments have been involved in the intersection safety effort from the beginning. State and local transportation and safety professionals played a major role in developing the National Intersection Safety Agenda that guides Federal, State and local efforts to improve intersection safety. Now they are actively involved in implementing the Agenda. For example, an intersection safety workshop for State and local professionals was developed with the active participation of State, local and private sector transportation and safety professionals.

Another example of State participation in the intersection safety effort is the research study on the "Safety Effectiveness of Intersection Left- and Right-Turn Lanes." Ten States—Iowa, Illinois, Louisiana, Minnesota, Montana, Nebraska, New Jersey, North Carolina, Oregon, and Virginia—and the District of Columbia provided research funds and participated in the study. Accurate estimates of the safety impacts of dedicated intersection turning lanes were developed over 6 years. Rural left-turn lanes reduced crashes by 15 percent to 50 percent. Urban left-turn lanes reduced crashes by 10 percent to 50 percent. Crashes related to left turns are one of the common safety problems at intersections.

FHWA is pursuing several strategies to make intersections safer for pedestrians and bicyclists. Local governments and Metropolitan Planning Organizations are participating in three FHWA demonstration projects to test and evaluate innovative countermeasures at intersections and to market the results to other State and local governments. Training for State and local engineers and planners in how to safely accommodate pedestrians and bicyclists at intersections is needed. FHWA will work with its safety partners to develop and promote workshops, conferences and meetings as well as training materials. To educate young engineers, teaching materials will be developed for university professors so they can incorporate pedestrian and bicycle safety into their intersection design and planning curriculum for undergraduate and graduate students. FHWA is developing more partnerships with State and local governments, academia, and private sector organizations to accelerate the development of expert tools to identify pedestrian and bicyclist safety problems and potential solutions.

PEDESTRIAN AND BICYCLIST SAFETY AT INTERSECTIONS

Question. The budget states that "more consideration will be given to the safety of motorists, pedestrians, bicyclists, workers and those persons with disabilities in the planning, design and use of transportation facilities; and roadway users will have a better awareness of pedestrians and bicyclists." Does "consideration" also mean that proactive steps will be taken to actually improve the safety conditions? If so, what steps will be taken and/or what steps are planned? How will roadway users gain a greater awareness of pedestrians and bicyclists?

Answer. FHWA has taken specific steps to improve the safety of all roadway users including vulnerable populations such as older drivers and pedestrians. FHWA has been proactive in researching older road users' needs and capabilities and identifying highway changes that can improve their safety in using the transportation system. FHWA developed the "Highway Design Handbook for Older Drivers and Pedestrians" with guidelines that identify design, operational and traffic engineering enhancements to roadway features that pose safety risks for older road users, such as intersections. These recommendations make our roads safer and easier to use for older drivers and pedestrians and all roadway users. To accelerate implementation of the guidelines, FHWA developed a workshop for Federal, State and local practitioners to communicate the results of its research on older road users and the safety benefits of the older driver and pedestrian guidelines. Four hundred and forty-seven practitioners have attended workshops in 39 States. A survey of the participants indicates that 54 percent of the respondents have designed or changed their facilities to accommodate older road users.

To increase road user awareness of pedestrian and bicyclist safety needs, FHWA is marketing pedestrian and bicyclist safety awareness products to State and local governments and private sector safety organizations. Interactive tools such as "Safer Journey" increase road user knowledge of pedestrian and bicyclist safety problems and solutions. Seven States have decided to provide copies of the "Safer Journey" CD to all of their elementary schools to increase awareness of pedestrian and bicyclist safety. English and Spanish pedestrian safety materials for television, radio,

and print media are being developed as part of a national campaign to raise awareness. FHWA is developing pedestrian safety materials targeted to specific populations including Hispanics and Native Americans. FHWA is also expanding its partnerships with State and local agencies and private sector safety organizations to accelerate the marketing and distribution of these pedestrian and safety materials.

STATE STRATEGIC HIGHWAY SAFETY PLANS

Question. FHWA plans to encourage State departments of transportation to adopt a strategic highway safety plan and a comprehensive safety planning process. As part of this process, will FHWA also encourage States to allow Metropolitan Planning Organizations to participate and integrate them as part of their overall budget? Are there any States that currently have either a highway safety plan or a comprehensive safety planning process? If so, could you please provide a list of those?

Answer. The collaborative process for developing a strategic highway safety plan requires States to include major State and local stakeholders. As major stakeholders at the local level, Metropolitan Planning Organizations would be expected to participate in the process. State and local agencies and organizations participating the process are required to share information and assist in the analysis of safety data to produce a strategic highway safety plan. The development of the plan would not require changes in the planning processes, plans or programs of other State or local agencies. An informal survey indicates that at least 20 States and the District of Columbia have some sort of a comprehensive safety plan. The 20 States are California, Colorado, Florida, Illinois, Kentucky, Louisiana, Maryland, Michigan, Maine, Mississippi, North Carolina, Nebraska, New Jersey, New York, Oregon, Pennsylvania, Texas, Utah, Washington, and Wyoming.

CONGESTION MITIGATION

Question. FHWA has stated its capability to identify and mitigate causes of highway congestion. However, the portion of travel that occurred under congested conditions has increased each year. The short-term goal appears to be slowing the annual rate of increase to 32.3 percent in fiscal year 2004. What specific actions will FHWA take in 2003 to achieve this goal?

Answer. FHWA knows from surveys that traffic congestion, particularly that associated with unexpected and non-recurring events such as work zones and incidents, is aggravating Americans. And the agency knows from these surveys what matters most to highway users is the reliability of the system. FHWA has designated congestion mitigation as one of its "vital few" goal areas. Traffic congestion is influenced by a number of factors outside the influence of the transportation sector, such as population increases and land use decisions, but there are a number of areas where FHWA can make a significant difference in terms of mitigating traffic congestion levels. Solutions to traffic congestion include building additional highway capacity (new facilities, added lanes, removing bottlenecks, etc.), better managing peak demands, and squeezing the highest level of performance out of existing capacity by effectively managing the highway system in a customer-focused, performance-based, proactive, real-time manner. While FHWA has a number of initiatives underway that focus on this last concept, the following five likely will have the greatest long-term impact:

1. To date FHWA has not had a means of measuring how well the operation of the highway system is being managed. In the last 2 years, FHWA has developed and tested a system reliability index in 21 cities that it calls the "buffer index" (the amount of time added to your trip because of system unreliability). FHWA hopes that this measure eventually becomes as well known as (say) the temperature humidity index and helps cities gauge how well they are doing in responding to incidents, managing their work zones, and responding to the negative effects of adverse weather. FHWA will repeat the measurement in up to 10 additional cities both this year and in fiscal year 2004, while it continues to build support for use of reliability and other appropriate performance measures in system monitoring and decision-making.

2. FHWA will continue a major program focus on reducing delays caused by work zones by emphasizing the concept of "getting in, getting out and staying out." Current and fiscal year 2004 program activities will be focused on consideration of work zone impacts in the planning process, innovative design and construction techniques, traffic control planning, and use of performance measures.

3. FHWA will continue to build the foundation of a national traffic incident management organization, and develop and share detailed information, technical guidance and training on procedures to develop effective incident management programs

and effectively respond to traffic incidents. The overall focus of these efforts is to reduce the time required to detect, respond to, and clear traffic incidents, which should result in a significant improvement in the congestion that they cause.

4. Half the battle of mitigating the real and perceived impacts of traffic congestion on system users is giving people accurate and complete information. FHWA is in the process of helping to facilitate deployment of the 511 national travel information telephone numbers in cities and States across the United States. Currently about 14 percent of the U.S. population has access to high quality 511 services, with access expected to increase to about 25 percent by the end of 2003. FHWA's fiscal year 2004 goal is to reach 35 percent of the U.S. population.

5. Finally, it is difficult to effectively manage the transportation system to mitigate traffic congestion in a culture that is still very much focused on developing and delivering construction projects. FHWA is continuing a significant program focus begun in fiscal year 2002 that seeks to encourage and incentivize regional collaboration and coordination among transportation system operators and public safety agencies at all levels of government. Use of the techniques developed in this program area will result in more extensive and more effective implementation of regional operations strategies such as regional traffic incident management programs, regional traveler information services, inter-jurisdictional coordination of traffic signals and regional emergency planning and response.

BORDER PLANNING, OPERATION AND TECHNOLOGY PROGRAM

Question. The Border Planning, Operations and Technology (BPOT) program funds can be used for multimodal planning that results in improvements in freight movement and highway access to rail, marine and air services. Can this money be used for actual multimodal improvements or simply multimodal planning?

Answer. The BPOT funds can be used for an improvement at or near a land border with Canada or Mexico if the improvement is needed for operational enhancements or technology applications.

AREAS CURRENTLY ELIGIBLE FOR CMAQ FUNDING

Question. Please identify the areas currently eligible for CMAQ funding.

Answer. CMAQ funding must be used within non-attainment and maintenance areas if any exist within the State. If a State has no non-attainment or maintenance areas, it may use its CMAQ apportionment anywhere in the State on projects eligible under either the CMAQ or the Surface Transportation Programs.

FISCAL YEAR 2003 CMAQ-ELIGIBLE NON-ATTAINMENT MAINTENANCE AREAS—STATE AND COUNTY

STATE—Nonattainment/Maintenance Area Name	COUNTY—Nonattainment/Maintenance Area Name
ALABAMA: Birmingham	Jefferson, Shelby
ALASKA:	
Anchorage	Anchorage
Fairbanks	Fairbanks
ARIZONA: Phoenix	Maricopa
ARKANSAS	Anywhere
CALIFORNIA:	
Chico-Paradise	Butte
Los Angeles	South Coast Air Basin, Los Angeles, Orange, Riverside, San Bernadino
Sacramento Metro	El Dorado, Placer, Solano, Sutter, Sacramento, Yolo
San Diego	San Diego
San Joaquin Valley	Fresno, Kern, Kings, Madera, Merced, San Joaquin Valley, Stanislaus, Tulare
Santa Barbara-Santa Maria-Lompoc	Santa Barbara
Ventura Co	Ventura
Monterey Bay	Monterey, San Benito, Santa Cruz
San Francisco Bay Area	Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Sonoma
COLORADO:	
Colorado Springs	El Paso, Teller
Denver-Boulder-Greeley	Adams, Arapahoe, Boulder, Denver, Douglas, Jefferson
Fort Collins	Larimer
Longmont	Weld

FISCAL YEAR 2003 CMAQ-ELIGIBLE NON-ATTAINMENT MAINTENANCE AREAS—STATE AND COUNTY—Continued

STATE—Nonattainment/Maintenance Area Name	COUNTY—Nonattainment/Maintenance Area Name
CONNECTICUT:	
Greater Connecticut	Hartford, Middlesex, New Haven, New London, Tolland, Windham
New York-New Jersey-Long Island	Fairfield, Litchfield
DELAWARE:	
Philadelphia-Wilmington-Atlantic City	Kent, New Castle
Sussex	Sussex
DISTRICT OF COLUMBIA: Washington, DC–MD–VA	DC
FLORIDA:	
Miami-Ft Lauderdale-W. Palm Beach	Broward, Miami Dade, Palm Beach
Tampa-St. Petersburg-Clearwater	Hillsborough, Pinellas
GEORGIA: Atlanta	Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, Rockdale
HAWAII	Anywhere
IDAHO	Anywhere
ILLINOIS:	
Chicago-Gary-Lake County	Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Will
St. Louis, MO	Madison, Monroe, St. Clair
Jersey Co	Jersey Co
INDIANA:	
Chicago-Gary-Lake County	Lake, Porter
Evansville	Vanderburgh
Louisville, KY–IN	Clark, Floyd
Indianapolis	Marion
South Bend-Elkhart	Elkhart, St. Joseph
IOWA	Anywhere
KANSAS: Kansas City KS–MO	Johnson, Wyandotte
KENTUCKY:	
Cincinnati-Hamilton	Boone, Campbell, Kenton
Edmonson	Edmonson
Louisville, KY–IN	Bullitt, Jefferson, Oldham
Huntington-Ashland	Boyd, Greenup
Lexington-Fayette	Fayette, Scott
Owensboro	Daviess, Hancock
Paducah	Livingston, Marshall
LOUISANA:	
Baton Rouge	Ascension, E. Baton Rouge, Iberville, Livingston, W. Baton Rouge
Lake Charles	Calcasieu
Point Coupee	Point Coupee
MAINE:	
Hancock & Waldo	Hancock, Waldo
Knox & Lincoln	Knox, Lincoln
Lewiston & Auburn	Androscoggin, Kennebec
Portland	Cumberland, Sagadahoc, York
MARYLAND:	
Baltimore	Anne Arundel, Baltimore County, Baltimore City, Carroll, Harford, Howard
Kent-Queen Anne's	Kent, Queen Anne's
Philadelphia-Washington-Trenton, PA–NJ–DE–MD	Cecil
Washington, DC–MD–VA	Calvert, Charles, Frederick, Montgomery, Prince George's
MASSACHUSETTS:	
Boston-Lawrence-Worcester	Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, Worcester
Springfield (Western MA)	Berkshire, Franklin, Hampden, Hampshire
MICHIGAN:	
Detroit-Ann Arbor	Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, Wayne
Grand Rapids	Kent, Ottawa
Muskegon	Muskegon
MINNESOTA:	
Minneapolis-St. Paul	Anoka, Carver
Dakota	Hennepin, Ramsey, Scott, Washington, Wright

FISCAL YEAR 2003 CMAQ-ELIGIBLE NON-ATTAINMENT MAINTENANCE AREAS—STATE AND COUNTY—Continued

STATE—Nonattainment/Maintenance Area Name	COUNTY—Nonattainment/Maintenance Area Name
Duluth	St. Louis
MISSISSIPPI	Anywhere
MISSOURI:	
St Louis	Franklin, Jefferson, St. Charles, St. Louis City, St. Louis County
Kansas City	Clay, Jackson, Platte
MONTANA: Missoula	Missoula
NEBRASKA	Anywhere
NEVADA:	
Reno	Washoe
Las Vegas	Clark
NEW HAMPSHIRE:	
Boston-Lawrence-Worcester, NH–MA	Hillsborough, Rockingham
Manchester	Merrimack
Portsmouth-Dover-Rochester	Strafford
NEW JERSEY:	
Allentown-Bethlehem-Easton	Warren
Atlantic City	Atlantic
New York-New Jersey-Long Island	Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union
Philadelphia-Wilmington-Trenton	Burlington, Camden, Cumberland, Gloucester, Mercer, Salem
NEW MEXICO:	
Sunland Park	Dona Ana
Albuquerque	Bernalillo
NEW YORK:	
Albany-Schenectady-Troy	Albany, Greene, Montgomery, Rensselaer, Saratoga, Schenectady
Buffalo-Niagara Falls	Erie, Niagara
Essex	Essex
Jefferson	Jefferson
New York-New Jersey-Long Island	Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk, Westchester
Poughkeepsie	Dutchess, Putnam
Syracuse	Onondaga
NORTH CAROLINA:	
Charlotte-Gastonia	Gaston, Mecklenburg
Greensboro-Winston-Salem-High Point	Davidson, Davie, Forsyth, Guilford
Raleigh-Durham	Durham, Granville, Wake
NORTH DAKOTA	Anywhere
OHIO:	
Cincinnati-Hamilton	Butler, Clermont, Hamilton, Warren
Canton-Masillon	Stark
Cleveland-Akron-Lorain	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, Summit, Columbus, Delaware, Franklin, Licking
Dayton-Springfield	Clark, Greene, Miami, Montgomery
Toledo	Lucas, Wood
Youngstown-Warren-Sharon	Mahoning, Trumbull
OKLAHOMA	Anywhere
OREGON:	
Portland-Vancouver-Salem	Clackamas, Multnomah, Washington
Grants Pass	Josephine
Kalmath Falls	Kalmath
Medford	Jackson
PENNSYLVANIA:	
Allentown-Bethlehem-Easton	Carbon, Lehigh, Northampton
Altoona	Blair
Erie	Erie
Johnstown	Cambria, Somerset
Harrisburg-Lebanon-Carlisle	Cumberland, Dauphin, Lebanon, Perry
Lancaster	Lancaster
Philadelphia-Wilmington-Atlantic City PA–DE–NJ–MD	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh-Beaver Valley	Allegheny, Armstrong, Beaver, Fayette, Washington, Westmoreland

FISCAL YEAR 2003 CMAQ-ELIGIBLE NON-ATTAINMENT MAINTENANCE AREAS—STATE AND COUNTY—Continued

STATE—Nonattainment/Maintenance Area Name	COUNTY—Nonattainment/Maintenance Area Name
Reading	Berks
Scranton-Wilkes-Barre	Columbia, Lackawanna, Luzerne, Monroe, Wyoming
York	Adams, York
Youngstown-Warren-Sharon	Mercer
RHODE ISLAND: Providence (All RI)	Bristol, Kent, Newport, Providence, Washington
SOUTH CAROLINA	Cherokee
SOUTH DAKOTA	Anywhere
TENNESSEE:	
Knoxville	Knox
Memphis	Shelby
Nashville	Davidson, Rutherford, Sumner, Williamson, Wilson
TEXAS:	
Beaumont-Port Arthur	Hardin, Jefferson, Orange
Dallas-Fort Worth	Collin, Dallas, Denton, Tarrant
El Paso, TX	El Paso
Houston-Galveston-Brazoria	Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, Waller
UTAH:	
Salt Lake City-Ogden	Davis, Salt Lake
Ogden	Weber
Provo-Orem	Utah
VERMONT	Anywhere
VIRGINIA:	
Norfolk-Virginia Beach-Newport News	Chesapeake City, Hampton City, James City County, New Port News City, Poquoson, Suffolk City, Williamsburg City, York
Richmond	Charles City Co., Chesterfield, Colonial Heights City, Hanover, Henrico, Hopewell City, Richmond City
Baltimore-Washington, DC–MD–VA–WV	Alexandra City, Arlington, Fairfax, Fairfax City, Falls Church City, Loudoun, Manassas City, Manassas Park City, Prince William, Stafford
Smyth	Smyth
WASHINGTON:	
Portland-Salem	Clark
Seattle-Tacoma	King, Pierce, Snohomish
Spokane	Spokane
WEST VIRGINIA:	
Charleston	Kanawha, Putnam
Greenbrier	Greenbrier
Huntington-Ashland	Cabell, Wayne
Parkersburg-Marietta, WV–OH	Wood
WISCONSIN:	
Green Bay-Appleton	Door
Manitowoc	Manitowoc
Milwaukee-Racine	Kenosha, Milwaukee, Ozaukee, Racine, Washington, Waukesha
Kewaunee	Kewaunee
Sheboygan	Sheboygan
Walworth	Walworth
WYOMING	Anywhere

ECOSYSTEM AND HABITAT CONSERVATION INITIATIVES

Question. The budget states an intention to increase the number of exemplary ecosystem and habitat conservation initiatives from 8 to 10 in fiscal year 2004 with the long-term goal of 30 initiatives in at least 20 States or Federal Lands divisions by fiscal year 2007. Could you identify the 8 existing initiatives where FHWA plans to implement the additional two in fiscal year 2004 and what, if any, new initiatives will be attempted?

Answer. There are currently five initiatives that have been designated to-date. These five initiatives are:

Colorado Department of Transportation's Shortgrass Prairie Initiative

The Colorado Department of Transportation's (CDOT) Shortgrass Prairie Initiative is a programmatic consultation and proactive avoidance, minimization, and mitigation effort covering 36 listed and non-listed species and associated habitats that could be impacted by CDOT's maintenance and construction activities on Colorado's prairie over the next 20 years.

Montana Department of Transportation's US 93 Agreement

The new highway was designed with the idea that the road is a visitor and should respond to and be respectful of the land and Spirit of Place. Montana DOT, FHWA, and the Confederated Salish-Kootenai Tribes reached a shared vision of the road's interaction with the environment and Tribal culture.

North Carolina's Ecosystem Enhancement Program

In order to deal with a rapidly expanding transportation program that will impact an estimated 6,000 acres of wetlands and a million feet of streams over the next 7 years, the North Carolina Department of Transportation, the United States Army Corps of Engineers, and the North Carolina Department of Environment and Natural Resources are designing an Ecosystem Enhancement Program to protect the State's natural resources.

Oregon DOT's Fish Friendly Maintenance Practices

The Oregon DOT has developed a Geographic Information System-based sensitive resource inventory along nearly 6,000 miles of State highway as part of its Salmon Resources and Sensitive Area Mapping Project. The primary purpose of the project is to provide accurate resource protection maps to roadway maintenance crews so that mowing, pesticide application, and other activities do not harm listed salmon species and other sensitive resources.

Washington DOT's Watershed Approach to Mitigation Setting

This watershed approach is a community based environmental decision making process that uses watersheds as functional systems, coordinating and integrating human activities to implement watershed recovery efforts and to prevent further degradation of natural resources within the watershed basin. A key component of the Washington DOT's watershed approach is the targeting of mitigation funds to sites offering greatest ecological benefits.

Detailed information on these five initial initiatives (established in fiscal year 2002) is available on the FHWA website at: http://www.fhwa.dot.gov/environment/strmlng/bestprac.htm.

Three additional initiatives are being examined and will be implemented by the close of fiscal year 2003. These initiatives include:

Nevada—Regional Wetland Bank

Constructed by the Nevada DOT, this project is on public land, within sight of a major highway, has public hunting, wildlife viewing platforms, long-term monitoring, extensive irrigation rights and control structures and support from agencies. It has been very successful over a 6–10 year period. It was built as a regional bank for projects between Reno and Gardnerville.

Arizona—State Route 260 Wildlife Measures

This project in Arizona involves area-wide habitat connectivity monitoring and measures for wildlife passage. The project is just below the Mogollon Rim. This area has one of the highest wildlife-vehicle (primarily elk) collision rates in the State. The Arizona DOT is in the process of building 17 sets of bridges along 17 miles of highway to allow wildlife permeability underneath the highway based on extensive habitat studies interagency coordination. The Arizona Game and Fish Department has been given the task of monitoring the effectiveness of these structures. Monitoring will compare the differences in bridge design based on the number of animals and how readily they use them.

New Hampshire—Route 101 Mitigation Program

The mitigation plan was developed for the New Hampshire DOT project to improve 17.6 miles of NH Route 101 from Epping to Hampton. This is a multi-faceted program with measures to minimize impacts to existing wetland resources, restore estuarine marsh, protect upland habitat, maintain water quality, preserve and study historic and archeological sites, minimize highway noise and create replacement wetlands.

FHWA has identified several additional initiatives as possibilities for 2004 and beyond:

—Iowa—the State DOT's living roadside and prairie restoration program;
—California—several land-use/transportation/conservation planning initiatives;
—Alaska—highway culvert replacement program to improve fish passage;
—Arizona—Desert bighorn habitat study and conservation plan relative to the US 93 upgrade.

CONTEXT SENSITIVE SOLUTIONS

Question. In 2004, the budget proposes to establish a baseline of best practices for integrated planning and encourage 11 States to adopt context sensitive solutions (CSS). Have those 11 States been identified and what will their participation require?

Answer. FHWA is advocating the advancement of context sensitive solutions (CSS) and integrated approaches to the planning and environmental process as part of its Environmental Vital Few Goal. As a baseline for CSS, FHWA selected the five States (Connecticut, Kentucky, Maryland, Minnesota, and Utah) that were selected in 1998 as Context Sensitive Design (CSD)/CSS pilot States.

FHWA is currently finalizing the criteria that will be used to identify additional States that have adopted CSS. The criteria under consideration include the following:

—Some projects are being implemented using a CSS approach, tools, and methodologies.
—Technical staff is trained in a CSS approach, both in field and central offices, and across disciplines (planning, environment, design, right-of-way, operations, and maintenance).
—Interdisciplinary teams are involved in the process from the beginning to the end.
—There is early, continuing, and interactive public involvement throughout the project development process.
—There is a written commitment or policy.

Following finalization of the criteria, FHWA anticipates identifying a minimum of three additional CSS States by the close of fiscal year 2003. The fiscal year 2004 target for CSS is to increase the total number of CSS States to 11, although FHWA has not yet identified the additional States that will allow the agency to reach its fiscal year 2004 target.

STRATEGIC HIGHWAY NETWORK

Question. The budget requests $4.6 million to coordinate military and civilian traffic needs in emergencies focusing on the Strategic Highway Network. Please provide an accounting of exactly how FHWA plans to spend this $4.6 million.

Answer. The $4.6 million requested is to support security activities that are much broader than just the Strategic Highway Network (STRAHNET). The STRAHNET system (a portion of the National Highway System) supports military deployment and is in good structural and operational condition.

DOT works with the Department of Defense (DOD) to improve mobilization effectiveness, and to help State and local transportation agencies safely and securely sustain vital traffic flows. Approximately $2.3 million of the funds will be used to support and improve military deployment including: (1) workshops with civilian and military authorities at the major deployment "forts"; (2) development and distribution of a best practices guide for support of military deployment; (3) specific reviews of one or more of the "fort-to-port" routes at the major military platforms; and (4) coordination with DOD to facilitate rapid mobilization over the highway network and to minimize disruption to traffic during the mobilization.

The remaining $2.3 million will be used for a broad array of security initiatives, the more significant of which include: (1) coordination with highway industry partners to implement the Transportation Security Administration's (TSA) proposed security standards regarding protection of critical infrastructure; (2) transportation-focused emergency response preparedness activities for natural disasters, accidental incidents involving hazardous materials, and intentional acts in metropolitan areas designated by the Department of Homeland Security (DHS) as being at greatest risk; and (3) internal agency initiatives to ensure continuity of operations preparedness for emergencies. The emergency response activities are fully coordinated with DHS units including FEMA, TSA, etc., the National Academy of Sciences, and the American Association of State Highway and Transportation Officials (AASHTO).

MEGA PROJECTS OVERSIGHT

Question. The Department has identified and initiated steps to improve oversight of mega projects by developing a comprehensive, standard approach. What is the

new comprehensive, standard approach that will be applied to all mega projects? How is it different than previous oversight requirements, and how does the Department envision that this new approach will improve mega project planning and construction?

Answer. Beginning in May 2000, FHWA issued its Financial Plan Guidance defining the content and format of the Financial Plans as required by Section 1305 of TEA–21, for all highway projects with an estimated total cost of $1.0 billion or more. The Financial Plan provides a comprehensive document reflecting the total cost of the project, and provides reasonable assurances that there will be sufficient financial resources to complete the project as planned. Cost containment strategies are also identified in the Financial Plans, as well as an implementation schedule for completing the project. Annual updates are required to track significant cost and schedule deviations from the initial Financial Plan, and mitigative actions taken to adjust for those deviations. A provision in the SAFETEA reauthorization proposal would make Financial Plans a requirement for all highway projects receiving $100 million or more in Federal-aid funds.

As a standard operating procedure, major (mega) projects produce periodic (usually monthly) cost, schedule, and status reports; and periodic status meetings are held with the State Transportation Agency's project management team, FHWA, and other involved agencies in attendance. The periodic status meetings discuss project costs, schedules, quality issues, and other status items in sufficient enough detail to allow involved parties to be aware of significant issues and actions planned to mitigate any adverse impacts.

FHWA is committed to assigning a designated Oversight Manager to each active major project, dedicated full-time to that specific major project. The Oversight Manager may draw upon resources from within his/her Division Office, in order to form an integrated project team that is responsible for providing proper Federal stewardship and oversight of the major project. Core competencies and training resources have been established for the major project Oversight Managers. A web-based resource manual has also been completed in order to provide guidance, tools, and best practices to assist the Oversight Managers in effectively carrying out their duties.

An active major projects monthly status reporting system has been implemented in conjunction with the Department's Office of Inspector General (OIG). The assigned Oversight Managers are responsible for updating the critical issues and risks (schedule, cost, funding, legal, contractual, and technical) on a monthly basis, with the consolidated report forwarded to FHWA upper management and the OIG.

The sharing of best practices and lessons learned among the major projects are accomplished via annual Oversight Managers meetings, semi-annual newsletters, and the Central Artery/Tunnel Project's Innovations and Advancements workshop.

Project Management Plans are strongly encouraged from a best practices point of view, in order to clearly define the roles, responsibilities, processes, and activities that will result in the major project being completed on-time, within budget, with the highest degree of quality, in a safe manner, and in a manner in which the public trust, support, and confidence is maintained. A provision in the SAFETEA reauthorization proposal would make Project Management Plans a requirement for all highway projects with an estimated total cost of $1.0 billion or more.

All of these initiatives have been implemented within the last 3 years and have expanded the Federal stewardship and oversight of major project planning and construction.

"AT-RISK" MEGA PROJECTS

Question. The budget discusses plans to designate mega projects with significant deviations from cost and schedule baselines as "at-risk." Does this designation carry with it any additional requirements or Federal oversight? Please identify mega projects currently underway that, under this new plan, would receive an "at-risk" designation?

Answer. Major (mega) projects designated "at-risk" would trigger certain special conditions or restrictions, until the recipient of Federal funds addresses identified issues in an approved recovery plan. These special conditions may include withholding of authority to proceed to the next phase of the project; requiring additional, more-detailed cost, schedule, or financial reports; requiring the recipient to obtain technical or management assistance; establishing additional prior approvals; requiring more direct on-site inspection of the project by Department personnel; and/or follow-up reporting on a periodic basis until the Department removes the designation.

The Boston Central Artery/Tunnel project was designated "at-risk" in 2000 after several investigations and project reviews indicated significant rising costs. The I–95/I–495 Springfield Interchange project, though not officially designated "at-risk,"

was required to begin submitting Financial Plans due to rising costs, even though the total cost of the project is still well under $1.0 billion. None of the other 12 identified active major projects have thus far experienced significant cost or schedule deviations.

SR 210/FOOTHILL FREEWAY ADDITIONAL FTE

Question. The FHWA budget lists the FTE requirements for mega project oversight; however, the SR 210/Foothill Freeway, CA project has no staff listed for fiscal year 2004. Given that all mega projects will receive improved oversight, why then are no FTE requested for this particular project?

Answer. The SR 210/Foothill Freeway project is on schedule and within budget; therefore, no Financial Plans and annual updates, and hence additional FTEs to provide project oversight, are required for this project. With a substantial portion of the project already completed, the California Division office is able to conduct adequate oversight of this major project with existing staff.

ENVIROMENTAL STREAMLINING

Question. The budget requests $20.8 million to support transportation research dealing with environmental streamlining which focuses on long-term and preemptive measures designed to streamline the environmental impact review process and procedures. What environmental streamlining measures have been implemented thus far and what measures are being researched that would lead to greater environmental streamlining efforts in the future? Please provide a detailed breakdown of how the requested $20.8 million will be spent.

Answer. FHWA has been pursuing environmental streamlining measures on multiple fronts, some national in scope, some regional or State-specific in scope. These measures implement Congressional direction from Section 1309 of TEA–21, and have been implemented in the context of Executive Order 13274 and FHWA's Vital Few performance planning effort. The following describes some of FHWA's accomplishments to-date.

Solidifying Interagency Partnerships

Field level environmental summits.—The FHWA Eastern, Southern, and Western Resource Centers held regional conferences, bringing together representatives from Federal, State, and local transportation, planning, and resource agencies, local governments, Metropolitan Planning Organizations (MPOs), transportation and environmental organizations, tribes, and consultants to discuss relevant issues and identify opportunities for improvement. Results of the summits were distributed via the Successes in Streamlining Monthly Newsletter (September 2002). The sharing of solutions and integration of efforts found within each regional conference advances streamlining through an emphasis on process improvements.

Interagency training on environmental streamlining.—The Federal interagency workgroup has collaborated in organizing a series of environmental streamlining workshops aimed at getting field staff of each Federal agency aligned with the national agenda. FHWA sponsored a multi-agency workshop in 1999 and agency-specific workshops with the U.S. Army Corps of Engineers (2001), Environmental Protection Agency (2002) and Fish and Wildlife Services/National Oceanic and Atmospheric Administration (2003). These workshops have been a good forum for sharing the national vision, identifying issues that cause interagency conflict, and sharing innovative practices from around the country. Furthermore, they have promoted the concepts of coordination and process efficiencies in the environmental review of transportation projects.

Institutionalizing Dispute Resolution

Partnership with Institute for Environmental Conflict Resolution (IECR).—The 1998 Environmental Policy and Conflict Resolution Act created IECR, which is part of the Morris K. Udall Foundation. IECR helps Federal agencies and other involved parties manage and resolve Federal environmental, natural resource, and public lands disputes by providing services such as case consultation, conflict assessment, process design, facilitation, and mediation. FHWA partnered with IECR to meet the mandate set forth in Section 1309(c) of TEA–21 to create dispute resolution procedures as part of a national environmental streamlining initiative. FHWA and IECR have been working effectively together since 1999 to develop and implement the four components of the dispute resolution system, described below. The dispute resolution system is intended to assist the agencies to quickly and effectively focus on the pertinent project issues, save time, and avoid the costs of potential litigation.

Roster of qualified neutral facilitators.—As part of the FHWA/IECR collaborative partnership, a transportation roster was created that is comprised of dispute resolu-

tion professionals with experience in NEPA and transportation projects. The roster is managed by the U.S. Institute for Environmental Conflict Resolution, with financial support by FHWA to help cover administrative costs. These professionals can provide services such as conflict assessment, facilitation of interagency partnering agreements, design of conflict management processes, and mediation of disputes. Project sponsors contact IECR to access the transportation roster, and then negotiate contracts and pay for the costs of the transportation roster members' services directly. Recently, FHWA and transportation sponsors have used the transportation roster to provide facilitators for three of the priority projects designated under Executive Order 13274.

Guidance on interagency conflict management.—This FHWA guidance offers a range of optional tools agencies can use to manage conflicts and resolve disputes during the transportation project development and environmental review processes. It also constitutes the key reference document used in the interagency workshops described below.

Interagency conflict management workshops.—The FHWA dispute resolution system includes a series of customized facilitated interagency workshops in each of the 10 standard Federal regions. The workshops were developed during 2002 and will be held from May to December 2003. Skills gained at the workshops will help practitioners from the various agencies to better identify environmental review issues, negotiate time frames and work through disagreements using interest based negotiating.

Supporting State Environmental Streamlining Efforts

American Association of State Highway and Transportation Officials (AASHTO) "Center for Environmental Excellence."—AASHTO launched the Center in 2002 with technical and financial assistance provided by FHWA. The Center's mission is to assist AASHTO's member organizations with implementing environmental stewardship into their various practices and procedures, and promoting innovative streamlining of the project delivery process. AASHTO expects that the results of this assistance will be beneficial to State transportation agencies and also supportive of FHWA's work in protecting and enhancing the environment.

Individual State environmental streamlining initiatives.—FHWA has partnered with well over half of the State departments of transportation in advancing their own environmental streamlining efforts. Notable examples include Florida's Efficient Transportation Decisionmaking effort, and Texas' I–69 interagency partnering effort.

Environmental Streamlining Research.—The funds requested in fiscal year 2004 to support transportation research dealing with environmental streamlining (ES) will be used for the following activities:

Assistance to State and Field Office Initiatives

—Support for State DOT ES efforts
—AASHTO Center for Environmental Excellence
—FHWA field office initiatives to enhance interagency coordination

National ES Initiatives

—Dispute resolution facilitation and training
—Performance evaluation systems and studies
—Integrated approaches promotion & training
—Information sharing on ES
—Policy Research.

FTE DISTRIBUTION

Question. The FHWA budget requests 12 new FTE. Specifically where will these new FTE be utilized?

Answer. The 12 new FTE that are requested in fiscal year 2004 will be utilized as Mega-Project Oversight Managers to enhance major projects oversight and fulfill FHWA's commitment of having a dedicated oversight project manager on each mega-project. They will: represent FHWA before other Federal agencies, State Transportation Agencies (STA), local agencies, consultants, and contractors on all project delivery and oversight issues; be responsible for overseeing the review and approval of plans, specifications and cost estimates; and ensure that FHWA laws and requirements, such as Buy America, Davis-Bacon minimum wage rates, Disadvantaged Business Enterprise and affirmative action requirements, records of materials and supplies, etc., are incorporated in Federal-aid construction contracts. The table below provides a breakdown of the FTE Requirement for Active (and Future) Major Projects.

FISCAL YEAR 2004 FTE REQUIREMENT FOR ACTIVE (AND FUTURE) MAJOR PROJECTS

Projects	Status	Current Staffing Level	Fiscal Year 2004
I–80/San Francisco-Oakland Bay Bridge (East Span), CA	Active	1	1
SR 210/Foothill Freeway	Active		
I–25/I–225 Southeast Corridor, CO	Active	1	1
New Haven Harbor Crossing, CT	Active		1
Miami Intermodal Center, FL	Active		1
I–4/I–275 Tampa Interstate, FL	Active		1
New Mississippi River Bridge, IL-MO	Active		1
Central Artery/Ted Williams Tunnel, MA	Active	5	3
Central Texas Turnpike, TX	Active	1	1
I–10/Katy Freeway, TX	Active		1
I–95/Woodrow Wilson Bridge, MD	Active	2	2
I–95/I–495 Springfield Interchange, VA	Active	1	1
I–64/Hampton Roads Third Crossing, VA	Active		2
I–94/East-West Corridor, WI	Active		1
New Ohio River Bridges, KY-IN	Future		1
I–94/Edsel Ford Freeway, MI	Future		1
Mon/Fayette Expressway, PA	Future		1
I–635/LBJ Freeway (West Section), TX	Future		1
I–405 Corridor/SR 509 and I–5/SR520/Alaskan Way Viaduct, WA	Future		2
Totals		11	23

UPGRADING AND PROTECTING THE EXISTING INFORMATION RESOURCE MANAGEMENT INFRASTRUCTURE

Question. As part of the LAE, Federal Highways anticipated upgrading and protecting the existing Information Resource Management infrastructure. What does this anticipated upgrade involve and how much money will be required to specifically carry out this effort?

Answer. The anticipated upgrade includes: (1) establishment of a systematic replacement/refresh cycle for basic Information Resource Management (IRM) hardware; (2) additional contract services for IRM Security; and (3) upgrades and maintenance of IRM Security equipment. The total amount of money required to carry out this consolidated effort is $2.9 million.

The first effort is establishment of a systematic replacement/refresh cycle for basic IRM equipment, in particular, desktop computers, laptop computers, printers and networks. The Federal Highway Administration (FHWA) is not seeking to upgrade these categories of IRM hardware across the board. Rather, FHWA seeks to establish a standard replacement interval for each category of IRM hardware and then to replace hardware items only when their interval has elapsed. FHWA requests $1.2 million to carry out this effort.

The second effort is an increase in contract services for IRM Security. The additional contract services would be used to enable FHWA to complete certification and accreditation activities by the Department of Transportation's established deadline of December 2005 as well as to develop and implement the initial components of a continuous risk management process. FHWA requests $1.2 million to carry out this effort.

The third effort is to upgrade and maintain IRM Security equipment. In particular, the effort would involve purchasing the automated tools, software upgrades and associated maintenance necessary to actively look for, anticipate, and counteract threats and vulnerabilities before they are employed or exploited. These tools include, without limitation, intrusion detection systems, vulnerability scanners, incident response tools, incident tracking systems, anti-virus, file encryption, and secure remote access. FHWA requests $500,000 to carry out this effort.

QUESTION SUBMITTED BY SENATOR ARLEN SPECTER

COMMERCIAL PASSENGER AIRCRAFT FUEL TANK SAFETY

Question. Mr. Secretary, I am advised that the Federal Aviation Administration has worked recently with Foamex International, Inc. of Linwood, Pennsylvania on identifying current fiscal year funding opportunities for important research concerning the safety of commercial passenger aircraft fuel tanks.

I was pleased to learn that Associate Administrator Charles Keegan and his staff are drafting a Cooperative Research Development Agreement to conduct tests that will help determine the effectiveness of using the company's Safety Foam for safety and security applications. Safety Foam is an advanced reticulated polyurethane foam material, which can be installed inside aircraft fuel tanks and can act as a 3-dimensional fire screen that prevents fire propagation due to internal ignition of fuel vapors.

Given the importance of maximizing the safety of such fuel tanks, I would appreciate your providing the Subcommittee with an update as to the timetable for entering into the Cooperative Agreement with Foamex International, the amount of fiscal year 2003 funds the agency is prepared to devote to this critical research, and any other relevant information on this specific subject you would like to share with us.

Answer. Working with Foamex International, the FAA has developed a Cooperative Research Development Agreement. The agreement was sent to Foamex for their signature on June 13, 2003.

The FAA has set aside $100,000 in fiscal year 2003 aircraft safety funds to support tests and evaluations to determine the potential effectiveness of the foam for commercial aviation applications.

At a June 10, 2003, meeting of fuel system and foam experts, including representatives from Foamex and others in the private sector, the FAA developed the preliminary proposal for a series of tests to explore the foam's feasibility in mitigating the effects of a simulated crash of an airplane and the spillage of a large amount of fuel. Foamex and FAA technical personnel have met to discuss and design a test plant. The parts necessary for the test have been ordered. Since they are rather unique and need to be specially fitted, the first "water only" test won't take place until mid-October.

QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACK

SHORT LINE RAILROADS

Question. As I mentioned in my opening remarks, a particular concern that should be near the heart of many of us in this room is the fate of short line local freight railroads. These short lines account for roughly half the rail miles in Kansas. These lines gather tens of thousands of carloads of grain and start them on their way across the country and for export abroad.

However, government disincentives forced the prior owners of these light density lines to neglect investment in the infrastructure, and now the weight of loaded railroad cars are growing ever heavier. This has forced many of these light density lines to abandon operations. From 1980 to 1990 Kansas lost 862 miles of railroad to abandonment. From 1990 to 2000, Kansas lost 1,157 miles. In the last 2 years we have lost 357 miles.

In Kansas, when railroads go out of business it is very bad for highways. For example, Harper County, Kansas recently lost rail service and the increase in heavy trucks as a result does so much damage to the roads that the government can no longer afford to pave them—instead the once paved roads are being turned into unpaved gravel roads.

The Kansas DOT estimates that short line railroads, by removing heavy trucks from the highway, save roughly 17 cents in highway damage for every mile that a truck would otherwise travel. Seventeen cents a mile in Kansas amounts to $50,000,000 per year that K-DOT estimates are saved by the continued existence of these lines.

It seems to me Mr. Secretary that these numbers in terms of cost savings for our highway system are compelling. The more traffic we can get onto local railroads the less it costs to maintain our highways, not to mention the immeasurable cost in jobs and opportunities to communities that lose rail service.

Last Congress I supported legislation S. 1220 along with my colleagues Sen. Specter and Sen. Hollings that would have made $350 million per year available to help preserve freight service on these lines. What similar plans, if any, does the administration have to address the desperate need in every rail served State to preserve short line railroads?

Answer. The Administration has not proposed a new grant program as contained in S. 1220. There exists now a loan and loan guarantee program, the Railroad Rehabilitation and Improvement Financing (RRIF) Program, that offers financial assistance to meet these needs.

S. 788 CENTURY OF FLIGHT ACT

Question. While the aviation industry is currently suffering and revenue for the Airport and Airway Trust Fund has decreased recently, the FAA forecasts that growth in the airline industry is expected to return to near normal levels. If these forecasts are true, demand for air travel will require expansion of air traffic services. In an industry that is currently suffering, we must act now to provide the needed assistance and vision where we are currently lacking.

This is precisely why I introduced along with Senator Hollings, S. 788, the Second Century of Flight Act. The purpose of this bill is to ensure that the United States continues to lead the world in aeronautics and aviation safety, technology, and efficiency. Additionally, this bill aims to create a better trained U.S. aerospace workforce, through support for technical colleges and other educational institutions. And of particular importance, this bill would facilitate the coordination of U.S. research efforts, and increase focus on directing government research towards usable products that enhance safety, are environmentally sound, and increase efficiency.

I am pleased that my Colleagues on the Commerce Committee agreed to three of the four titles of S. 788, in the FAA Reauthorization bill we passed out of the Committee. These titles include provisions that create a national office to coordinate aviation and aerospace research activities with the U.S. Government and encourages public-private cooperation; create a national office to focus on a next generation air traffic management system; and establishes educational incentives to train the next generation of aeronautics engineers and mechanics.

Mr. Secretary, I am sure you are aware of the importance of these issues, not only in Kansas, but across the United States. I would like you to comment on your commitment to these issues and specifically, your support of the initiatives in S. 788.

Answer. The Department of Transportation (DOT) is very aware of the importance of the issues you raise and have actively initiated efforts to better support the U.S. position in aerospace research and development. DOT has formed a Joint Planning Office (JPO) comprised of the Federal Aviation Administration (FAA), Department of Defense, Transportation Security Administration, Department of Commerce, and National Aeronautics and Space Administration to focus on development of our next generation air traffic management system. The FAA leads the team. We are also establishing a high-level policy committee to guide this effort that will be chaired by the Secretary of Transportation. The Secretary will establish the Policy Committee in the summer of 2003. The next steps are to establish advisory committees for this activity, to coordinate a framework for the initiative through the five participating agencies and departments, and begin drafting the national plan.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

COMPETITIVE SOURCING

Question. Last year, the Federal Aviation Administration announced that it is considering plans to privatize up to 2,700 air traffic control jobs at 58 of FAA's 61 Automated Flight Service Stations (AFSS) around the country. These jobs are critical to the safety of the traveling public, and I believe that the Department of Transportation should be more careful about handing these important functions over to the private sector. This country learned a valuable lesson about entrusting public safety responsibilities to private companies when we discovered security failures at our airports, which required Congress to place those responsibilities in the hands of the Transportation Security Administration. Apparently, the Department has not learned anything from this experience.

I am concerned that the FAA is acting under pressure from the White House to implement the President's competitive sourcing initiative. OMB scores agencies on how well they comply with the President's Management Agenda. Agencies are encouraged to submit management plans to the OMB, which incorporate the competitive sourcing quotas outlined in the President's budget.

It is my understanding that these competitive sourcing plans, once they are submitted to the OMB for approval, can be released to the public at the discretion of the agency heads. If the Congress is to appropriate substantial funding for private sector employment opportunities, I expect that you will first provide Congress, and in particular this Committee, with a copy of any management plans or competitive sourcing proposal that the Department of Transportation submits to the OMB. When do you expect to submit a competitive sourcing plan to OMB, and how soon can you make that plan available to this Committee?

Answer. FAA prepared a competitive sourcing plan for Automated Flight Service Stations that was submitted to the Department of Transportation on June 19, 2002.

As a result of recent changes to OMB Circular A–76 and the President's Management Agenda, FAA is in the process of updating the plan again. The agency will provide the Committee a copy of the revised FAA competitive sourcing plan when it is complete.

Question. How can you explain to the American people the willingness of the FAA to take flight safety out of the hands of dedicated public servants and put hand it over to private companies that are only dedicated to maximizing profits?

Answer. Automated Flight Service Stations (AFSS) do not engage in the separation of aircraft. Their duties primarily support the general aviation community by providing weather briefings, processing flight plans, assisting lost pilots, and initiating search and rescue operations. These functions are performed at separate facilities throughout the United States and Puerto Rico. (The three AFSS in Alaska have been excluded from the study.) Each year the FAA spends over $500 million to support this function. Since the competitive sourcing study of the AFSS is a public/private competition, not a privatization, the existing government employees will have a chance to compete for and win their work. So it will not automatically go to the private sector. Whoever wins the competition, public or private, will be accountable for their performance through performance metrics and incentives. FAA believes that it is possible to pursue ways of decreasing costs while improving service through the use of OMB Circular A–76.

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

FISCAL YEAR 2004 FUNDING REQUEST FOR AMTRAK

Question. Why did the Administration only include $900 million for Amtrak in the fiscal year 2004 budget when this level of funding will send the company into insolvency?

Answer. The fiscal year 2004 request was a request with a message. That message is that the Administration is unwilling to support ever-increasing levels of appropriations for the current, broken business model of providing intercity passenger rail service in this country. Until the changes to intercity passenger rail service are developed and agreed upon as part of the authorization process, the Administration is not willing to discuss funding intercity passenger rail service at a level above $900 million.

THE ADMINISTRATION'S VISION FOR INTERCITY PASSENGER RAIL

Question. The Bush Administration's vision for our Nation's intercity passenger rail system would separate the train operations from the infrastructure management on the northeast corridor. The United Kingdom failed when it tried this model. Can you give me specifics as to how your model for the northeast corridor differs from the failed British model?

Answer. The Administration has carefully observed the rail privatization initiative in the United Kingdom and believes that the strategy for intercity passenger rail reform in this country will reflect the lessons that can be learned from the United Kingdom's experience. The primary lesson is that the Administration's plan will avoid the conflict between infrastructure owner and train operator inherent in the U.K. model. The public will continue to own the infrastructure with a strong say in how it is maintained and operated. The same public entity, a compact of the Northeast Corridor States, will also determine who operates over this infrastructure.

Question. In your vision for Amtrak's reauthorization, you call for private operators to run Amtrak's long distance routes. Can you name for me a company that is willing to operate one of these routes without subsidy? Do you think the freights will agree to allow multiple private operators to run passenger trains on their tracks?

Answer. The Department's proposal does not envision private sector companies volunteering to operate intercity trains at a loss. The States would put together the financial package for each train they believe is important enough to warrant the State's support. To the extent such a train would not cover its operating expenses from the fare box, then it would be up to the States to identify the source or sources of operating assistance. With further regard to private operators, the Department does not envision multiple operators on the same rail route except in very close proximity to stations and terminals where routes come together.

Question. Do you think the States have the money to pay for the operating costs to run the long distance trains as the Administration is suggesting in its plan? Considering that the Federal Government created the long distance routes and that

these routes run through multiple States, why should these costs be shifted to the States? The Federal Government created the Federal highway system which runs through multiple States, yet you are not asking for the States to cover the operating costs for those highways.

Answer. The Administration is well aware of the financial challenges facing the States. For that reason, the Administration's proposal envisions a reasonable transition time to permit the States to identify which services are important to them and sources of funds to provide needed financial assistance. The expectation that the Federal Government does not provide operating assistance is consistent with the Federal role in highways and transit; States and localities assume responsibility for operating costs for these forms of transportation.

SMALL COMMUNITY AIR SERVICE

Question. Is the Department working with small communities to help attract and retain passenger air service? In what ways? This becomes more urgent as carriers terminate service to smaller communities due to the financial crisis in the airline/aviation industry.

Answer. The Department recognizes that small communities have been affected by the financial crisis in the airline industry. The Department has two programs specifically designed to help small communities with their air services. First, under the Essential Air Service (EAS) program, over 700 communities are guaranteed to receive at least a minimum level of air service. Of those, the Department currently subsidizes carriers to serve 135 communities nationwide, 33 of which are in Alaska. Since September 11, 2001, the Department has received over 50 notices from carriers to terminate the last service at the community, most of them triggering a first-time EAS subsidy. The Department has ensured that these communities continue to receive air service as we seek replacement carriers.

Second, the Department administers the Small Community Air Service Development Pilot Program. This program was established under the AIR–21 legislation and is a new program designed to help small communities address problems related to inadequate air service and high airfares. Under the legislation, the Department may make grant awards to a maximum of 40 communities each year, although no more than 4 may be from any one State. This program is unique in that it provides communities the flexibility to design their own solutions to their air service problems and to seek Federal financial support to help them implement their plans.

For fiscal year 2002, the first year that funds were available, Congress appropriated $20 million for this program. The program was very popular in fiscal year 2002 with the Department receiving 180 applications. Grant awards were made to 40 communities using all of the funds available. Many of these grants have already led to new or improved services at the selected communities, including Fort Smith, Arkansas; Daytona Beach, Florida; Augusta, Georgia; Hailey, Idaho; Lake Charles, Louisiana; Meridian, Mississippi; Taos, New Mexico; Akron/Canton, Ohio; Rapid City, South Dakota; Charleston, West Virginia; and Rhinelander, Wisconsin. In February 2003, Congress appropriated $20 million for this program for fiscal year 2003. The Department solicited proposals from interested communities on April 29. Proposals were due June 30 and are being reviewed.

OVERSEAS REPAIR FACILITIES

Question. The Administrator has been petitioned by the Transportation Trades Department of the AFL–CIO and its member unions for an immediate suspension of repairs performed on U.S. aircraft at overseas maintenance facilities. The petition cites potential threats to safety and security as well as lax government oversight. Do you have plans to either suspend these repairs or more fully study this issue in the near future? Would you support Federal legislation?

Answer. The Federal Aviation Administration (FAA) agrees that our national security posture was dramatically altered from the tragic events of September 11, 2001. All transportation agencies collectively identified ways to improve their security plans and immediately set about incorporating changes necessary to strengthen those deficient areas. The Transportation Security Administration (TSA) is beginning to study security requirements for both foreign and domestic repair stations. The FAA will support and work with the Homeland Security Department's TSA in this area.

There are no plans to revoke any foreign repair station certificates. The AFL–CIO requested that FAA revoke foreign repair station certificates. This would greatly reduce the availability of certified repair stations and severely affect the aviation industry. Under the proposed AFL-CIO scenario the only option for air carriers, both foreign and domestic, operating U.S. registered aircraft would be to have mainte-

nance performed in the United States by domestic repair stations. This would set up a chain of events that would create scheduling difficulties and reduce the number of revenue-producing flights.

The FAA would not support additional Federal legislation in these areas. The FAA currently has the authority to perform surveillance, oversight, and enforcements as appropriate on foreign repair stations.

SUBCOMMITTEE RECESS

Senator SHELBY. We wish you the best of health and we will recess the subcommittee to the call of the Chair.

Secretary MINETA. Thank you very much, Mr. Chairman.

Senator SHELBY. Thank you.

[Whereupon, at 11:37 a.m., Thursday, May 8, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004

TUESDAY, MAY 20, 2003

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

The subcommittee met at 10:11 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby, Specter, Murray, and Byrd.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

STATEMENT OF HON. JOHN SNOW, SECRETARY

ACCOMPANIED BY TERESA MULLET RESSEL, ACTING ASSISTANT SECRETARY, MANAGEMENT AND BUDGET

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Good morning. The committee will come to order.

I would like to welcome John Snow, Secretary of the Department of the Treasury. Thank you, Mr. Secretary, for appearing before the subcommittee today to discuss the fiscal year 2004 budget request for the Department of the Treasury. I look forward to learning about the new leadership you bring to the Department as well as the resources necessary to carry out the responsibilities at the Department.

The Department of the Treasury has undergone significant changes since the transfer of the majority of its law enforcement bureaus and related functions to the newly created Department of Homeland Security and the Department of Justice. In the midst of those changes, the Department still maintains the key role in Government as economic policymaker, financial manager, and revenue collector. That is no small task, especially now as the country seeks economic recovery, job creation, and comprehensive tax reform and relief.

The Department has also created a new Bureau, the Alcohol and Tobacco Tax and Trade Bureau, and also anticipates consolidating the Office of Inspector General and the Inspector General for Tax

Administration. I am interested in learning, Mr. Secretary, more about those plans.

As the threat of terrorism continues, finding ways to combat money laundering and other terrorist financing tools is an important role for the Department. It is vital to our ongoing counterterrorism efforts that we know what resources the Department will need to combat such nefarious activities.

Treasury's budget request for fiscal year 2004 is $11.408 billion, which includes $21.9 million for the activities of the Office of Foreign Asset Control, $57.5 million for the Financial Crimes Enforcement Network, and $5.3 million to increase the counterterrorism activities of the Internal Revenue Service's (IRS) Criminal Investigations Unit.

These three bureaus within Treasury form part of the backbone of our ongoing fight against terrorist financing. Recent attacks in Saudi Arabia, Morocco, and Israel have shown it is important that we maintain a coordinated focus and provide the necessary resources to ensure that our combined efforts to disrupt terrorism financing are persistent and effective.

Turning an eye toward the more traditional functions of Government, I want to briefly touch on the $10.4 billion request for the IRS that was discussed at length at a prior subcommittee hearing. The IRS' ongoing business system modernization efforts will require $429 million in the year 2004. The subcommittee appreciates the efforts that continue to go into this massive upgrade that we hope will improve the speed, timeliness, and accuracy of IRS administration of the tax system.

I am aware, Mr. Secretary, that last year's efforts encountered a hiccup of sorts. However, I am interested in hearing how the Department is working with the IRS to get back on track and ensure that schedule and cost setbacks do not become common occurrences.

While the IRS' traditional role is to implement and enforce our tax laws, it has also been charged with administering the Earned Income Tax Credit. The budget proposes a number of changes to that program because of the high level of fraud associated with the program's administration. Each year, the IRS makes approximately—Mr. Secretary, listen to this number. Each year, the IRS makes approximately $9 billion in erroneous Earned Income Tax Credit payments—$9 billion. This is a direct and permanent loss to American taxpayers because it is virtually impossible to recapture these payments once they have been made.

To implement the EITC Task Force recommendations, the Department is requesting $100 million to address the problems associated with the current program administration that results in overpayments. Eliminating erroneous payments and ensuring the proper administration of this program are certainly goals with which I completely agree.

In conclusion, Mr. Secretary, I believe this is a straightforward budget that includes a number of important reforms and efforts at modernization. I appreciate that it will take time for the Department to adjust to the realignment of offices to the Department of Homeland Security and the Department of Justice. Mr. Secretary,

I am confident that you have the opportunity to emerge stronger and more focused than ever.

I want to thank you for being here today, and I look forward to your testimony and the question period.

Senator Murray.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman.

I want to welcome Secretary Snow back to the subcommittee. Over the years, he has testified both in public and private capacities on a variety of transportation issues, and I have to say I am tempted to ask him about how we can enhance Amtrak's profitability or how we can improve management of our air traffic control but, rather, I will focus on Treasury issues this morning: the Earned Income Tax Credit, foreign sales corporations, and the Administration's plans in Iraq.

Let me start with EITC because I am concerned about the President's plan to spend $100 million to target low-income families and possibly deny them this critical tax credit.

The EITC is designed to help the working poor. It is probably the most targeted means-tested tax benefit in the entire Federal code. It was started by President Ford, and it was greatly expanded under President Reagan. While many working families are eligible to receive it, as many as 25 percent or more of those eligible families do not even apply for it. We should be taking steps to allow more eligible families to get the help they need, but I think the President's proposal goes the other way. It has the potential to throw many honest eligible families off the rolls by putting a complex paperwork burden on families who are already struggling. It could also have a chilling effect on many families who may be intimidated upon receiving an official notice from the IRS questioning their eligibility.

We are told the goal is to minimize fraud, and I think we all agree that is an important and appropriate goal. Tax fraud by any taxpayer should never be tolerated. It is a disservice to every other family that works hard and plays by the rules. But I think there are many unanswered questions about whether the President's plan would meet that goal or whether it will end up purging many families who need it from the program.

I have asked questions about this on a number of occasions, and I haven't gotten clear answers, and so I hope Secretary Snow is prepared to answer questions in detail today.

On the most basic level, I would like to know if targeting the working poor is the most effective use of $100 million or if there are other places where we can get more bang for the buck in reducing tax fraud. It is estimated that hundreds of billions of dollars in tax revenue never come in every year because of tax cheats and people who underreport their true income. Will the Treasury reap the greatest benefits by clamping down on the working poor or on multimillionaires and their tax attorneys who use questionable means to dodge taxes?

This subcommittee and our companion subcommittee in the House have not gotten straight answers. The IRS claims this is a balanced effort, balanced between fighting fraud and boosting par-

ticipation for eligible families. That sounds good. However, the vast majority of the $100 million goes to increased enforcement, while only $13 million goes to increased outreach. That doesn't sound very balanced to me.

I would also like to know if the Treasury Department through the IRS will have a formal public comment period before it publishes the pre-certification rules. Will the Administration evaluate the impact of its pilot project on working poor families before it expands this initiative to 2 million families nationwide? We have been told that the Administration plans to require the study, but we don't know if the Administration and the subcommittee will have the results in hand before the initiative is launched. I hope Secretary Snow will be able to answer those questions this morning.

Another issue that concerns me is the Administration's support for repealing the Extraterritorial Income (ETI) Exclusion Act of 2000 in response to a World Trade Organization dispute with the European Union. ETI, previously known as Foreign Sales Corporation, provides a tax break to U.S. exporters who employ American workers. ETI creates and sustains jobs for American workers. According to a recent study, exporters that benefit from the ETI may employ as many as 3.5 million American workers, including more than 100,000 in Washington State.

I am very concerned that the Administration has thrown up a white flag on this issue. The Administration's actions could give the Europeans a green light to threaten $4 billion in retaliatory tariffs against American agricultural and manufacturing exports. If we proceed with the Administration's white-flag approach, we will give Europe a tremendous competitive advantage and will hurt American workers.

I have written to the U.S. Trade Representative about this, but I still have not received a response, and I hope the Secretary will have more to say about this important economic policy and tax issue.

Finally, I will ask several questions about U.S. efforts in Iraq. I am anxious to hear from the Secretary regarding international participation in the effort to rebuild Iraq. We have all seen the news reports that the effort to rebuild Iraq could cost up to $600 billion over the next decade. The Administration's budget request is silent on these costs, and we have been told there will not be another supplemental funding request this year. I hope the Secretary can give the subcommittee and the full Appropriations Committee greater information about this issue.

I am curious about the Administration's latest thinking on international participation in the effort to rebuild Iraq. In particular, what role does the Administration see for the United Nations and countries that did not join the coalition forces in Iraq? Several Administration officials have given the Appropriations Committee very general responses to that question. I hope the Secretary will be more forthcoming with this subcommittee on the Administration's current position.

Finally, I will have questions for the Secretary regarding the Administration's views on contracts negotiated by Saddam Hussein's regime. I understand there are numerous high-profile examples of

Saddam's business dealings, some of which were agreed to with the specific objective of undermining international economic sanctions placed on the regime. I believe these contracts should be set aside. The new Iraqi Government should not be burdened with Saddam's business dealings. I hope the Administration agrees with me on this issue, and I hope we can work together to ensure that no U.S. taxpayer assistance is ever used to reward Saddam's business partners, those who actively worked to undermine economic sanctions on Saddam Hussein.

So, Mr. Secretary, again, I welcome you here today and I look forward to your testimony and a good dialogue this morning as we move forward to craft our bill for the coming fiscal year.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Byrd.

Senator BYRD. Mr. Chairman, I thank you and I thank the ranking member for your comments. I will save my time for questions.

Thank you.

Senator SHELBY. Mr. Secretary, we welcome you to the committee. Your written statement will be made part of the record in its entirety. You may proceed as you wish.

STATEMENT OF SECRETARY JOHN SNOW

Secretary SNOW. Thank you very much, Mr. Chairman, Senator Murray, Senator Byrd. It is a great pleasure to be here today and to have this opportunity, with Acting Assistant Secretary Teresa Ressel, to be with you to discuss the Treasury Department's fiscal year 2004 budget request. I will make a brief oral statement and ask, Mr. Chairman, that my full formal statement be included in the record.

You hit on the fundamental issue we face in a management sense in your good opening comments, because it is clear that with the creation of the Department of Homeland Security, the Treasury Department has undergone the most significant transformation in its long history. And the recent divestiture of most of the Treasury's law enforcement bureaus has created an opportunity—I think a very important opportunity and one we want to make the most of—to refocus on our core mission. This core mission would in my view encompass the following things:

First, creating jobs for economic growth, security, promoting economic security, jobs, and growth. That broad category of things is something that the Treasury Department I think has to be terribly focused on.

Another broad category of things that the Department needs to be focused on is ensuring that the tax system is effectively administered and is fair for all taxpayers.

And, finally, the Treasury Department has a critically important mission in focusing on fighting the financial war against terrorism.

The budget proposal which we have submitted for fiscal year 2004 totals $11.408 billion. We have provided the committee with a detailed breakdown and justification for this request. I would like to take the opportunity here this morning to highlight three areas of particular importance.

First, going to the primary mission, developing and implementing policies to provide economic security, jobs, and growth for

the American people. Of course, this mission is embodied in, among other things, the President's plan for Jobs and Growth, which is pending before both bodies of the Congress. The goals of the Jobs and Growth plan are to stimulate consumer spending, promote investment by individuals and businesses that will lead to economic growth and job creation, and deliver critical assistance to unemployed citizens. The fact is we are in a recovery, but it is too slow. As a result, too many Americans don't have work.

Second, Treasury is working to ensure that the U.S. tax system is fair for all Americans. That is a critically important part of what Treasury is all about. A cornerstone of Treasury's mission is helping citizens meet their tax responsibilities while maintaining the fairness of the system and respecting individual taxpayer rights, a matter that was touched on in the opening statements as well.

Of course, this mission is mainly the responsibility of the Internal Revenue Service (IRS), the biggest single part of the Treasury Department. IRS is responsible for collecting most of the revenues of the United States Government.

Thirdly, as is increasingly becoming apparent, I think, and as you mentioned, Mr. Chairman, in your opening comments, Treasury serves a critical role in fighting the financial war on terrorism. This work touches on several of Treasury's core functions and involves many of our jurisdictions, our offices, and our departments.

Treasury implements the financial war on terrorism through a number of mechanisms, including a new Executive Office of Terrorist Financing and Financial Crime, which will work with the International Affairs Terrorist Financing Task Force and with the office devoted to critical infrastructure protection in the Office of Domestic Finance. So this war on terrorist finance cuts through a number of different divisions of Treasury.

Finally, I would like to add that the Treasury Department continues to use the five elements of the President's Management Agenda as a guide to achieving our key priorities in accomplishing the Department's overall mission.

PREPARED STATEMENT

Let me say in closing here that I look forward to working with you, Mr. Chairman, with members of the committee, and your staff as we move in fiscal year 2004 to maximize Treasury's resources to see that we are doing the best job we can in the interests of the American people. I am hopeful that together we can work to make the Department a model of good management and good service to the American people.

And, with that, I thank you again for the opportunity to be here and look forward to trying to respond to your questions.

[The statement follows:]

PREPARED STATEMENT OF JOHN SNOW

Chairman Shelby, Ranking Member Murray, and members of the Committee, I appreciate the opportunity to discuss Treasury's fiscal year 2004 budget request.

With the creation of the Department of Homeland Security, Treasury has undergone the most significant transformation in its 214-year history. The recent divesti-

ture of a majority of Treasury's law enforcement bureaus and related functions[1] has provided an opportunity for Treasury to refocus its core missions. Treasury continues to fill a crucial role in economic policy making, international economic development, the financial war on terrorism, tax administration, banking and financial markets, and the government's financial management.

The budget proposal for fiscal year 2004 totals $11.408 billion. I am committed to rooting out ineffective programs and will continue the challenge begun in the fiscal year 2003 budget process for each Treasury bureau to carefully examine their operations to improve efficiency and effectiveness.

We have provided the Committee with a detailed breakdown and justification for Treasury's fiscal year 2004 budget request. I would like to take the opportunity today to just highlight four areas of focus for fiscal year 2004:

—Providing economic security, jobs, and growth,
—Ensuring the tax system is fair for all through a comprehensive compliance effort,
—Serving a critical role in the financial war against terrorism, and
—Maintaining the integrity of our Nation's financial systems and safeguarding our Nation's currency.

PROVIDING ECONOMIC SECURITY, JOBS, AND GROWTH

Treasury's primary focus is on developing and implementing policies to provide economic security, jobs, and growth for the American people. This mission is embodied in the President's Plan for Jobs and Growth. Its goals are to encourage consumer spending that will continue to boost the economic recovery; promote investment by individuals and businesses that will lead to economic growth and job creation; and deliver critical help to unemployed citizens. The President's proposal would: speed up the 2001 tax reductions to increase the pace of the recovery and job creation; encourage job-creating investment in America's businesses by ending the double taxation of dividends and giving small businesses incentives to grow; and provide help for unemployed Americans, creating new re-employment accounts to help displaced workers get back on the job.

ENSURING THE TAX SYSTEM IS FAIR FOR ALL THROUGH A COMPREHENSIVE COMPLIANCE EFFORT

A cornerstone of Treasury's mission is helping our citizens meet their tax responsibilities, while maintaining the fairness of the tax system for all and respecting taxpayer rights. This is mainly the responsibility of the Internal Revenue Service, which collects most of the revenue needed to operate government. This responsibility entails:

—Meeting the annual demands related to processing over 2.6 billion tax-related documents,
—Sending out over 95 million tax refunds,
—Providing quality service on taxpayer phone calls, email and walk-in assistance concerning tax law and account-specific questions, and
—Maintaining a balanced and comprehensive enforcement presence.

The fiscal year 2004 budget provides $133 million of new funding to focus resources and staffing toward the most significant areas of non-compliance, resulting in more examinations of high-income taxpayers and businesses.

Another proposal for fiscal year 2004 permits private collection agencies (PCAs) to support the IRS' collection efforts while affording full protection of taxpayer rights, allowing the IRS to devote resources to more complex enforcement and collection issues. PCAs are currently used by 42 state tax authorities and by other large federal programs. By eliciting the assistance of PCAs, the IRS should eventually be able to handle more collection cases at an earlier stage in the process—before the accounts become stale and non-collectible.

The fiscal year 2004 budget strives to improve the effectiveness of the Earned Income Tax Credit (EITC) program by ensuring that benefits go to those who qualify for them. The EITC program is aimed at rewarding those who work and helping families out of poverty. However, in 1999, between 27 and 32 percent of EITC claims—or between $8.5 billion and $9.9 billion—were paid in error. Congress has recognized this by providing a separate appropriation that has been used for EITC enforcement.

[1] The United States Customs Service, the United States Secret Service, the Federal Law Enforcement Training Center, a portion of the Bureau of Alcohol, Tobacco and Firearms, and the Office of Enforcement.

As a result, the fiscal year 2004 budget requests an additional $100 million to begin a new strategy for improving the EITC program. The IRS will begin to use an integrated approach to address potential erroneous claims by identifying cases that have the highest likelihood of error before they are accepted for processing and before any EITC benefits are paid. A key part of this strategy is to begin certifying taxpayers for the EITC. The IRS will seek to minimize the burdens on taxpayers by using existing databases and other sources of information to verify eligibility in advance. This integrated approach is designed to provide far greater assurance that EITC payments go to the individuals who qualify for the credit, without sacrificing the goals of the EITC program.

Fiscal year 2003 and fiscal year 2004 are key transition years for IRS core systems modernization efforts, as the foundation of our Nation's tax system is beginning to be replaced, building a bridge to provide interactive and improved customer service. The fiscal year 2004 budget provides $429 million for the continuation of the Service's modernization effort in re-engineering business processes and developing new business systems to replace the antiquated and obsolete system.

In fiscal year 2003 and fiscal year 2004, IRS will roll out the first two phases of a multi-year effort to replace the main taxpayer database. This new database will provide accurate tax account answers on a real-time basis, enabling IRS to develop new approaches to simultaneously improve tax collection and taxpayer assistance.

As a partial result of the transfer of nearly 70 percent of the Office of Inspector General account to the Department of Homeland Security and the Department of Justice, the fiscal year 2004 budget proposes a consolidation of the Inspector General services at Treasury, the Office of Inspector General and the Inspector General for Tax Administration. While retaining those specific functions outlined in the Restructuring and Reform Act of 1998 (RRA98), the combined Inspector General for Treasury will be responsible for providing oversight to the remaining Treasury bureaus.

SERVING A CRITICAL ROLE IN THE FINANCIAL WAR AGAINST TERRORISM

The campaign to stop the financing of terrorism is a top priority for this Administration and this Department. Treasury continues to play a critical role in this vital effort. This work touches on several of Treasury's core functions, and involves many of our jurisdictions, offices and departments.

Treasury implements these functions through a number of mechanisms. Treasury serves as Chair of the interagency Policy Coordinating Committee, which is responsible for coordinating the day-to-day development and implementation of policies to combat terrorist finance. We have also just created an Executive Office of Terrorist Financing/Financial Crime under the Treasury Deputy Secretary, which will work with the International Affairs Terrorist Financing Task Force and with the deputation devoted to critical infrastructure protection and strengthening U.S. legal and regulatory protections against terrorist finance in the Office of Domestic Finance.

Treasury continues to play a critical role in the law enforcement and regulatory communities' fight against terrorist finance through the Financial Crimes Enforcement Network (FinCEN), the Office of Foreign Assets Control (OFAC) and the Internal Revenue Service Criminal Investigation Division (IRS–CI). These entities will report to, and in the case of IRS–CI work collaboratively with, the newly created Executive Office of Terrorist Financing/Financial Crime.

The Financial Crimes Enforcement Network (FinCEN) fosters interagency and global cooperation and serves as a link between the law enforcement/intelligence communities and financial institutions and regulators in fighting domestic and international financial crime. Their strategic analyses of domestic and worldwide money laundering developments, trends, and patterns provide U.S. policymakers a platform on which important decisions concerning terrorist threats can be made. The fiscal year 2004 budget provides FinCEN an additional $6.8 million for administering additional requirements mandated by the USA PATRIOT Act of 2001 and subsequent regulatory requirements, including expanding the Bank Secrecy Act (BSA) to new industries, and accelerates efforts to enable electronic filing of BSA data more efficiently through the Patriot Act Communications system.

Through the FinCEN, Treasury continues to support the FBI's Terrorism Financing Operations Section, the Policy Coordinating Committee Action Group on Terrorist Financing, and the National Money Laundering and Terrorist Financing Strategy of 2002 (formerly the National Money Laundering Strategy).

The Office of Foreign Assets Control administers and enforces the U.S. government's economic sanctions and embargo programs against targeted foreign governments and groups that pose threats to the national security, foreign policy, or economy of the United States. Since September 2001, Treasury's Office of Foreign Assets

Control has frozen over $36 million in terrorist assets in U.S. financial institutions. OFAC's designation and asset blocking process has served as the spearhead of the President's financial war on terrorism.

The Internal Revenue Service Criminal Investigation (IRS–CI) Division specializes in analyzing complex financial information and determining whether that information is in violation of tax laws, money laundering laws, and the Bank Secrecy Act. In addition, IRS–CI is heavily involved with the Joint Terrorism Task Forces (JTTFs), Operation Green Quest and similar partnerships focused on disrupting and dismantling terrorist financing. In particular, IRS–CI is focused on preventing the abuse of charities by those who support terrorism.

The coordination of Treasury's multi-faceted efforts to combat terrorist financing and other financial crimes, both within the United States and abroad, will be led by the newly created Executive Office of Terrorist Financing/Financial Crimes. This Office, in coordination with offices within the Treasury and other government agencies, will work to reduce the risk that the domestic and international financial systems are being misused by criminals and terrorists, and using these same systems to identify, block and dismantle sources of financial support for terror, money laundering, and other criminal activities.

This new office works side by side with the International Affairs Task Force on Terrorist Financing (TFTF), which was established shortly after September 11th to track and monitor countries' efforts to combat the financing of terrorism and to devise strategies to build an international coalition. The TFTF helps coordinate international designation of terrorists, which has resulted in a global total of $124.9 million in terrorist assets being blocked. The TFTF coordinates Treasury's anti-terrorist financing efforts in the international financial institutions, multilateral forums such as the G–7 and G–20, and bilaterally with other finance ministries.

MAINTAINING THE INTEGRITY OF OUR NATION'S FINANCIAL SYSTEMS AND SAFEGUARDING OUR NATION'S CURRENCY

In fiscal year 2004, Treasury continues its responsibility to maintain the integrity of our Nation's financial systems and safeguard our Nation's currency.

The Financial Management Service will continue to improve the quality of Federal financial management, fully implement debt management services operations, modernize Government-wide accounting and reporting infrastructure, and progress toward an all-electronic Treasury financial system.

The Bureau of the Public Debt will continue its management and support of the applications and systems used to conduct Federal borrowing and debt accounting operations, re-enforcing its mission of providing high quality customer service to investors in Treasury securities. Public Debt's customers range from individuals with small amounts to invest, to the largest financial institutions, as well as the more than 200 Government trust funds.

The Office of the Comptroller of the Currency serves as the Administrator of National Banks, chartering new banking institutions only after investigation and due consideration of charter applications and supervising existing national banks through the promulgation of rules and regulations for the guidance of national banks and bank directors.

The Office of Thrift Supervision charters, regulates and examines Federal thrifts, cooperates in the examination and supervision of State-chartered thrifts and reviews applications of State-chartered thrifts for conversion to Federal thrifts. They also review applications for the establishment of branch offices.

The activities of the United States Mint and the Bureau of Engraving and Printing are vital to the health of our Nation's economy. These agencies share the responsibility for ensuring that sufficient volumes of coin and currency are consistently available to carry out financial transactions in our economy. They are also responsible for manufacturing cash products that not only foster domestic pride, but also promote respect and confidence in the world's most accepted currency.

The United States Mint receives no appropriation and, under its Public Enterprise Fund, operates in a business-like fashion that enables it to respond to the needs of retail commerce. In addition to producing a reliable supply of circulating coinage—including the newly designed coins of the 50 State Quarters® Program—the United States Mint will continue to fulfill its mission to produce the Nation's commemorative coins, medals, bullion coins, and other numismatic items, as well as its mission to protect the Nation's precious metals and other assets at Fort Knox and at other United States Mint facilities.

The Bureau of Engraving and Printing is in the process of redesigning our Nation's paper currency to counter the trend of computer generated counterfeiting. Building on past security features, the new design, known as NexGen, may begin

circulation in the $20 note as early as fall 2003, with the $50 and $100 notes to follow 12 to 18 months later.

FOUNDATION FOR SUCCESS—THE PRESIDENT'S MANAGEMENT AGENDA

We continue to use the five elements of the President's Management Agenda as a guide to achieving Treasury's key priorities, and accomplishing the overall mission and goals of the Department.

For fiscal year 2002 and 2003, many of Treasury's accomplishments in implementing the President's Management Agenda were in the area of expanded electronic government. Specific efforts included:

—The Internal Revenue Service has made significant progress towards achieving the Congressional goal of having 80 percent of all tax and information returns filed electronically by 2007. In fact, as of May 9, nearly 43 percent of all returns were filed electronically. During 2002, IRS partnered with the Free File Alliance, a consortium of private sector companies, to provide free Internet filing of 2002 Federal tax forms for most taxpayers. IRS has also provided functionality to allow taxpayers to check the status of their refund on the web.

—In fiscal year 2002, the Financial Management Service issued 73 percent of all payments (666 million of 919 million) by electronic funds transfer. FMS also collected 79 percent ($1.8 trillion of $2.27 trillion) of all federal receipts electronically.

—In 2002, the Bureau of Public Debt introduced the Treasury Direct system, by which retail investors can purchase electronic Series I inflation-indexed savings bonds. This is the first step toward the Bureau's goal to convert all savings bond holdings to paperless form.

Treasury has also set the standard as the best in the government for improved financial performance, with all of its bureaus now closing their financial statements within 3 days after the close of each month and issuing audited fiscal year 2002 consolidated financial statements within 45 days after the end of each year.

CONCLUSION

Mr. Chairman, while I have served as Treasury Secretary for only a short time, I have already been deeply impressed by the intelligence, professionalism and dedication of the people with whom I have worked. This is especially true during these challenging times.

I look forward to working with you, Mr. Chairman, as well as members of the Committee and your staff, as we move into fiscal year 2004 to maximize Treasury's resources in the best interest of our country. I am hopeful that together we can work to make this Department a model for management and service to the American people.

Thank you again for the opportunity to present the Department's budget today. I would be pleased to answer your questions.

Senator SHELBY. Thank you, Mr. Secretary.

RESTRUCTURING TREASURY

Mr. Secretary, you are a new Secretary, relatively new—not new to Washington, though—at a Department that has undergone substantial institutional change since passage of the Homeland Security Department. With the transfer of the majority of Treasury's law enforcement missions, how has the Department reprioritized its other functions to better focus on its core missions? And how is that focus translating into the budget request and the DO modernization study?

Secretary SNOW. The restructuring of the Treasury Department as a result of the creation of the Department of Homeland Security and the transfer of so many of our enforcement functions has changed the Department in some fundamental ways, and those changes are reflected in our budget, Mr. Chairman. We have lost over 30,000 people, so we are a smaller Department. We have reduced the budget by over $3.5 billion. And while the Department is smaller as a result of the Homeland Security transfers and the

transfer to Justice of a part of our functions, I think we are more focused. I think we have the ability because of this restructuring to put more concentrated effort on economic policy, which I think is a core part of what the Department does. That is really the central mission, as I see it.

Secondarily, of course, the direct responsibilities of the IRS bulk are much greater now. This will give me much more opportunity to focus on the effectiveness and fairness of IRS implementation.

Finally, terrorist finance, I see that as the third major area. I think our budget this year, Mr. Chairman, reflects those priorities very much.

Senator SHELBY. Mr. Secretary, I know you have lost a number of employees to Homeland Security, but you still have thousands of employees. Roughly, how many do you have?

Secretary SNOW. Well, we have a little over 100,000 employees, most of whom are in the IRS. The IRS is about 90 percent, I would say, of the people in the Department today.

PRESIDENT'S TAX PACKAGE

Senator SHELBY. I want to ask you a number of questions. The President's tax package included a proposal to eliminate the dividend tax, and the Senate followed suit by including a short-term elimination. What we have done, I think, overall has made investment a better choice for all Americans.

Mr. Secretary, if investment is critical to our economy, which I think we both believe it is, does it make any sense to penalize investment with an unnecessary tax like the dividend tax?

Secretary SNOW. Well, not in my view.

Senator SHELBY. Not in mine either.

Secretary SNOW. I am a strong advocate of lowering the taxes on dividends.

Senator SHELBY. How does repealing the dividend tax help to restore investor confidence in our securities markets, which we desperately need to do? And what effect does it have on the ability of individuals to rationalize risk in the markets? And, lastly, what effect will that have on corporate governance? Because on the Banking Committee we have had testimony that that could change the way a lot of companies operate.

Secretary SNOW. I think the dividend proposal is one of the most far-reaching and significant in recent tax policy because it will lower the cost of using equity capital. Today, the Tax Code is tilted because of the lower cost of debt capital towards greater reliance on debt capital. As a result, the debt-to-equity ratios in American companies are higher than they otherwise would be. So a first effect of the proposal would be to lower the cost of equity capital, encourage greater use of equity capital, and, thus, change the debt-to-equity ratios to be more conservative.

One major benefit of that is more conservative debt-to-equity ratios makes our firms less vulnerable, less stretched, during periods of economic downturn.

Senator SHELBY. It makes them stronger in a way, doesn't it?

Secretary SNOW. It does, Mr. Chairman.

EARNED INCOME TAX CREDIT

Senator SHELBY. I just want to get into the Earned Income Tax Credit for just a minute. The earned income tax credit compliance effort has experienced problems since its inception. We know that. I am interested in making sure that the initiative works properly. We want to make sure that it works for the people that it was intended to help, but I see no rationale for not pushing reform to eliminate the errors in payments to people who don't qualify or if there is an overlapping qualification, you know, a double hit, because if we are going to have a program such as the Earned Income Tax Credit, it ought to be run right. And $9 billion, perhaps more, erroneous payments, there is no excuse for that in any situation, and I want to make sure that you have the money to put the software together or whatever you have to have to run this program right for the people who are receiving it but right for the taxpayers who are paying for it.

Secretary SNOW. Well, I appreciate that very much, and the numbers you cited in your opening statement are the very numbers that look to us to be about right; misapplication of funds are roughly one-third of the whole program.

But this is not an effort to do anything other than make sure that the benefits are made available to the right people and made available in a way that doesn't have us coming back with post-audit assessments and after-the-fact reviews and withholdings.

Senator SHELBY. If there are people out there, as Senator Murray mentioned in her opening statement, that aren't getting it but would qualify for it, reaching out to them and letting them know about it would make sense. You could pay for that additional 25 percent of people who are not getting it, as I heard in her testimony, by eliminating the mistakes and the fraud in the program.

Secretary SNOW. Mr. Chairman, that is our approach: to avoid what must appear to many people to be after-the-fact harassment, because we got it wrong in the first place.

I look at this in a very straightforward way: Get it right the first time, reduce the errors, and the system will function much better. People will have much more confidence in it if we get the criteria set right.

Senator SHELBY. I think this should be one of your top priorities. I hope it will be. That kind of money, it makes no sense to waste.

Secretary SNOW. Right.

EXECUTIVE OFFICE FOR TERRORIST FINANCING AND FINANCIAL CRIMES

Senator SHELBY. Mr. Secretary, what is the mission of the newly created Executive Office of Terrorist Financing and Financial Crimes?

Secretary SNOW. This is to give us, Mr. Chairman, a more coherent and stronger point of attack on financial crimes, money laundering, and those sorts of things. We think that this new office will be organized to carry on these activities with more focus and be more effective.

Senator SHELBY. How does this interface with the other bureaus within Treasury that are tasked with similar missions?

Secretary SNOW. There is a close coordination between the Office of Foreign Asset Control (OFAC), which deals with the foreign assets and the designation of banks and financial institutions that are engaged in illicit activities, and the Financial Crimes Enforcement Network (FinCEN). They are coordinated.

Senator SHELBY. OFAC.

Secretary SNOW. OFAC and FinCEN and the IRS Criminal Investigations. It is sort of a matrix, but there is a coordination among them. And our General Counsel, David Aufhauser, serves as the sort of quarterback for these functions to make sure they are all well coordinated.

Senator SHELBY. Mr. Secretary, do you believe that the Department of Homeland Security has taken too much of what you have to fight financial crimes, investigating other crime? Or do you think you will have the resources?

Secretary SNOW. Mr. Chairman, I think we have all the tools that we had before in terms of the enforcement powers—the PATRIOT Act, other legislative tools, and OFAC—that we need. I think we will need to rely from time to time on other agencies, though, to do the actual on-the-ground enforcement and maybe some of the investigative work.

Senator SHELBY. Thank you, Mr. Secretary.

Senator Murray.

EARNED INCOME TAX CREDIT (EITC)

Senator MURRAY. Thank you, Mr. Chairman.

Mr. Secretary, let me go back to the EITC because I have some questions on that. I understand that you are requesting $100 million and 650 FTEs in 2004 to launch this initiative. It is estimated that 25 percent of eligible families do not participate in this program, and only $13 million of the amount you are requesting is targeted on bringing those eligible families into the program.

Your agency has claimed as much as $9 billion in the EITC overpayments annually, but there is likely to be between $10 and $12 billion in payments that would be made if all working poor families were eligible.

I am curious why your agency is requesting so much additional funding to eliminate the overpayments and such a paltry additional amount to address the underpayments.

Secretary SNOW. Senator, we are requesting the funds that we think are appropriate to put in place the sort of processes that will address all the problems and address them effectively. The biggest problem is this criteria problem.

Senator MURRAY. It seems to me there are two problems. There is the problem in payments that are made that shouldn't have been, but there is also the problem in reaching out to the working families, 25 percent of the eligibles, who are not. Correct?

Secretary SNOW. Right. Let me ask Ms. Ressel, who has been working this issue very closely, to respond on that.

Ms. RESSEL. I think you are correct that there are two issues, and it is important to not overlook the first one. If you think about it in two parts, the first important part is to find eligible recipients. We have tried to work analytically with the people who are responsible for putting together this package; it is my understanding that

this is the first year of a 2- or 3-year plan on what we need to do with EITC.

Analytically, when you look at the investments of the $100 million, the designers of the program tried to invest a certain amount of money into the infrastructure for the technology to make sure that the people who were eligible and didn't have an income problem could be matched through the technology and never have to audit them again.

Then in parallel, it is my understanding that IRS was trying to work with the United Way and do an outreach program for military families.

Senator MURRAY. Okay. Let me go into that, because there is only $13 million for the outreach part, and I want to try and understand, Mr. Secretary, what your strategy is in reaching out to these working poor families to advertise, in media outlets, I assume it is, that working poor families are likely to see.

I have a copy with me this morning of CQ Today, which was from Friday, May 16th. It is Congressional Quarterly's online daily newsletter, and it has a nice picture of Senator Nickles on the front here talking about the dividend tax surviving the Senate. And in it is an ad on the earned income tax credit.

Now, the CQ, to get it you pay a subscription of $2,430 a year. I think it is made free to some Capitol Hill offices, but it is mostly a newsletter that is targeted to lobbying firms and Government relations offices. And I don't understand how the use of money to advertise in this is going to help outreach to poor families who are devoting 20 percent of their annual income to subscribe to this.

Ms. RESSEL. We do not know when that happened, but we will ask the IRS to respond to you. We do know from our briefing in preparation for today that a number of the agencies included welfare-to-work, Health and Human Services, Annie E. Casey Foundation funds, that we have worked——

Senator MURRAY. Well, is this part of the funds that you are using for outreach?

Ms. RESSEL. I don't know. We will find out and get back to you.

Senator MURRAY. Well, if you could tell me precisely how much taxpayer money has gone into lobbying Congress——

Ms. RESSEL. For that one.

Senator MURRAY [continuing]. As this appears to be, rather than to outreach of that outreach money, I would like to know the answer to that.

Ms. RESSEL. We will find out.

Senator MURRAY. Okay. Let me also ask about the comment period, because 2 weeks ago IRS testified to our companion subcommittee in the House of Representatives that there would be a formal public comment period on this new process and draft forms would be required to be filled out by working poor families. And that makes sense since the IRS customarily has a public comment period for any major changes in procedures and forms.

However, we are now told that you may be planning to send out these forms within a few months and that no formal public comment period has been announced in the Federal Register. So I need to know, Mr. Secretary, whether the agency is changing their mind,

if there is going to be a public comment period, and how that will be done.

Secretary SNOW. Senator, that is really a matter for Mark Everson, the new Commissioner, to——

Senator MURRAY. Doesn't your agency determine whether there is a formal comment period?

Secretary SNOW. Yes, but as I was saying, he will have the lead on this. At this point, to my knowledge, no decision has been made about the notice or its publication. The new Commissioner wants to have a little time on the ground to review the initiative before he moves forward or we move forward with the notice.

I would say we would expect to have something fairly soon, but we have not set a date yet.

Senator MURRAY. Will there be a formal comment period? That is a pretty important issue when we are dealing with thousands of forms that are going to families that have never been vetted before.

Secretary SNOW. I don't know that we have reached a conclusion on that yet. I would want to hear the IRS Commissioner's recommendation.

Senator MURRAY. Could we get an answer back to the committee on that, please?

Ms. RESSEL. Sure. We will give you an answer. But I would like to talk to the IRS Commissioner first.

Senator MURRAY. Okay. I understand.

Well, I will tell you that last month the Acting IRS Commissioner assured me that your agency would be getting a thorough evaluation of the impact of this new process on EITC participation before you expand your effort to 2 million working poor households, and I want to ask again: Will your agency be getting a thorough evaluation on the impact of this process before we expand it to 2 million households?

Secretary SNOW. I think there is a major effort underway, an outreach program, to hear from taxpayers and taxpayer groups. Certainly we will want to draw broadly on taxpayer responses on this.

Senator MURRAY. Mr. Secretary, what we want to know is whether there will be information on the impact to the working families before we broaden this out to 2 million families and have a complete disaster—or maybe a complete success. Are you going to look at it first, as we were told originally, or not?

Secretary SNOW. Senator, yes, this matter is being studied pretty carefully, and I understand there is a pilot program underway right now.

Senator MURRAY. That was our understanding. There was a pilot program; we would look at the results of that before we expanded it to 2 million people. I am concerned now that before we ever look at the results, determine whether or not there was complete confusion on a sentence or a pause or a question or anything, that we then send it out to 2 million people and exacerbate a problem that we could solve by doing a pilot project.

Secretary SNOW. Senator, let me say, we are not going to put this out until we have great confidence that it will work.

EXTRATERRITORIAL INCOME (ETI)

Senator MURRAY. Okay. Well, we will be following this very closely. I agree with you we need to find tax fraud, but I also think we need to do it correctly; otherwise, we are going to create problems for a subset of people in this country that I don't think is very fair.

Let me move to another question. On April 1st, I sent a letter to the United States Trade Representative Bob Zoellick expressing my serious concerns regarding the Administration's support for simply repealing the Extraterritorial Income Exclusion Act of 2000 in response to a dispute with the European Union. I could have sent this letter just as easily to you. I know that international tax policy is part of your Department's responsibility. And I am very concerned that the Administration is proposing to leave U.S. exporters and U.S. workers at a severe disadvantage to our foreign competitors.

The Administration's position on the FSC/ETI issue is a job killer for my home State of Washington and the Nation, in my estimation. Given your background and your short tenure in the Administration, I would just like to hear your views on the issues and find out if the Administration is going to continue to support a full repeal of the ETI. Or do you have any comments on the various legislative proposals that are before us on this?

Secretary SNOW. Well, Senator, that is a matter we are beginning to get into with real earnestness. The President has made it clear that he would like to see legislation this year to deal with the World Trade Organization (WTO) issue. We are facing sanctions from WTO, sizable sanctions, unless we show progress on the issue. We are intent on trying to be helpful in moving a legislative vehicle. The cornerstone of it, though, must be something that is WTO-compliant, and from our point of view, doesn't prejudice American businesses. So we——

Senator MURRAY. In your opinion, should we just back off? I am hearing some of the Administration just say we should just back off and surrender our export incentives. Is that your opinion?

Secretary SNOW. Senator, I don't want to offer a premature view on our position. What I want to do is see legislation that will protect the interests of American businesses and avoid anything that is prejudicial to American businesses, while getting legislation through so we are WTO-compliant.

We have tried various things, two or three series of adaptations to try and get compliance; and they have all been found to be noncompliant. I think this time it is very important that we get compliance. But through our Office of Tax Policy, we are engaged in a serious and far-reaching set of discussions with American business to make sure we can come up with the very best set of proposals, and until we are a little further down the road with those discussions and those analyses, I think it would be inappropriate for me to say what precise form the legislation should take. But we are getting closer to the point where we are going to have to do that.

Senator MURRAY. I thank you, Mr. Secretary. I know my time is up. I just think it is really important that we do not back off and

surrender. I hear people saying they don't want a trade war. Well, I think it is the Europeans who have declared a trade war on this country, and I think we need to push back and find a solution because it is so important to so many people who have jobs in this country and depend on this.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Byrd.

STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. Thank you, Mr. Chairman.

Mr. Snow, we have had very good relations in the past.

Secretary SNOW. Thank you.

Senator BYRD. And I look forward to working with you. I compliment you on being the new Secretary. You follow a line that goes back to the very beginning of the Republic, and, of course, the first Secretary was Alexander Hamilton, probably the greatest of all. And you will recall that he died on July 11, 1904—he died on July 12, 1904—1804, as a result of a duel with Aaron Burr, which took place the day before, on July 11, at Weehawken, New Jersey. And he lived through the night with excruciating pain, with his dear wife and seven little children around him, crying. He died on the 12th. A great Secretary. A great Secretary of the Treasury.

I just recall those things about Hamilton because I once wrote a paper on the great enigma, Aaron Burr. I won't go into that at this point except there was a good side of Aaron Burr. Of course, we know about the dark side. But there was a good side. He had a daughter named Theodosia, whom he revered, and, of course, she idolized her father, Aaron Burr.

PRIVATE COLLECTION AGENCIES

But so much for that. The IRS seemed determine to hire private debt collection agencies to pursue delinquent taxpayers. Did you know that the Romans did that also? Yes, the Romans tried that. And you may recall the latafundia. The latafundia gathered up farms, and the little farmers in Appenines migrated into the cities and joined the mob seeking free bread and theaters. Anyhow, it didn't work so well with the Romans, nor did the letting out of the taxes, the tax collectors. You might do well to go back and review the experiences of the Romans, out of the Roman Republic.

Two pilot projects—now we will get back to our own Republic, and this is a Republic. Two pilot projects in 1996 and 1997 were authorized by Congress to test the private collection of tax debt. The 1996 pilot flopped so badly that the 1997 project was canceled. Contractors used aggressive collection techniques and failed to protect the security of sensitive taxpayer information.

Even if privacy guarantees are built into the law, the IRS does not have enough personnel to monitor the work of contractors and to enforce privacy protections for taxpayers. In an age when private protections are under assault and identity theft is rising at a head-spinning rate, turning the duties of taxpayer collections over to private firms with limited accountability to the American people is just plain nuts.

If the President's budget does not request adequate funds, Mr. Secretary, for the IRS to do what is inherently a governmental job,

why is the Department not asking this subcommittee for more money? Why are you risking the privacy rights of the American taxpayers on a scheme that had already failed when the Department could simply request more money to hire additional IRS personnel to track delinquent taxpayers? So why is the subcommittee not being asked for more money for that purpose?

Secretary SNOW. Senator, I think the answer is that the Department felt that the resources of these very talented IRS agents could better be used on the more complex cases than the simpler cases that involve acknowledged obligations. That is what the private collection people will focus on. The so-called low-hanging fruit of the system will lead to a better use of the scarce resources of the Internal Revenue Service.

Senator BYRD. So, in essence, you are suggesting, I suppose, that it is cheaper to contract out those services.

Secretary SNOW. More effective, I think is the way I would put it, Senator. We have a new Commissioner at the IRS. Actually, he has come from OMB. Prior to that, he had been in the private sector. Mark Everson——

Senator BYRD. You won't hold that against him, will you?

Secretary SNOW. No, I won't. I have talked with Mark about this. He in a sense is being held by his own petard here because as an OMB person he helped to structure the budget of the Department of the Treasury. Now he is going to be forced to live with his own policies.

But he is convinced, Senator, that the budget that has been requested will allow for more effective enforcement of the Code and more effective collection of the revenues and be fairer to the taxpayers.

Now, Mark and I have scheduled a weekly meeting. We are going to continue to review this matter. We are going to continue to be open-minded and review this private collection activity. Ms. Ressel has told me about the mistakes that were made in the past that you have talked about here. If this isn't going to work, we will be the first to tell you that it doesn't work. The experience last time around was one that we need to benefit from, use to our advantage, and not make the mistakes of the past.

But, Senator, if we need more resources, I will be the first to tell you. If this project doesn't produce results, we will be the first to tell you as well.

Senator BYRD. The National Treasury Employees Union cites a cost analysis put together last September by former IRS Commissioner Charles Rossotti, and that analysis said that if the Congress would appropriate an additional $296 million to hire additional IRS compliance staff, the agency could collect $9.5 billion in tax debts annually. That is $32 for every taxpayer dollar spent compared to $3 for every $1 paid to a debt collection agency.

This is a study performed by the Bush Administration, and if we are looking for the best value for the American taxpayer, why should the Administration be advocating a proposal that costs more and does less to protect the privacy rights of taxpayers?

Secretary SNOW. Senator, Ms. Ressel is much closer to this because she wrestled with these issues in coming up with this budg-

et. She is the principal, the CFO of the Department. So, Teresa, I am going to ask you to give the Senator the response.

Ms. RESSEL. Senator Byrd, your comment about the ratio is correct: Mr. Rossotti had asserted that it was about 30:1 if the revenue collection is done inside the agency——

Senator BYRD. Yes.

Ms. RESSEL [continuing]. And that if you use the collection agencies, that it would be a much different ratio.

My understanding of this proposal is that it will be for the simpler cases. From listening to Commissioner Everson's testimony before you the week before last was that his big theme was that if you were to add additional resources to the IRS—and that might be something that Mark thinks he needs and he will work out with Secretary Snow for 2005—that they would not be used for this particular issue.

And so it is my understanding that that is the rationale that they used. It may not make sense at all when you look at the ratios, but no matter how many resources you may add to the IRS incrementally, there will always be something that they can't cover. If you used that logic, then perhaps that is where the Commissioner and the IRS team basically look at this. They look at this as a very low-end issue relative to covering an item that, even if you added an additional $1 billion, that they wouldn't dedicate the money to this. That is my understanding of the situation and the way they looked at the resources, sir.

Senator BYRD. Mr. Secretary, my time is up, but I have to say that I am very, very suspicious of the privatization scheme. It seems to be stretching pretty much across the board with the Administration. Congress needs to oversee it very, very carefully, and we will be watching and listening for the record that you intend to make here and for the information that you will follow up with to this subcommittee on this subject.

Secretary SNOW. Mr. Chairman, those are fair comments; we will keep you well advised on this. If it doesn't pan out the way we hope it will, we will be the first to acknowledge that. We have to acknowledge that in the past this didn't work out very well, and there are some reservations this time. We are hopefully going to make a success of it, and learn the lessons of the past. But if we don't, I commit to you we will acknowledge that.

Senator BYRD. Very well. Thank you, Mr. Secretary.

Senator SHELBY. Senator Specter.

STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Thank you very much, Mr. Chairman.

Mr. Secretary, welcome to this subcommittee on your first appearance since being sworn in.

Secretary SNOW. Thank you.

ECONOMY

Senator SPECTER. Unanimously approved, that is a pretty good start with the United States Senate.

Mr. Secretary, we are on the verge, as you know, of passing a tax cut, and one of the questions which is asked of me continuously as I travel through my State is the impact on the economy. What

is the likelihood that there will be a significant benefit? And we know that we have a $10 trillion economy. Over a 10-year period with inflation, it comes to about $140 trillion. The President advocated a $726 billion tax cut. I supported that. The House came in at $550 billion, the Senate at $350 billion. And I supported the President because I think it is worth a try. And he has formulated the plan, and I think we ought to give his leadership a try at what he has.

There have been a lot of contentions that there is a lot of posturing on all sides, one group playing to its base on one line, et cetera, and it has been one of the most contentious issues that I have seen in my tenure in the United States Senate.

Vice President Cheney was on hand to break a 50/50 tie on one of the amendments, and then he had to sit around for 2 hours while the managers' report was structured. This was the first time I saw a Vice President sit in a Senator's chair.

Senator Byrd, I have to question—I should have come to you—whether that was appropriate. Anybody who sits in a Senator's chair besides the Senator would get a fast escort by the Sergeant-at-Arms out of the chair. A Member of the House was in last week, sat down, and it was almost as if he was in the electric chair, he got up so fast when he was prompted.

But I mention the Vice President to demonstrate how close it is. You are a Ph.D. in economics as well as an L.L.B. and a corporate executive of great standing, and now Secretary of the Treasury. What is the best articulation that this tax cut at any figure—at the $350 billion figure, which it appears to be—will have a significant impact on lifting up the economy?

TAX CUT

Secretary SNOW. Senator, the economy is in a recovery, but it is a weak recovery. The tax plan that I hope comes out of a conference soon will, in my view, give the economy a lift for a couple of reasons:

One, it will put more disposable income in consumers' pockets. As people have more money in their pockets, they tend to spend more.

This has a particularly important effect on small business because so many small businesses pay their taxes through the individual tax return—23 million of them—and those 23 million businesses will become more profitable because of the tax plan. As businesses become more profitable, they become more inclined to make capital expenditures. Our economy is weak is on the capital expenditure side, yet we have consumers staying pretty strong. We have a strong housing market. It is the business expenditures for capital and expansion that have been weak. Small business is the principal engine. So I would say that more money in people's pockets and making small business more profitable will lead to more spending and expansion.

There is also that provision immediately giving small businesses another $75,000 a year of free cash flow. That will be helpful.

Then I would go to the dividend side and say that is important as well. To lower the costs on paying out equity capital makes equity capital more attractive, which should help the stock market.

We are now an investor society with half of the American households owning equities. A rising stock market will buoy the spirits of the American consumers and businesses.

I think this plan is well calculated to lift the growth rates of the economy by as much as one percentage point this year and another close to one next year, taking us from the sort of anemic 1.6 growth rates that we have today to growth rates that are up in the mid 3's. Once we get to the mid 3's, then we begin to move back up towards a full employment economy.

Senator SPECTER. If the cut had been or were to be $726 billion instead of $350 billion, what greater percentage increase would that project?

Secretary SNOW. The way the Congress has structured the provisions in the package, it seems to be moving through both the House and the Senate. It is front-loaded in the sense that it has a lot of the impact that the bigger package would but it has a shorter period of time, and there are sunsets, which will have early-year impacts. In fact, in some ways it has been front-loaded to have more impacts in the early years. So for 2003 and 2004, the way it is structured, I think in both the House and the Senate, could have more impact in the early years than the initial package.

Senator SPECTER. So you are saying the $726 billion would not necessarily have given a greater boost?

Secretary SNOW. I don't think it would have had a discernibly greater boost in the early years. I think it would have a greater boost for economic growth over the full period. Sure, the bigger, the better, as far as I am concerned, Senator. The way it has been structured, I think you will get most of the benefits, even though the numbers have come down. But I think to get the full benefits, it will be incumbent to come back in a couple of years and move those dates out. The tax provisions that sunset in 2005, and so on, I think should be made permanent, or at least added years to them.

PRIVATIZATION OF TAX COLLECTIONS

Senator SPECTER. Mr. Secretary, I would pick up just for a moment on what Senator Byrd said about privatization of collection. I opposed an amendment which would have prohibited the Treasury Department from going to private collection agencies because I think it is a matter that you ought to decide. We ought not to micromanage your Department on that particular matter. But I have a concern that a private collection agency may engage in tactics which a governmental agency would not. It is analogous to a quasi-judicial function. Some private collection agencies do things which really ought not to be done. They may be within the letter of the law and sometimes they are not even there; whereas, a governmental agency is going to have a little different perspective, try to collect debts but do so in a fair way. So I urge you to keep a close watch on that particular aspect.

I do share a concern with the power of the Federal Government and the Department of Justice and their Civil Division, and you have got a lot of lawyers in the Treasury Department, and you are a lawyer yourself, as some of us are on this panel. There would be good reason to think you would have enough muscle, skill, and ex-

pertise to do the collections. But if you are determined not to, take a close look at the practices the collection agencies use.

Let me ask as my final question—I am under a minute now—as to the $133 million to expand efforts to enforce fair compliance among high-income taxpayers and businesses. What do you expect there?

Secretary SNOW. Senator, this is a matter that I intend to spend a lot of time on with Mark Everson, the new IRS Commissioner. What we expect is that high-income people and businesses will be held to the same tough-minded enforcement standards that the populace at large is. Over time, the clever tax avoidance schemes have become more and more complicated, more and more involved, and require more skilled and dedicated efforts to penetrate them. This is an effort to make sure we penetrate those clever tax avoidance schemes that are used by corporations and high-income people in a purposeful way and make sure that they are paying their fair share of the tax burden as well.

And on your prior point, I am in total agreement with what you and Senator Byrd said. We are going into the private collection activity wary of the risks, concerned about the potential problems that you and Senator Byrd alluded to, and committed to doing our very best to avoiding them. But if they are unavoidable, if they materialize, then we are going to be the first to say this doesn't work and this is the wrong way to go.

FLAT TAX

Senator SPECTER. Mr. Secretary, let me ask you a question for the record, which is an involved question, which I would appreciate your study and response to, and that is on a flat tax proposal. The Senate passed a resolution to push ahead with our Finance Committee and our Joint Economics Committee with analysis of a flat tax. And the model most frequently cited is the Hall-Rabushka model, two professors at Stanford.

Secretary SNOW. Right.

Senator SPECTER. And I believe the flat tax has never really been considered. I put a bill in back in the spring of 1995, and others have proposed it, and I would be interested to see a study—I was about to say "a serious study," but I know any study you do will be serious. And let us respond to this subcommittee with what you think, because there is an occasion, after all the problems we are having with the tax cut, and we are nibbling at the edges and barely doing that, it is time we really gave a serious line of analysis. And I would appreciate it if you would undertake that, Mr. Secretary, for your Department.

Secretary SNOW. We will do that, Senator, and get back to you on that.

Senator SPECTER. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

ECONOMY

Senator SHELBY. Mr. Secretary, I want to talk to you a little bit about the economy. We have the largest economy in the world. I believe the Japanese is second and the German economy is number three. Is that correct, sir?

Secretary SNOW. That is right, yes, sir.

Senator SHELBY. The Japanese economy is sputtering along. They have deep problems, as we both know, in the banking sector that they have not really addressed.

The German economy is the locomotive of Europe, has been and probably will be. I saw the other day where it had gone into a recession, the numbers. Is that correct, sir?

Secretary SNOW. Yes, Senator, it is. They reported negative growth rates for two quarters in a row.

Senator SHELBY. What is the status of the Japanese economy? Is it growing or is it sputtering, but is it growing?

Secretary SNOW. It is growing, but modestly. I have just returned from meetings with the G–7 and had a bilateral discussion with Minister Shiokawa, the Finance Minister of Japan. He indicated that they would have positive growth for their fiscal year, which begins April 1, but that it would be in all likelihood less than 1 percent.

Senator SHELBY. Our economy seems to be uneven all across the country. It depends, in my State of Alabama, we have got counties with 3 percent unemployment, 3.5, 4, and then we have some much higher.

Secretary SNOW. Right.

Senator SHELBY. But I see that around America.

Secretary SNOW. Yes, I agree. It is uneven.

Senator SHELBY. How do you see our economy growing? We are in the second quarter of the calendar year now. Will it pick up in your estimation, in your judgment, remarkably so? And I am not talking about a hot economy. I am talking about a movement toward an economy where people are hiring again, where managers have confidence that they are going to sell their products and so forth. Do you think that we will pick up by the fourth quarter of this year?

Secretary SNOW. Senator, I think we are in a recovery with many elements of a stronger recovery in place: low interest rates and high productivity, evidence in the first quarter that corporate profitability is returning, and of a very good housing market, which has helped offset some of the adverse effects of the stock market.

Senator SHELBY. Without the housing market, without low inflation and low interest rates, the economy wouldn't be where it is today, would it?

Secretary SNOW. Absolutely. Those have been keys to our success, and the consumer who has stayed in the game continues to be quite engaged in spending money.

I think, Senator, that the elements are there for a good recovery in the second half. I think the tax plan, if it gets adopted here soon, will be a real plus and will add to the growth rates. I would look to growth rates in the fourth quarter getting back up towards where they should be.

Senator SHELBY. Two and a half percent?

Secretary SNOW. Two and a half to 3 percent could well be the number.

Senator SHELBY. A 2.5 percent growth rate, although we would like it higher, would be an improvement.

Secretary SNOW. A very marked improvement—that is that 1 percent pick up that I said I think is in the cards for us.

Senator SHELBY. I saw where the 10-year bond, I believe, closed yesterday at 3.50?

Secretary SNOW. Lowest in 40 or 45 years.

Senator SHELBY. Now, that bodes well for people who are refinancing their home, their businesses, and so forth, does it not?

Secretary SNOW. It absolutely does. Therefore, if we can get these low interest rates and some pickup in aggregate demand, I think the economy could begin to make a nice, strong recovery. I would also mention, Mr. Chairman, the fact that corporate America, which in the late 1990s was expanding a lot, growing, merging, and so on——

Senator SHELBY. Created a lot of capacity.

Secretary SNOW. Created a lot of excess capacity, and we have excess capacity hanging over a number of industries today. We have corporate America leaning out its costs and becoming much more productive, learning to do more with less. That is hurting us on the employment numbers. But when the aggregate demand picks up, I think our corporate sector is poised to have much higher profitability, and as they get higher profitability, then I think we are going to see the expansions begin.

Senator SHELBY. Mr. Secretary, we have talked about this before, with another hat on, as Chair of the Banking Committee. We are very concerned about investor confidence, the erosion of investor confidence in our capital markets.

Secretary SNOW. Right.

Senator SHELBY. We have a new SEC Chairman, Bill Donaldson, that I have great confidence in at this point in time. But I don't see the investor confidence returning to the marketplace yet, yet we know that approximately 100 million Americans, more or less, are investing, directly and indirectly, in our capital markets—bonds, stocks, and so forth, through pension funds, through 401(k)'s and everything else.

If people don't have confidence in the corporate sector, in our accounting profession and so forth, how do you turn that around?

Secretary SNOW. Senator, I think that corporate behaviors are changing in a very positive way. With your work on the Banking Committee, and the new legislation that came through there in the wake of the corporate scandals—the changes in the New York Stock Exchange and in Nasdaq rules—the fact is that virtually every corporation in America has gone through a self-analysis to determine whether it is living to the highest standards of corporate governance.

I think the corporate sector is getting its own house in order. That needs to continue with the corporate sector taking the responsibility for making sure its conduct is of the highest order.

Senator SHELBY. That honesty and ethics matter, right?

Secretary SNOW. That honesty and ethics are at the core of things. I would add a thought on the dividend proposal. If something like the President's dividend proposal is adopted and we go to zero tax on dividends, I think it would have far-reaching effects on corporate behavior.

Senator SHELBY. I asked you that question earlier.

Secretary SNOW. You did, and I am going to get back to it now. Companies that pay dividends have to earn cash, they can't pay dividends through financial manipulation. They have got to do it the old-fashioned way. We still have laws against counterfeiting. What will happen in a world in which dividends aren't taxed the way they are today is that companies will pay more dividends. As the investors see companies pay more dividends, they are going to reward dividend-paying companies. That will encourage companies to do the right things: to focus on free cash flow, to manage their businesses for the investors so they can pay dividends, and then dividends will become a much bigger part of the story of corporate America.

As that happens, I think it will go a long way to restoring confidence in corporate behaviors. I think it could lead, Mr. Chairman, to a dramatic change in corporate behavior.

Senator SHELBY. And the way people look at stocks, right?

Secretary SNOW. And then the way people look at stocks, exactly.

ACCOUNTING PROFESSION AND CAPITALISM

Senator SHELBY. How important, Mr. Secretary, is the accounting profession to all of us, the capital markets, the publicly traded stocks? How important?

Secretary SNOW. They are the bedrock foundation of our confidence and trust, and capitalism really rests on trust. Investors can't dig into the numbers. They have got to trust the people who do the numbers. Trust is absolutely at the center of a well-functioning market economy. There is a huge responsibility that the accounting profession has as the guardian of the numbers, the custodians of that fundamental trust.

Senator SHELBY. And once it is lost, it is hard to get back.

Secretary SNOW. Senator, that is what we are experiencing today. One reason I think our markets are suffering today, and are so much less buoyant, is that trust has been eroded. It takes time to build back trust. What you have done in the Congress I think is very helpful. What the Securities and Exchange Commission (SEC) is doing under Chairman Donaldson is very helpful. I think now what the corporate sector is doing and what the oversight board will do will help restore trust.

But I think we need to be clear that trust has really been put in peril, been jeopardized. I am convinced one of the reasons this economy isn't performing better is just that. In fact, in Europe, the G–7 Ministers have some of these same problems in their corporate sector. Now they are beginning to look at what you did in the Banking Committee and say we need rules on corporate governance like those rules to restore trust, to create a foundation of trust.

GLOBAL ECONOMIES

Senator SHELBY. Secretary, lastly, for this round, if the Japanese economy is sputtering along, the German economy is in recession, and we are so interdependent on trade both ways, if they continue to sputter, that has an effect on us. How do you view their economies—I know you look at it; you have to—to be picking up? Or would you rather save that?

Secretary SNOW. No, I would like to answer that. One of the themes that I have been taking to the G–7 countries is the need for our interdependence. Our prosperity depends on yours, and yours depends on ours. We are working hard to get the American economy to grow faster, and you need to grow faster, too. Your growth rates are even lower than ours. Your growth rates are about half of ours and your productivity rates are much lower. Can't we come together in a consensus that promoting economic growth is in all of our interests?

I am pleased to say, that in Germany, the Schroeder administration is now pushing some major tax reforms. In France they are pushing some significant pension reforms. In Japan, of course, banking reforms are a major theme and deregulation of some of their retail and other things. It is more than monetary and fiscal policy, as important as they are. Well-functioning economies also look at the microeconomic characteristics and create open and free flow of resources and make sure that things like their pension plans don't exact too large a burden on the total fiscal situation of the country.

I am encouraged that Germany, Japan, and France are taking seriously this need for growth and are addressing these fundamental problems. But they are looking to us, too, Mr. Chairman.

Senator SHELBY. But isn't the U.K. economy one of the best in Europe?

Secretary SNOW. The U.K. economy is probably the best major economy. Canada continues to perform pretty well. But as you said, Japan is viewed as the engine of Asia and Germany as the engine of Europe, and they are both sputtering.

Senator SHELBY. Thank you.

Senator Murray.

ECONOMIC SANCTIONS AGAINST IRAQ

Senator MURRAY. Mr. Secretary, Iraq has been under international economic sanctions now for more than a decade. The sanctions have stopped numerous business deals from going forward. These business deals were negotiated by Saddam Hussein's government, and some of these deals were blatantly negotiated to undermine the sanctions regime.

Can you tell us what the Administration's position is on these business deals that were negotiated by Saddam Hussein's regime? And does the Administration believe the new Iraqi Government should be bound by Saddam Hussein's commitments?

Secretary SNOW. Well, the Administration is very much of the view that the sanctions should be lifted, the oil sanctions should be lifted, and the general sanctions should be lifted to allow the Iraqi economy to get back on its feet. It is very important, I think, to recognize just how much damage the Saddam regime did to the people of Iraq. The economic institutions of that country were hollowed out and significantly undermined during that regime. The standard of living of the country fell. They had negative growth rates for nearly two decades. What we are dealing with in Iraq today, in terms of the rebuilding and reconstruction, are not the results of a 3-week conflict, but really nearly three decades of mismanagement and misrule.

We are hopeful that our—and Treasury is very much, Senator, involved in this effort with a number of advisers over there right now looking at the question of setting up a central bank. Iraq has not had a central bank. Their central bank was really an apparatus of the dictator's regime. They haven't had a private banking system—they had a command-and-control banking system.

They don't have a budget. They haven't had a budget in any number of years. They don't have a set of national account statements, and they have a fairly chaotic currency.

There is an enormous amount of this foundational work to be done.

Senator MURRAY. But what I specifically wanted to find out from you was whether the new Iraqi Government should be bound by Saddam Hussein's commitments, and let me give you an example. Saddam Hussein's government negotiated a deal with Airbus to purchase five aircraft, and they paid a $10 million deposit to Airbus for that aircraft. And I want to know whether the Administration believes that Iraq's new government should honor Saddam's Airbus purchase. And if not, will the Administration call upon Airbus to return the $10 million to Iraqi people?

Secretary SNOW. Senator, I think that is really a question that ought to go to the State Department. I am not really knowledgeable enough on the treatment of those issues.

Senator MURRAY. Well, but I understand you were just at the G–8 conference in Europe, and I am certain you discussed some of these issues over there. Was there any talk about these commitments that had been made and how to—whether or not we should be demanding that that money be returned?

Secretary SNOW. There was discussion of the issue of the debt. There was a discussion of how to deal with the debt going forward. Iraq has very heavy debt obligations, estimated at $80, $90, to well over $120 billion in an economy that is, of course, very small relative to that. So those debt levels aren't sustainable.

The G–7 Ministers decided that we needed to look at that situation. We recognized that debt repayments cannot be expected for some considerable period of time, and we agreed to take measures to quantify that debt. There is a group called the Paris Club, which is the significant creditor nations of the world, that meets in Paris and has a process for working through sovereign debt that is large relative to its sustainability. And the Paris Club has been asked to assess the situation and come up with suggestions on what should be done with regard to that debt.

The Ministers asked the International Monetary Fund (IMF) to do an assessment of the non-Paris Club debt—debt that comes from parts of the world that are not members of the Paris Club—Central Europe, for instance. The IMF has begun that.

The debt issue was clearly on the table. I think there is a recognition that a lot of that debt is going to have to be reworked one way or another.

Senator MURRAY. Well, can you answer the question specifically about contracts that had been made? Airbus is just one example of a number of business deals that were negotiated by the regime, and I just think Congress would be very troubled to see U.S. funds

to reward those who supported Saddam Hussein and worked to undermine economic sanctions.

Secretary SNOW. Senator, yes, I see where you are coming from. That issue did not come up at the G–7 Ministers conference.

Senator MURRAY. Let me just ask you, can you assure this subcommittee that U.S. funds will not be used to honor business deals negotiated by Saddam Hussein's regime?

Secretary SNOW. Senator, I think that really is a question for Colin Powell, the Secretary of State. I am not in a position to respond. I am sorry.

REBUILDING IRAQ

Senator MURRAY. All right. Well, again, let me go back to some of the other issues that you must have discussed at the Ministers meeting. One of the issues of concern to the Appropriations Committee is the anticipated long-term costs of rebuilding Iraq. We have been told that there will not be another supplemental request for Iraq this year. And if you could, share with us what the Administration's latest thinking is on the participation of the United Nations and other countries that did not join the coalition in the Iraqi rebuilding efforts. And did you discuss this issue with your G–8 colleagues over the weekend?

Secretary SNOW. Well, as I mentioned, we discussed the debt issue, which is an important issue for the rebuilding of Iraq. We did discuss a donor conference and set in motion some steps to set up a donor conference later this year, which I think can be important.

We also talked about the vesting of the assets of the Saddam regime so that they could be made available for the benefit of the Iraqi people. Assets of Saddam and the regime are found in the banking system and financial system of a number of countries around the world. The United States has taken a lead in getting countries to go after those assets, and in effect, seize those assets, and then make those assets available to the Iraqi people for the rebuilding process.

The United States vested, pursuant to a Presidential Executive order, about $1.7 billion of Iraqi assets that had been held in our banking system. By vesting, I mean we seized them in the name of the Iraqi people for the rebuilding of Iraq, and for the benefit of the Iraqi people.

There are maybe another couple of billion dollars around, maybe more, and we would like to make sure that money is seized and made available for the benefit of the Iraqi people as well. So that subject was discussed, and there was broad agreement on the part of the Ministers that they would pursue that same strategy that we have pursued.

Senator MURRAY. Can you give this committee any estimate of what the Administration hopes the international community will contribute to Iraq?

Secretary SNOW. I don't think we have an estimate of that. I think that, just as in Afghanistan, there will be a good response. I think the response there was close to a billion dollars, $900 million. Iraq is bigger and has bigger problems, so I would hope the donor fund would be even larger.

But I think we have to recognize that the principal source of funding for Iraq for the future will be the Iraqi oil monies. The sooner that the oil flows can resume, the better. Iraq, unlike Afghanistan, is an inherently very wealthy country if those oil resources are put to good uses.

So I am hopeful that the oil will flow soon and that the volumes will come up back to the old levels.

Senator MURRAY. The estimates on the oil flow are that it is going to take a while.

Secretary SNOW. I think it will take some time. I am not an expert on that, but I see no reason from what I know about it that it can't get back up to 2.5 million barrels a day.

Senator MURRAY. So in your discussions over the weekend, did you sense that the donor conference was something that would be accepted and we would see contributions from——

Secretary SNOW. Yes, I did, very much so.

TAX BILL

Senator MURRAY. Let me ask just one final question, Mr. Chairman, on the Republican tax bill in the Senate that just passed last week. There is a provision that taxes Americans who are working overseas by $35 billion, and I supported the Breaux amendment that tried to strike that provision from the bill because I think that when American workers go abroad, they are ultimately followed by exports from the United States to the benefit of our workers who are here at home. And I wanted to find out from you whether you supported that $35 billion tax increase on Americans working abroad. And do you believe this provision will reduce U.S. exports?

Secretary SNOW. Well, that was not in the original proposal that we sent to the Congress. It found its way into the Senate Finance bill, I am told, to create an offset. The offset allowed the legislation to move forward within the $350 billion budget constraint that was established through negotiations among the various Senators.

Senator MURRAY. I know how it got there. I was just wondering whether you supported it.

Secretary SNOW. I don't think we have taken a position on it. We saw it as an accommodation to make possible the passage of the legislation. I am told that there is very little prospect of it surviving a conference.

Senator MURRAY. Thank you very much, Mr. Secretary, Mr. Chairman.

Senator SHELBY. Senator Byrd.

DEFICITS

Senator BYRD. Thank you, Mr. Chairman.

Secretary Snow, during your recent appearance on May 11 on "Meet the Press," you differentiated between deficits during times of full employment and deficits during times of under-employment. You suggested that, depending on the state of the economy, deficits are sometimes good, sometimes bad.

On the other hand, the Administration has advocated a belief that tax cuts are good no matter what the state of the economy or the Federal budget may be.

In 2001, the Administration said that we need tax cuts during times of full employment. In 2003, the Administration said we need tax cuts during times of under-employment. In 2001, it said we need tax cuts because of budget surpluses. In 2003, it said we need tax cuts because of budget deficits.

How do you sleep at night?

Under what economic and budget conditions would this Administration not advocate tax cuts?

Secretary SNOW. Well, Senator——

Senator BYRD. I understand we are going to have them every year now. It is going to be a perennial thing.

Secretary SNOW. I think, Senator, that given the level of the tax bite in the United States, that a good case can be made for tax rates that are lower than the tax rates that will result from this round of tax relief.

Senator BYRD. You are not answering my question.

Secretary SNOW. Well, I am getting to it, though, Senator.

Senator BYRD. It takes a long time.

Secretary SNOW. I don't mean to do that. The tax rates, as I recall, back in 1992 were about, on the high end, 31 percent; in 1986, they were 28 percent. I don't see anything wrong with trying to get tax rates somewhat lower and somewhat flatter. Obviously, there is a point at which further lowering of taxes will not serve the long-term interests of the economy, but we are a long way from that, I think.

Senator BYRD. But in the context of news reports that this Administration will seek new tax cuts every year, are there any circumstances, as far as you can envision, in which the Administration would view tax cuts to be risky or unwise?

Secretary SNOW. Well, Senator, what I think the news talked about was the fact that some of the tax relief that has been provided will be expiring. Therefore, there will be a need to go back and address that in the out-years. I think even under the Senate proposal that is being talked about now, some of those tax reductions will expire in 2005 and 2006. If they are good tax policy—and I think they are—then it is important to come back and make sure they are a permanent part of the Tax Code.

So I think clearly there is going to be need for further tax legislation in the years ahead.

Senator BYRD. But not necessarily tax cuts?

Secretary SNOW. Well, the legislation that would deal with those problems would be legislation to avoid tax increases, because there would be a series of tax increases going into effect. I am not aware of any proposals that are currently being contemplated by the Administration for tax cuts. I think we are focusing all our attention now on getting this package through the Congress.

Senator BYRD. Temporary tax cuts are being advocated by the President. It results from using reconciliation. But is there any level of deficit that this Administration would view as excessive? The Administration has said there is no particular line in the sand with regard to how high the Nation's budget deficits can grow before they would begin to worry the Administration. The OMB Director reiterated this belief last January when he said that budget deficits at 3 percent of GDP were nothing to hyperventilate about.

Yet the European Union not only requires its member states to keep their budget deficits below 3 percent of GDP, but the European Union Ministers can punish member states for breaking those deficit limits. Either the European Union places too much emphasis on budget deficits, or we place too little.

To what level would the deficit have to grow before the Administration would begin to hyperventilate? His word. The person who used that word, he is not necessarily the author of it, but he is not going to be around very long.

Secretary SNOW. Well, Senator, obviously, our view is that deficits are unwelcome. We don't like deficits. We want to get back into balance, and the sooner the better.

But these deficits are manageable in the sense that they are not large relative to our earning power. They are not large relative to our Gross Domestic Product (GDP). Importantly, they are coming down with time. They will be around 3 percent this year, 3.5, coming down over time to well under 1 percent. I think if the receipts that would come back into the Treasury were properly accounted for, you would be in balance within this budget cycle.

Senator BYRD. So you don't see hyperventilation as something that is imminent?

Secretary SNOW. No, I don't, Senator.

Senator BYRD. Too bad. I don't know what my little granddaughter and great-granddaughters will think about this. But you and I will probably not be around.

Secretary Snow, in recent weeks, the President has reiterated his belief that the best way to address the deficit and move toward a balanced budget is to encourage economic growth. I believe you said on "Meet the Press" that ideal growth would be 3.5 to 4 percent. But even though the OMB is projecting economic growth for 2004 at a healthy 3.6 percent, budget deficits over $300 billion are still projected for that year.

Assuming the President's policies are enacted into law, how fast does the economy have to grow, would you say, in order to finance the President's budget and tax cut proposals?

Secretary SNOW. Senator, if we can get the economy up to the 3.5, 4 percent level, we will put millions of people back to work. That is, I think, the first priority. We have a fiscal deficit, but we also have a jobs deficit today. I think the immediate priority is focusing on that jobs deficit—that growth deficit.

I am confident as we get this economy rolling again that the fiscal deficit will come down. It will come down because there will be more government tax receipts as more workers pay income taxes, as small businesses expand and pay additional income taxes, and as corporate profits rise. But we also have to watch spending. It is a combination of good economic policies to keep the economy strong that brings in more government receipts and good, reasonable tight spending controls. If we do that, Senator, I am convinced that we will have deficits that are modest, which will recede with time, and will not cause any adverse effects on interest rates or private capital formation.

We can never be indifferent to deficits. They really do count. But the real concern about deficits is that they will raise interest rates, crowd out private capital, and slow long-term growth rates. In all

honesty, Senator, I don't think that is a current concern. Our interest rates are at their lowest level in 40 or 45 years. But I am with you 100 percent on the need to be extraordinarily watchful of long-term deficits that get built into the financial fabric of the country. That we have to avoid at all costs.

DEBT LIMIT

Senator BYRD. My time is past expiring. During your May 11 appearance on "Meet the Press," Tim Russert asked you if the Congress should vote to lift the debt ceiling before approving any new tax cuts. And you responded, "No, no, the two are really different." And yet with a $340 billion to $400 billion deficit projected for the current fiscal year and an even higher deficit projected for the next fiscal year, the United States will have to borrow money to pay for any new tax cuts. That is a budgetary fact, a kind of very, very plain one.

Unless we raise the debt limits, how can the Treasury Department borrow the money to pay for the President's proposed tax cuts?

Secretary SNOW. Well, Senator, lifting the debt ceiling is an immediate and important issue. It is something that I really urge the Senate to do, and do before the recess because we are running up against the limits that we have. But my point to Mr. Russert was that the debt of the United States is the product of a number of decisions that have been made in prior years having to do with our entitlement programs, spending programs, and so on. It is not directly connected with this year's tax proposal.

Senator BYRD. Finally, if I may just end this line of questioning, and my time is running out. You said during your May 11th appearance on "Meet the Press" that the recession would have been a lot deeper, it would have been a lot harsher, it would have been a lot worse but for those 2001 tax reductions that the President was behind.

Absent a Dickensian "Ghost of Christmas Future" that visits the Treasury Department in the dead of night and shows you the future of tax cuts past, how does the Administration know what would have happened had there been no 2001 tax cuts? With so many unknown variables to which you refer in an $11 trillion economy, how do we know that those tax cuts had any real effect at all?

Secretary SNOW. Senator, the best answer I can give you is my own experience in business and seeing where the economy was heading in the last half of 2000 and in 2001. I will never forget sitting in my office in Richmond, Virginia, when the reports of the CSX transportation subsidiaries came in: the railroad car loadings way down, the barge loadings way down, the truck loadings way down, ocean container shipping way down, the logistic business way down. I called the heads of these businesses and I said, "There must be something wrong, and we need to meet and talk about this." "No," they said, "these are the numbers." They were confirmed in August and they were confirmed in September.

I remember going, Senator Byrd, to a business summit meeting that the President-elect called with business leaders and economists and academics in Austin, Texas, in January of 2001. There

was a roundtable discussion about the economy and the outlook, and when it was my turn, I was very straightforward. I said, "Mr. President, you are inheriting a recession, and it is going to be a deep one unless action is taken soon to deal with it."

So, Senator, I really do feel that the action that the Congress took in 2001 headed off what could have been a very serious, very deep-seated recession.

In fact, the industrial sector fell to 20- or 30-year lows in terms of output levels during that period. It was a deep, deep fall-off in economic activity, and the industrial sector is still working its way through those issues.

I recognize what you are saying. Economics isn't an exact science, but my own personal experience complements what little I know about economics to suggest that those 2001 tax reductions were very important.

Senator BYRD. And helped to lead to gargantuan deficits.

Secretary SNOW. Senator, if the economy hadn't begun to come back as it did, government receipts probably would have been even lower. Government receipts have really been down from where they were back at the end of the 1990s. There has been a dramatic fall-off in government receipts, tied to, I think, primarily the weakening of the economy.

Senator BYRD. Thank you.

TERRORIST FINANCING

Senator SHELBY. Thank you, Senator Byrd.

Mr. Secretary, the Office of Foreign Assets Control (OFAC) is the Department's lead agency for identifying terrorist financing and denying terrorist groups access to financial markets. What efforts have been made to garner the commitment of other nations to participate in this effort, in other words, to get a handle on the terrorist groups' access to financial markets?

Secretary SNOW. Senator, we are engaged in extensive efforts to do just that, led primarily under the broad direction of David Aufhauser who I mentioned earlier. But we have a major outreach program with dozens and dozens of countries with whom we share intelligence, coordinate information, and work in a coordinated way to try and interdict these flows. OFAC has done a number of designations of foreign banks. Once those designations are made, the bank can no longer have dealings with the United States banking system. We coordinate those activities with the foreign finance ministries and enforcement people. There have been a significant amount of assets seized from bank accounts of people who we suspect of terrorist activities or supporting terrorist activities.

So it is a major and a full-time effort.

Senator SHELBY. The French, are they cooperating?

Secretary SNOW. Yes, Senator——

Senator SHELBY. And to what extent?

Secretary SNOW. We have had discussions with the French about the need to be part of this. They have committed to using their official banking system and enforcement authorities to trace and track the illicit funds that finance terrorism.

Actually, Senator, we have good, broad-based support for these initiatives.

Senator SHELBY. Does that include Cyprus?

Secretary SNOW. I would have to check the list.

Senator SHELBY. And a lot of the Middle Eastern countries, including Jordan.

Secretary SNOW. Right.

Senator SHELBY. Mr. Secretary, a lot has been written about seized Iraqi funds. You recently called upon all nations, Mr. Secretary, to join the U.S., and your words were "find, freeze, and return Iraqi money for the Iraqi people and their future."

Given that Saddam Hussein's wealth has been estimated to be anywhere between $2 billion and $40 billion, recovering this money will certainly help in the rebuilding of Iraq. However, given that a number of countries and private entities around the world have laid claim to a portion of those assets, if not all, how is your request to return this money to the Iraqi people being received overseas?

Secretary SNOW. I think it depends a lot on who we are talking to. But among the G–7, it has been very well received, and I will submit to you for the record an assessment——

Senator SHELBY. We would like that.

Secretary SNOW. Yes, I will submit to you our assessment of the levels of cooperation and the obstacles we are running into.

Senator SHELBY. Obviously, you are trying to marshal the assets, right?

Secretary SNOW. Exactly.

Senator SHELBY. So what role are you playing from Treasury in trying to stabilize the economy there and assist in the rebuilding of the country? And I will start with the monetary system.

Secretary SNOW. Right. Mr. Chairman, there is a far-reaching effort underway involving the Treasury Department. We have a team of people over there right now, headed up by Peter McPherson, a former Deputy Secretary of Treasury and a former head of USAID.

Senator SHELBY. A very able man.

Secretary SNOW. A very able fellow, took a leave of absence from Michigan State University where he is the president. He has assembled a good team of people from the Treasury Department. We have also asked the IMF for assistance on these monetary and financial issues, and the World Bank to do assessments of needs as well.

I think the first task is to get a banking system up and going, a payment system. Mr. McPherson is in regular contact with us on those efforts: a payment system, a banking system, and a sound currency.

Senator SHELBY. How is your $20 bill program working?

NEW $20 BILL

Secretary SNOW. That $20 bill program I think is going to be a great success. It is going to make counterfeiting a lot harder. I was pleased to be able to unveil that $20 bill here with Chairman Greenspan a week or so ago. It got a lot of attention. It is really going to be an advance in our currency.

Senator SHELBY. Are the merchants there accepting it with open arms in the souks and so forth? That is important.

U.S. CURRENCY CIRCULATION IN IRAQ

Secretary SNOW. It is. Mr. Chairman, the U.S. dollar is playing quite a role in the Iraqi world now. The Saddam dinar, which we hope can be eliminated soon——

Senator SHELBY. Why has it not been eliminated?

Secretary SNOW. Well, because there isn't an alternative currency yet, but I hope it can be eliminated soon. Mr. McPherson and his team, with local Iraqi finance advisers, are looking at that question. Ultimately the currency really ought to be determined by the Iraqi people. But it would be our view that the sooner they can end the Saddam dinar, the better.

There are also so-called Swiss dinars in circulation that come from the north.

Senator SHELBY. How does that work? Are they denominated or tied to the Swiss franc or what?

Secretary SNOW. No. They took the name because apparently the person who got the contract was Swiss, although it was a British company.

Senator SHELBY. That prints the money?

Secretary SNOW. That prints the money. An English company got the contract to print the money, but the person who negotiated it was a Swiss, so they called it a Swiss dinar, apparently.

We have the Swiss dinars in circulation, and we have the Saddam dinars, which have depreciated enormously. Their official exchange rate, if you are a member of the Saddam family, was something like 5 or 6 or 7 or 8 to the dollar. Their current market exchange rate is 3,000 to the dollar.

Senator SHELBY. But the fact that they are even still circulating or have some value is interesting, isn't it?

Secretary SNOW. Well, as I said, I am not happy about that. I think the sooner the new currency is put in place, the better. In the interim, the U.S. dollar is playing an important role. It is found in lots of shops and is being used quite readily.

ESTABLISHMENT OF A CENTRAL BANK IN IRAQ

Senator SHELBY. Are you going to be involved, directly or indirectly, as the Treasury Secretary in recommending the formation of a central bank, an independent central bank for Iraq?

Secretary SNOW. Yes, we will.

Senator SHELBY. That will be independent of the political arena?

Secretary SNOW. Yes, yes. In fact, Mr. McPherson and his team, working with John Taylor, the Under Secretary for International Affairs, and others in Washington, are giving close attention to the question of what the new central bank should look like, what a private set of banking institutions would look like, what the national accounts should look like, what the budget should look like, and what the currency should look like.

But, ultimately, Mr. Chairman, I think those decisions need to be made by the Iraqi people. In the interim, we can get these institutions set up and going and, hopefully, create a good, strong financial foundation for the country going forward.

Senator SHELBY. Would the strong, financial foundation obviously be predicated on the underlying assets of the country such as the oil?

Secretary SNOW. Yes, it would. I think the management of the oil operations of Iraq is absolutely critical to their long-term economic well-being.

Senator SHELBY. Mr. Secretary, I know it will take investment and modernization of the oil fields, which are vast, huge there, but some people have been talking about how Iraq could pump 5 or 6 million barrels a day of oil—maybe not yet, but down the road, after a lot of investment, of course.

Secretary SNOW. Right. Exactly. Well, next to Saudi Arabia——

Senator SHELBY. Second largest oil reserves in the world.

Secretary SNOW. Second largest oil reserves in the world, with huge potential.

Senator SHELBY. And a relatively small population.

Secretary SNOW. Yes. It is a wealthy country if its resources are managed well.

Senator SHELBY. And allocated.

Secretary SNOW. And allocated properly.

Senator SHELBY. Senator Murray.

ECONOMY

Senator MURRAY. I don't have any other questions at this time. I just want to say I was—I don't know if I share your rosy scenario on the economy. My State is really reeling. We have lost 70,000 jobs in the last 2 years. Our unemployment is at over 7 percent. Our State legislature has a $2.7 billion deficit they don't know how they are going to deal with, and one out of nine Washingtonians don't have health care today. And I am not sure this tax cut is going to help too many of the people I represent. So I would love to say you are right on the rosy economy scenario that you presented to us, but I tell you, I hope this Administration is looking west because we are really struggling.

Secretary SNOW. Well, Senator, I don't want to sound too rosy. I recognize that with our unemployment rate rising, with so many fewer people working today, we have some serious economic problems to deal with. But I do think the foundations have been put in place, with low interest rates, no inflation, high productivity, and lower costs of production for a pretty good recovery once demand comes back. I would dearly love to see those growth numbers get up to those higher levels that I talked about so that your unemployment rate can come down and the unemployment rate nationally can come down. The clear fact is we are way underperforming the potential of this economy. The consequence of that is lots of people's lives are adversely affected; lots of people who would have work don't have work.

Senator MURRAY. I just hope you pay attention to the West because we are hurting.

Secretary SNOW. Thank you. I will do that. Thank you.

Senator SHELBY. Senator Byrd.

BYRD AMENDMENT

Senator BYRD. Thank you, Mr. Chairman. And thank you for being so patient and fair. And thank you, Mr. Secretary and Ms. Ressel.

Well, Mr. Secretary, you know my concerns about what is happening in the steel industry. American steel companies have been devastated by wave after wave of unfairly subsidized and below-cost foreign steel imports. Just yesterday, I believe it was, these waves claimed another victim as Weirton Steel filed Chapter 11 bankruptcy protection.

I hope, as everyone does in the northern panhandle of West Virginia, that Weirton emerges from bankruptcy in a stronger, more competitive position. But two of the programs that the company may rely on to get back on its feet—namely, the emergency steel loan guarantee program and the Continued Dumping and Subsidy Offset Act—have been targeted for elimination by the Administration.

The Administration has sought to eliminate the steel loan guarantee program, rescinding $97 million in available fund from fiscal year 2003 and requesting zero dollars for fiscal year 2004.

Moreover, the Continued Dumping and Subsidy Offset Act, which I created in 2000, was found to be in non-compliance with World Trade Organization rules. That ruling by a WTO panel is short-sighted, wrongheaded, and dumb. When it ruled against the Byrd amendment, the WTO challenged the right of the United States Congress to distribute Government funds as the Congress sees fit.

National unemployment figures for April showed manufacturing jobs continuing to decline. Factory payrolls have fallen for 33 consecutive months. Listen to that. Factory payrolls have fallen for 33 consecutive months. Over 3 years. Many of those industrial jobs have disappeared forever. We need to take steps now to protect those jobs that we have left and to encourage new growth in manufacturing, and steel jobs are at the core of this effort.

Now, you know my concerns, as I said. When we met in January, we talked about the steel industry and how it was important to so many other sectors of this economy. This Administration continues to advocate policies that would pull the rug from underneath the steel industry as it works to restructure again and to regain its market share. It wants to eliminate the emergency steel loan guarantee program, which I created. Actually, it is giving me a bad cramp in my leg right now. It got me out of bed this morning, that cramp in my leg. I wouldn't be a very good swimmer.

But it wants to eliminate the emergency steel loan guarantee program. It wants to repeal the Byrd amendment and exempt product after product from the Section 201 tariffs. It seems that the only thing that American industrial workers can count on receiving under this Administration is a pink slip.

Now, here is my question. With regard to the Byrd amendment, last February the President recommended the repeal of the continued dumping and subsidy offset—that is the Byrd amendment—in his fiscal year 2004 budget request. This is the law with overwhelming bipartisan support—overwhelming bipartisan support that allows import duties to be distributed to U.S. producers who

are injured by unfair trade to help them invest in their companies and workers.

On May 6th, the U.S. Trade Representative said in its statement on the Byrd amendment before a WTO arbitrator, "Unlike other elements of the budget, the repeal of the Byrd amendment is not tied to the end of the fiscal year and, in particular, it is not intended to be included in the appropriations act." This recent statement by the U.S. Trade Representative is flatly inconsistent with the President's budget request of February 3.

Now, contrary to its earlier proposal, the Administration has made a 180-degree turn and declared that the repeal of the Byrd amendment was never intended to be included in an appropriations bill.

If the Administration's position is that the Byrd amendment should not be repealed, why has the Administration not submitted a budget amendment to the Congress that reverses its earlier recommendation?

Secretary SNOW. Senator, I do not know.

Senator BYRD. That is an honest answer.

Secretary SNOW. Yes. But I will seek to get an answer to that question for you, quickly.

Senator BYRD. Well, it is my understanding that the Inspector General of the Department of Homeland Security is completing a report which will show that the U.S. Customs Service has failed to collect approximately $90 million under the Byrd amendment. U.S. law requires the Federal Government to collect those duties, and yet, reportedly, it has failed to collect $90 million.

Up until a short time ago, that responsibility was part of your Department. Why has the Customs Service been unable to comply with these laws enacted to provide legitimate remedies against unfair trade? Why didn't the Treasury Department pursue those lost revenues?

Secretary SNOW. Senator, I am not really familiar with this whole issue. I understand that the study is being completed. Treasury has lost that enforcement responsibility under the transfers to the Department of Homeland Security. I am not on top of that issue in a way to be able to give you an informed answer.

Senator BYRD. Well, the Treasury Department retains control of many of the key provisions of the Tariff Act of 1930, of which my amendment is a part. With all respect, you are the Administration's point man on economic and fiscal policy. Everyone else has been shown the door. The erosion of the Nation's manufacturing sector, including steel, is one of the key elements of our economic weakness. Playing a bureaucratic shell game is simply unacceptable.

As the Administration's voice on economic policy, would you tell the committee whether the Administration believes that it is important to provide support to our manufacturing businesses through this key initiative?

Secretary SNOW. Senator, as you know, I have had a long involvement with steel and served on the board of one of these companies, who very much supported your efforts on behalf of steel, applauded you for doing so. Given that service, I am told that I need to recuse myself from direct answers to questions like that. But

Ms. Ressel will respond for us. Teresa? She didn't know that was coming.

Ms. RESSEL. I need to apologize. I was working hard on making sure that we were correct on the last answer, so I need you to repeat the question. I apologize.

Secretary SNOW. Do we support manufacturing in steel?

Ms. RESSEL. We have to get back to you. I am sorry. I don't know.

Senator SHELBY. Mr. Secretary, could you do that for the record?

Secretary SNOW. Yes, we will.

Ms. RESSEL. We do have an answer to your previous question, sir, about the uncollected antidumping—the $90 million question. Basically, the original people who were supposed to do that audit were the Treasury IG, and now that responsibility has been transitioned to the Homeland Security IG.

It is our understanding that, for example, in 2002, $48 million of one particular case is under protest. Basically what we have got is a reconciliation system set up where Treasury's Inspector General will turn that information over to Clark Kent Ervin, who is the Acting IG for Homeland. He is doing a complete reconciliation. We can have those numbers ready for you within a very short period of time. They are closing that out.

I don't know that you will ultimately get a complete reconciliation this year because Customs is saying that they are not going to continue to do collection until all of the open issues have been cleared relative to the protests that the actual importers are eligible to do. That is our understanding of that one. If you want a briefing or any additional information, we would be happy to provide that, sir.

Senator BYRD. Very well. Mr. Secretary, the subcommittee will welcome further responses on this matter, and as you have indicated, you will have something further to report to the committee.

Thank you.

Secretary SNOW. Yes, we will, Senator.

Senator BYRD. Thank you, Mr. Chairman.

Senator SHELBY. Thank you, Senator Byrd.

ADDITIONAL COMMITTEE QUESTIONS

Mr. Secretary, I have a number of questions that I would like to submit to you for the record dealing with your office, the Secretary of the Treasury, and we would appreciate that they be in promptly.

Secretary SNOW. We would be happy to respond, Mr. Chairman.

Senator SHELBY. Senator Murray, do you have any other questions?

Senator MURRAY. No, Mr. Chairman. Thank you.

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

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

DEPARTMENTAL OFFICES

Question. The Inspector General and Tax Administration has traditionally been a watchdog over the IRS—an agency in need of constant oversight. The budget proposes to consolidate this office with the Office of Inspector General (OIG) at the De-

partment of Treasury. What benefits will be derived from the proposed consolidation and what will the impact be if the consolidation does not happen?

Answer. The benefit derived by consolidating the Office of the Inspector General (OIG) and the Inspector General for Tax Administration (TIGTA) would be a reduction in overall cost of Inspector General operations. In the post Homeland Security divestiture environment, Treasury incurs duplicative overhead by maintaining both offices which are being paid by the taxpayers with little added benefit. Thus the impact of not consolidating the offices would be the inefficient use of taxpayer money.

The OIG was established in 1988 and TIGTA was created 10 years later to provide dedicated independent oversight to the Internal Revenue Service and related entities. Both offices have the following responsibilities:

—Conduct and supervise audits and investigations.
—Provide leadership and coordination.
—Promote economy, efficiency, and effectiveness in programs and operations.
—Prevent and detect fraud and abuse in programs and operations.
—Provide a means for keeping the Secretary and the Congress fully and currently informed about problems and operations.

Last year, upon the creation of the Department of Homeland Security (DHS) a significant amount of the OIG's responsibilities and budget was transferred to DHS and the Department of Justice (DoJ). This coincided with the transfer of the U.S. Secret Service, the U.S. Customs Service, and the Federal Law Enforcement Training Center's move to DHS and most of the bureau of Alcohol, Tobacco and Firearms' move to DoJ.

Since a substantial portion of OIG was transferred to DHS and DoJ respectively, it makes good business sense to consolidate the balance of the Office of the Inspector General with the Office of the Inspector General for Tax Administration, eliminating duplication by creating a more efficient and effective operation in accordance with the mission of both offices.

Question. The fiscal year 2003 Treasury bill established a fund for a Treasury-wide Financial Statement Audits Program. Why are these funds requested in the Departmental Offices' budget rather than the Inspector General's budget?

Answer. The funds are in the Departmental Offices budget because the Inspector General looks to the Department or its bureaus to pay for financial statement audits performed by contractors. That is, the audit costs should be by the entity being audited (i.e., the Department and its bureaus), not by the Inspector General. The Inspector General only funds the audit work it actually performs; much of the audit work is performed by contractors.

Prior to fiscal year 2003, audit funding for the appropriated Treasury bureaus was decentralized and funding needs varied from year to year depending on who was conducting the audit (i.e., IG, GAO, or a private firm). This resulted in contracting delays and a fragmented approach to the overall financial statement audit. For fiscal year 2003, Treasury obtained the centralized funding, which has greatly alleviated the funding and contracting problems experienced in previous years.

Centralizing the funding and procurement responsibility for these audits has streamlined the process, consolidated the audit work with fewer contractors, enabled greater audit efficiencies, and enhanced the timeliness and consistency of awarding financial statement audit contracts throughout the Department. Further, it has eliminated audit funding uncertainties we previously experienced from year-to-year caused by the mid-year shifting of audit funding responsibilities from the General Accounting Office to the Department and from the Office of Inspector General to the Department's bureaus. These enhancements also help the Department to maintain its leadership role in accelerated financial and performance reporting.

Question. The Office of Foreign Assets Control is the Department's lead agency for identifying terrorist financing and denying terrorist groups access to financial markets. What efforts have been made to garner the commitment of other nations to participate in this effort?

Answer. Since September 11, 2001, the Office of Foreign Assets Control (OFAC) has worked with other nations and the United Nations to garner their commitment to participate in efforts to identify terrorist financing and deny terrorist groups and their support networks access to financial markets and from having dealings with persons in U.N. member states. Over the last 2 years, OFAC has led or participated in more than 20 trips, held bi-lateral meetings with delegations from a dozen countries and representatives from the United Nations and has responded to more than 100 requests for terrorist financing information from more than 50 countries.

OFAC's effort to garner international support to combat terrorist financing has:

—Encouraged several countries, particularly in the Middle East region, to adopt new measures and/or strengthen existing legislation to increase regulatory over-

sight over charities, other charitable fundraisers and domestic financial institutions in order to prevent their exploitation by terrorist fundraisers.

—Laid the groundwork in several countries for the creation of an OFAC-like administrative sanctions implementing agency and the adoption of new legal authorities to implement administrative freeze and blocking orders pursuant to U.N. obligations.

—Increased compliance efforts by international banking authorities and assisted more than 50 nations with implementing and maintaining asset freeze orders pursuant to U.N. obligations.

—Negotiated international procedures and guidelines which have been adopted by the G–7 working group on terrorist financing and the U.N. 1267 Committee.

—Provided investigative and analytic assistance to countries in Europe and the Middle East to pursue known supporters of terrorism and to exploit new leads to identify and isolate terrorist financiers and financial networks.

—Worked with countries in Europe, Southeast Asia and the Middle East, including Saudi Arabia, to jointly designate terrorists and their support networks.

FINCEN

Question. The USA PATRIOT Act requires FinCEN to implement a number of regulatory requirements.

What is the current status of the implementation of these various provisions?

Answer. Because the Patriot Act not only requires the issuance of rules, but also provides new tools for combating new threats as they arise, and establishes ongoing processes for sharing information, there is no one terminal point for Patriot activities—rather, full utilization of the Patriot Act is an ongoing process (i.e., Sections 311, 314, 361). In terms of reports, FinCEN has issued all the required reports to date; there are reports due in the future relating to whether there are gaps that need to be filled (i.e., Section 324). In terms of rules, FinCEN has to complete the issuance of anti-money laundering program rules, and the final correspondent banking rules.

Question. One of the crucial concepts behind many of these requirements is that the right people see the right information at the right time to prevent terrorists from attacking us again. What steps are you taking to ensure that this is indeed happening and that this vigilance is sustained over the long haul?

Answer. FinCEN is very actively following trends and patterns in the movement of illicit funds and publishes advisories and reports to alert law enforcement and the financial and regulatory communities. In addition to the requests FinCEN receives from law enforcement for assistance in researching and analyzing data to support investigations, it is providing law enforcement with proactive cases. FinCEN also established a new program under Section 314 of the USA PATRIOT Act that allows law enforcement to query financial institutions, through FinCEN, regarding subjects of money laundering or terrorist financing investigations. This program is providing law enforcement with timely and valuable information about investigative subjects, as well as providing opportunities for coordinating investigations. Lastly, FinCEN's Office of Intelligence Liaison (OIL) was established in late 1999, with the goal to identify, through BSA data, clues or leads for law enforcement on possible terrorist-related finances and activities. The analytical products of this office, since its establishment, have contributed to numerous intelligence and law enforcement efforts both proactively and in support of investigations already in progress.

INTERNAL REVENUE SERVICE

Question. The Earned Income Tax Compliance effort has experienced some problems since its inception. What is your suggestion on how to solve this perennial problem?

Answer. Although the Earned Income Tax Credit (EITC) has been successful in lifting millions of low-income taxpayers and their children out of poverty, the EITC program has experienced persistent noncompliance. The IRS attempts to balance enforcement activities with education and outreach programs so that only those taxpayers entitled to the EITC receive it.

The President's Fiscal Year 2004 Budget requested an additional $100 million to begin a new strategy for improving the EITC program. The IRS will address potential erroneous claims by identifying cases that have the highest likelihood of error before they are accepted for processing and before any EITC benefits are paid. A key part of this strategy is to begin certifying taxpayers in advance for the EITC.

The IRS recently announced additional details and refinements of this initiative. The initiative will specifically:

—reduce the backlog of pending EITC examinations to ensure that eligible taxpayers whose returns are being examined receive their refunds quickly,
—minimize burden and enhance the quality of communications with taxpayers by improving the existing audit process,
—encourage eligible taxpayers to claim the EITC by increasing outreach efforts and making the requirements for claiming the credit easier to understand,
—ensure fairness by refocusing compliance efforts on taxpayers who claimed the credit but were ineligible because their income was too high, and
—pilot a certification effort to substantiate qualifying child residency eligibility for claimants whose returns are associated with a high risk for error.

Below is a press release from the Commissioner:

Taxpayers to Receive Advance Child Tax Credit This Summer

IR–2003–68, May 28, 2003
(Revised June 30 to change mailing dates for notices to check recipients)
Related Fact Sheet: FS–2003–13

Washington.—Beginning the last week of July, eligible taxpayers who claimed the Child Tax Credit on their 2002 tax returns will automatically receive an advance payment of the 2003 increase in this credit, the Treasury Department and Internal Revenue Service announced today.

Taxpayers will not have to take any action to get this advance payment of up to $400 per qualifying child. The Treasury Department and IRS will perform all the calculations and automatically mail a notice and a check to each eligible taxpayer.

"The only thing the taxpayer needs to do is cash the check," said Mark W. Everson, IRS Commissioner. "If you qualify, we will send you a notice. There's no need to call, no need to apply, no need to fill out another form. The IRS will do all the work. A few days after the notice, you will get the check."

The checks—an advance payment of the 2003 increase in the Child Tax Credit—will be based on the child tax credit claimed on the taxpayer's 2002 tax return. The Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the maximum child tax credit for 2003 to $1,000 per child, up from $600 for tax year 2002. The law further instructed the Treasury Department to provide the difference—up to $400 per child—as an advance payment to each eligible taxpayer this summer.

The Treasury Department will issue about 25 million of these checks this year, beginning with three principal mailings on July 25, Aug. 1 and Aug. 8. Taxpayers who filed returns after April 15—for example, those with automatic extensions—will receive their advance payments after the IRS processes their returns. They should not make any change to their 2002 returns or remittances based on an expectation of an advance payment check.

The IRS will send notices to taxpayers on July 22, July 29 and Aug. 5, informing them of their advance payment amount. The IRS urges taxpayers to hold on to these notices for their 2003 tax returns. They will need to take the advance payment into account when determining the amount of their child tax credit on the 2003 tax return.

Taxpayers who are not eligible for the advance payment may still qualify for the increased child tax credit of up to $1,000 when they file the 2003 tax return next year. For instance, a taxpayer who did not have a child in 2002, but had one in 2003, would not receive an advance payment but may qualify for the full $1,000 credit on the 2003 tax return.

More information is available in answers to frequently asked questions on the IRS website at www.irs.gov.

Question. The IRS is planning to use private debt collectors to collect billions of dollars owed in taxes. What steps will the IRS take to oversee private collectors as well as safeguard taxpayers' privacy?

Answer. The IRS would establish an oversight group with responsibility for managing case referrals, monitoring and evaluating PCA performance, monitoring interactions with taxpayers, and reviewing and approving PCA invoices. The oversight group would be required to monitor a statistically valid number of taxpayer contacts by each PCA to evaluate taxpayer treatment and adherence to IRS approved procedures. A manual review of PCA activity on taxpayer accounts would be performed to ensure compliance with approved IRS procedures and overall quality of case handling. A full on-site audit of each PCA by the IRS oversight group would be performed on a regular basis and would be in addition to ongoing quality-control and taxpayer protection monitoring.

The PCA would be responsible for ensuring that each employee who has access to taxpayer account information has completed the appropriate background investigation and non-disclosure forms. The PCA would be required to submit verification

of the required background investigation and copies of the non-disclosure forms to the IRS at least 20 days before the employee is permitted to access taxpayer information. In addition, the IRS would adopt tracking procedures developed during the 1996–1997 pilot program to ensure that no PCA employee would be granted access to the IRS work site or taxpayer data until he/she successfully completed a satisfactory background determination. These procedures were very successful during the pilot. The IRS' oversight of PCAs would be similar in many respects to the IRS' oversight of its own employees. For example, the IRS audit system logs for indications of improper accesses to taxpayer information. The IRS also performs oversight of employee work for quality and appropriateness of taxpayer interactions.

PCAs would be required to provide a large amount of information to the IRS, as well as access to various systems, to facilitate IRS oversight. This would include:

—detailed Operational Management Information Systems (MIS) reports,
—telephone Service Level reports,
—audits of employee access to IRS taxpayer data,
—access to PCA collection system for auditing purposes,
—remote telephone monitoring access to authorized IRS personnel,
—PCA employee tracking information,
—PCA employee quality review monitoring evaluations,
—PCA Operational Plans, and
—PCA Business Continuation Plans.

To make certain the IRS promptly hears, evaluates and addresses taxpayer complaints, a PCA would be required to provide to taxpayers, orally and in writing, information on how to report a complaint with the IRS. Any complaint received by the IRS from a taxpayer would immediately be provided to the PCA. If a PCA were to receive a complaint directly from the taxpayer, the PCA would be required to immediately forward the complaint to the IRS.

Upon receipt of a complaint from the IRS or directly from a taxpayer, a PCA would be required to immediately cease collection activity on the account in question and provide to the IRS, by the close of business on the following business day, a copy of its records on the account and any other information relevant to the complaint. The PCA would not be permitted to resume collection activity on the account until IRS resolved the problem and provided the PCA written authorization to resume work. Failure by the PCA to cease collection activity on the account would result in IRS recalling the account from the PCA and, if appropriate, the termination of the PCA's contract.

A PCA also would be required to investigate the complaint and provide a complete report to the IRS within 10 business days of receiving the complaint. The report would include a description of all actions taken to resolve the situation and steps put in place to ensure there are no future occurrences of similar situations.

If a complaint is validated, the PCA would be required to remove the offending employee from the IRS account and take all necessary steps to ensure the employee no longer has any access to taxpayer information. In addition, the PCA's bonus and inventory would be reduced, and the PCA would be subject to a penalty. The IRS could choose to suspend all contract activity for the PCA either permanently or until the IRS has determined, at its discretion, that the PCA had taken appropriate corrective actions to prevent further complaints.[1] The IRS' determination that a complaint was valid would not be subject to review.

If a potential statutory violation is identified, the IRS also would notify the Treasury Inspector General for Tax Administration (TIGTA). TIGTA may investigate the complaint, depending on the circumstances and seriousness of the complaint. If TIGTA initiates a formal investigation of the complaint, the PCA would be required to cooperate fully with the investigation and coordinate its own management efforts with the IRS and TIGTA. TIGTA would provide a report of its investigation to the IRS Contracting Officer after concluding the investigation.

Question. A Treasury Inspector General for Tax Administration report states that IRS deposited some tax refunds into unauthorized bank accounts.

Explain how this mistake could have happened.

Answer. Several factors contributed to the control weaknesses we identified.

—*Instructions for completing the United States Individual Income Tax Return (Form 1040) do not require taxpayers to take any preventive steps.*—Specifically, the instructions do not require taxpayers to void the direct deposit fields if they do not use the fields (e.g., lining through the direct deposit fields on the tax return rather than leaving them blank) to ensure the fields cannot be manipulated subsequent to the filing of the tax return. Furthermore, IRS reports indi-

[1] In determining whether to suspend a contract, the IRS would consider the severity and frequency of valid complaints for a PCA (whether related to one or more employees).

cate that approximately 48 percent of paper filed tax returns are prepared on a computer using tax preparation software packages. When these tax returns are printed, the direct deposit fields are left blank for those taxpayers who elect to receive a paper check tax refund. As with the hand-written paper Forms 1040, the direct deposit fields on these tax returns can be altered.

—*Tax return processing controls are inadequate.*—There are no controls in place to minimize the risk of, or identify potential instances of, employee impropriety via direct deposit in the areas that receive and open tax returns, review the tax returns for completeness, and input the information from tax returns into IRS computers.

—*Procedures do not provide IRS employees with sufficient guidance.*—Procedures were not developed and distributed to those employees who work in the areas that receive and open tax returns, review the tax returns for completeness, and input the information from tax returns into IRS computers informing them of the need to identify and refer cases with potentially unauthorized direct deposits to the TIGTA Office of Investigations.

—*When working refund inquiries, IRS employees did not consider the possibility of this type of employee impropriety.*—Employees in those functions that assist taxpayers who do not receive their refunds were not required to consider the possibility of employee impropriety when evaluating tax refund inquiries that involve direct deposits.

Question. How many checks were deposited into these unauthorized accounts?

Answer. TIGTA has identified one case to date whereby an employee altered paper filed tax returns to divert, via direct deposit to personal bank accounts, approximately $32,600 in tax refunds from multiple taxpayers for 2 tax years. The tax refunds stolen ranged from $2,252 to $8,133.

This employee worked at a Submission Processing Site. From on or about February 28, 2000, to and including April 28, 2000, and again from on or about February 20, 2001, to and including April 30, 2001, this employee altered tax returns to include direct deposit account information that was not requested or authorized by the taxpayers. The purpose of the alterations was to divert the taxpayers' refunds to bank accounts belonging to and controlled by the employee.

The employee was successfully prosecuted.

Question. What steps has the IRS taken to make sure this does not happen again?

Answer. TIGTA alerted IRS executives on June 25, 2002, to the control weaknesses in the processing of paper filed tax returns that provide opportunities for tax refunds claimed on paper filed tax returns to be directly deposited to bank accounts that were not authorized by the taxpayers. As a result of this alert, IRS management added this risk as a reportable condition to the tax processing Annual Assurance Process memorandum. In addition, IRS management implemented a number of corrective actions including developing and issuing guidance in response to audit recommendations made during the course of our review.

IRS management agreed with the recommendations presented in our report and is planning to take corrective action. Specifically, the 2003 instructions for completing Form 1040 will be changed to tell taxpayers to line through the direct deposit fields on the tax return if they are not requesting a direct deposit of a refund check. In addition, Submission Processing procedures will be changed to instruct Code and Edit function employees to line through this section if a taxpayer fails to follow the instructions. Also, the IRS will contact the software developers and request that they modify their programs so that the fields do not appear or cannot be altered if a taxpayer wishes to receive a paper refund check. These changes will be effective for Tax Year 2003.

Question. The IRS has an obligation under Title 31 (i.e., compliance and enforcement of non-bank financial institutions). Is the IRS adequately funded for its Title 31 functions and operations and the critical support that the Detroit Computing Center provides to FinCEN?

Answer. The Small Business/Self-Employed (SB/SE) operating division of IRS is responsible for the non-bank financial institution (NBFI) compliance examinations for Title 31. In fiscal year 2003, SB/SE expanded the Anti-Money Laundering (AML) program to include over 30 AML groups across the country. Significant training resources were expended to ensure that the newly reassigned Revenue Agents (RAs) were properly trained to conduct the Title 31 compliance examinations and to refer potential criminal cases to IRS-Criminal Investigation, if warranted. IRS efforts to incorporate increased compliance responsibility due to the numerous regulations prompted by the USA Patriot Act more than doubled the number of NBFI compliance examinations conducted during fiscal year 2003. However, the Achieving Balanced Levels of Enforcement (ABLE) initiative under the Fiscal Year 2004 Budget Submission, if funded, would allow IRS to increase Title 31 compliance examination

coverage and enforcement responsibilities. This initiative would provide additional Revenue Agents to implement selected provisions, i.e., section 352, of the USA PATRIOT Act and to expand overall Title 31 compliance examination coverage given the increasing focus on money laundering within the related non-bank financial institutions.

The Business Systems Development (BSD) staff at the Detroit Computing Center (DCC) performs programming and maintenance for the Currency and Banking Retrieval System (CBRS). CBRS is a large database, encompassing all Bank Secrecy Act (BSA) forms, the CBRS query system, sub-systems, and various other entities. There is an overall need to retool the CBRS to provide flexibility to meet the increasing complex research and data analysis needs of law enforcement. Treasury, FinCEN, and IRS are in discussion on the best approaches to this modernization. Regardless of the future retooling, IRS must keep pace with the new regulations issued under the USA PATRIOT Act. Form revisions and new forms required by the USA PATRIOT Act must be added to the current database for immediate use. These changes may require changes to the magnetic or electronic systems or building new systems to handle the additional volume.

SUBCOMMITEE RECESS

Senator SHELBY. Mr. Secretary, we appreciate your appearance here today. We know you are busy, and we appreciate your candor with the committee and look forward to working with you in the future.

Secretary SNOW. Thank you very much.

Senator SHELBY. Our meeting is in recess.

[Whereupon, at 12:23 p.m., Tuesday, May 20, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004

THURSDAY, MAY 22, 2003

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

The subcommittee met at 10:46 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Patty Murray presiding.

Present: Senators Campbell, DeWine, and Murray.

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

STATEMENT OF JEFFREY W. RUNGE, M.D., ADMINISTRATOR

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Good morning. With the concurrence of the Chair, I am going to open up this committee hearing this morning.

Welcome to all our guests, and I will do my opening statement.

First of all, I want to commend our Chairman, who I understand will be here shortly, for once again holding a very special hearing to focus on our highway safety challenges. I hope we will call this hearing every year to continue to aggressively monitor the progress of the Department of Transportation in reducing the number of accidents and fatalities on our highways.

Unfortunately, the news since our last hearing on this topic has not been good. The latest data shows that for calendar year 2002 at least 42,850 people died on our Nation's highways. That is the highest number since 1990 and it represents an increase in the number of fatalities for the fourth successive year.

Almost 18,000 of these fatalities had their root cause in drunk driving. That is an increase of 3 percent from just last year and marks the third year in a row of increases in alcohol-related highway deaths. These statistics show that the Department of Transportation has missed its stated performance goal for highway safety, a goal that it testified to in last year's hearing.

I think that all of us on this panel will agree that this record is unacceptable and must be reversed. We know what is required to reduce death on our highways. We know what law enforcement methods work and we know what works to change driver behavior. What we do not know is whether we, as a Nation, have the will

to force citizens to stop driving aggressively and to stop driving drunk. And we do not know yet if the Federal Government has the will to commit the necessary resources to change that deadly behavior.

When the lives of Americans are threatened by a danger we take action. We did it after September 11th by dramatically improving airport security. Drunk and aggressive driving poses another threat to all Americans and it is one where we can make a real difference if we are willing to make a commitment.

Each month more than 3,000 people die on our highways. That is an astounding figure and we can reduce it if we make a commitment. I would like to see the same commitment to highway safety as we put on airport safety because we can make a difference and save lives.

Earlier this week the Bush Administration unveiled its "SAFETEA" reauthorization proposal. The administration claims the bill will double the amount of money spent on safety in comparison to the 6-year period covered by the TEA–21 law.

However, a review of the details of the administration's proposal reveals that roughly half of this funding is committed to efforts to construct safer highways. And while the construction of safer highways unquestionably saves lives, there does not appear to be anywhere near that level of growth committed towards programs designed to change driver behavior.

Last week, I participated with Mothers Against Drunk Driving in the commemoration of the 15th anniversary of the worst drunk driving accident in our history. A drunk driver struck a school bus, killing 24 schoolchildren. I met with a few of the parents of those victims as well as a student who survived that crash. I am sorry the entire subcommittee could not participate in that event. I think it would have served as a stark reminder to all of us that each day roughly 49 individuals die as a result of drunk driving in this country.

Given these facts, I am concerned that the President's transportation budget does not adequately address the challenge that we face. For the second year in a row the budget proposes to cut funding for the impaired driving program in NHTSA's operations budget. Together, the Chairman and I served to increase rather than decrease funding for this program in last year's appropriations bill, and I hope that we will do the same again this year.

Also, while the administration is proposing a new $50 million initiative to reduce drunk driving in those States with the worst record, the legislation eliminates $150 million in existing programs that are targeted on drunk driving.

Moreover, the administration's new drunk driving grant program gives little direction to the States on how specifically these funds ought to be spent. Recently, the GAO reported that NHTSA has not required much by way of accountability on the part of States in using Federal funds to actually advance highway safety. I think we need to be very suspicious of initiatives that seek to attack the drunk driving problem by sharing revenue with the States with no strings attached.

I must also point out that the President's budget, for the second year in a row, eliminates the funding for the targeted paid adver-

tising initiatives that this committee championed. One of those initiatives, the "Click It or Ticket" program, is targeted on improving seatbelt use. Last year, we started another paid media initiative entitled "You Drink, You Drive, You Lose". Both of these initiatives are eliminated in the President's budget.

I hope here again that we can work together with the other members of the subcommittee to continue our leadership in this area whether the administration wants to join us or not.

And finally, I have to say that I am very pleased that Annette Sandberg, our new Federal Motor Carrier Safety Administrator, is here with us today. She and I have worked well together in the past and I look forward to working with you again.

The safety challenges in the motor carrier industry are no different than they are with the average driver. We need to make sure that truck drivers buckle up, drive safely, and drive responsibly. Ms. Sandberg's experience as the former chief of Washington State's Highway Patrol makes her uniquely qualified to lead the Federal Motor Carrier Safety Administration.

At this time, I will turn it over to Senator Campbell for an opening statement. And I just would let you know that I have an amendment up on the floor that I am managing right now. I have to leave and hope to come back. I do have questions that I will submit for the record if I get caught and cannot return.

PREPARED STATEMENT

But I do think this is a critical hearing. I think the topic of this discussion is absolutely important and I want to work with all of you to make sure that we address these important safety issues.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PATTY MURRAY

I commend you, Mr. Chairman for once again holding a special hearing to focus on our highway safety challenges. I hope we will call this hearing every year to continue to aggressively monitor the progress of the Department of Transportation in reducing the number of accidents and fatalities on our highways.

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We know what is required to reduce death on our highways. We know what law enforcement methods work, and what works to change driver behavior. What we don't know is whether we as a Nation have the will to force citizens to stop driving aggressively and to stop driving drunk. And we don't yet know if the Federal Government has the will to commit the necessary resources to change that deadly behavior.

When the lives of Americans are threatened by a danger, we take action. We did it after the tragic events of September 11th by dramatically improving airport security. Drunk and aggressive driving poses another threat to all Americans, and it's one where we can make a real difference if we are willing to make a commitment. Each month, more than 3,000 people die on our highways. That's an astounding figure, and we can reduce it if we make a commitment. I'd like to see the same commitment on highway safety as we've put on airport safety, because we can make a difference and save lives.

Earlier this week, the Bush Administration unveiled its so-called "SAFETEA" Reauthorization proposal. The Administration claims the bill will double the amount of money spent on safety in comparison to the 6-year period covered by the TEA–21 law. However, a review of the details of the Administration's proposal reveals that roughly half of this funding is committed to efforts to construct safer highways. While the construction of safer highways unquestionably saves lives, there doesn't appear to be anywhere near that level of growth committed toward programs designed to change driver behavior.

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Thank you Mr. Chairman.

PREPARED STATEMENT OF SENATOR RICHARD C. SHELBY

Senator MURRAY. Senator Shelby has submitted a statement which he would like included for the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR RICHARD C. SHELBY

Good Morning. The Subcommittee will come to order. I want to thank each of the witnesses for being here today to discuss fiscal year 2004 highway safety initiatives. As we approach Memorial Day, one of the most dangerous weekends for highway travel, I cannot think of a better time to discuss what I believe is a very important, yet all too often overlooked issue.

Last year, 43,000 people died on our Nation's highways and roughly 18,000 of the deaths were in alcohol-related crashes. Just as troubling is the fact that 4.5 million people visit the emergency room each year as a result of a motor vehicle accident. As the leading cause of death in the United States for Americans ages 1 to 35, I believe that this problem has reached epidemic proportions.

Much like the medical community treats cancer or heart disease, we need to develop a plan to research and enact effective, data driven programs to reduce the number of highway fatalities.

I am struck, however, by the lack of scientific method or comprehensive rational approach to combating drunk and drugged driving, to increasing seatbelt use in those demographics that under-perform the national average, or to changing dangerous behavior where we can identify it and isolate it.

Dr. Runge, as a physician you can not possibly subscribe to doing the same thing for an extended period of time if the patient did not improve—you would discontinue treatments that didn't work, prescribe treatments that did work, and try new treatments for conditions that you could identify and diagnose. That is all I am asking you to do here—identify, diagnose, and treat. We must start saving lives.

This year, the Department of Transportation has declared safety to be its No. 1 priority for its current budget request and for its reauthorization proposal, SAFETEA as well. Highway deaths have increased every year for the past 4 years and alcohol-related deaths increased for the third consecutive year, and I agree that there is no greater priority than reversing these alarming trends.

When I look at this budget proposal, I see no new initiatives that help us improve our poor highway safety record. The data tells me that what we are doing is not working, and it is preposterous to believe that we can continue to do the same thing each year and expect a different result. Too many lives are lost while many States, with NHTSA's approval, use their safety grants to use bobble-head dolls, key chains and air fresheners to get the message out without any results. It is beyond me how these trinkets are increasing seat belt usage or deterring impaired driving. I support State flexibility, but trinkets don't save lives. We must change our course if we expect to reduce the carnage on our Nation's highways.

The Administration's goal is to reach a 78 percent usage rate by the end of 2003. However, the budget proposes nothing specific to further increase usage rates and despite the remarkable success of the Click It or Ticket mobilizations, NHTSA has never requested specific funding for the program. It may not be a silver bullet, but I am not aware of another program that is as effective as these campaigns in increasing seat belt usage. To me, that goal rings hollow unless the budget justification outlines the steps we must take to achieve a 78 percent usage rate. This budget does not meet that test.

On the other hand, we are making modest improvement in large truck crashes which continued to decline this year, but much more needs to be done. I think that the data derived from the large truck crash causation study will provide an important blueprint to guide FMCSA in the future.

The Federal Motor Carrier Safety Administration was granted additional authorities with the enactment of the Motor Carrier Safety Improvement Act. FMCSA has a major new management challenge at hand to fully implement the new entrant program, and the first year will be the most difficult in identifying the riskiest operators and monitoring their safety records. I urge FMCSA to work with stakeholders and State enforcement authorities to coordinate and implement the new entrant program. I also encourage you to look into the possibility of designating a Federal tiger team to augment the efforts of the States to investigate the carriers who pose the greatest risks.

Again, I will say that I am disappointed by what I perceive to be a lack of innovative and creative thinking to allow our government to improve highway safety numbers. I appreciate that the responsibility to make our highways safer does not rest solely with your two agencies. In fact, everyone who gets behind the wheel shares some accountability.

Nevertheless, it is important for all agencies within the Department to work together to identify strategies for improvement and implement programs that are effective. If programs have reached a plateau or outlived their usefulness, then we must create and implement new approaches. We cannot sit idly by and hope that highway safety will spontaneously improve.

I look forward to hearing the testimony and am hopeful you will provide additional insight that will prove more promising than what I have seen so far.

Senator MURRAY. Senator Campbell?

STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator CAMPBELL [presiding.] Thank you, Madame Chairman.

I will submit my opening statement for the record and just associate myself with your comments.

It is rather ironic that—maybe ironic is not even the proper word—but we have killed more people on American highways than we did in Iraq during the same time frame we have been involved

in that engagement, and people do not seem to get excited. When one serviceman tragically loses his life in Iraq, we see it on the headlines of every newspaper in America. During that same time frame, as I mentioned, in Iraq, we have lost so many Americans.

I know that we are trying to focus at the State and Federal level on trying to improve devices in the car. We have done it with seatbelts. We have done it with airbags and a number of other things. We are certainly trying, by the highway bills we have passed and the appropriations, to improve the surfaces and the conditions on which people drive and that is great. But I think that we are really not doing as good a job as we could on, as Senator Murray said, on changing the behavior of drivers.

I know some States are taking on, as an example, the use of cellphones and other distractions that have proven to be distracting to a point of increased accidents because of their use. And I know we have dealt with alcohol-related deaths a great deal. And we have done it, I think, an awful lot through the penalty side of the equation. To me we are not doing enough on the side of the equation that requires better training and better education to change that behavior.

So I have about three or four other questions I would also like to ask, but will yield to Senator DeWine if he has an opening statement and then we will go ahead and take testimony.

Senator DEWINE. I have no opening statement. I will have questions.

Senator CAMPBELL. We welcome Dr. Jeffrey Runge, the Administrator of the National Highway Traffic Safety Administration, Ms. Annette Sandberg, who I understand used to be a State Patrolwoman and I was very delighted to hear that. I am sure she brings a great deal of on-the-ground experience to her job as the Acting Administrator of the Federal Motor Carriers Safety Administration. Ms. Wendy Hamilton, the President of Mothers Against Drunk Driving. And finally, to Mr. Chuck Hurley, the Vice President of the National Safety Council and Executive Director of the Airbag and Seatbelt Safety Campaign.

Why don't we just start in that range. If Dr. Runge would like to start. We will take the comments from all of you before we ask some questions.

STATEMENT OF JEFFREY W. RUNGE, M.D.

Dr. RUNGE. Senator Campbell, Senator DeWine, thank you very much for a chance to appear this morning, along with my colleagues from the FMCSA and MADD and the National Safety Council.

This group has spent many hours collaborating on ways to improve highway safety over the years. The fiscal year 2004 budget request is intended to build on successes we have had in the past, as well as address growing national safety priorities.

Over the last 35 years, the fatality rate has been reduced on our Nation's highways from 5.5 fatalities per 100 million vehicle miles traveled (VMT) to its present rate of 1.5 per million VMT. This represents significant progress.

Our programs support Secretary Mineta's departmental goal to reduce this number to 1.0 by 2008. We have an interim target for

2004 of 1.38 fatalities per 100 million VMT. This will be a very challenging target, based on the current trends.

In order to reach these targets, we need the full cooperation of our sister agencies in the administration, of Congress, of State legislatures, and indeed, the will of the Nation.

Under our reauthorization bill, we will use our appropriated grant funds to encourage States to use funds where they can be most effective, as States must share in the accountability with us.

Our proposed fiscal year 2004 budget of $665 million is performance-based, with clear goals and effectiveness measures, and it emphasizes our five priorities: increasing safety belt use, decreasing impaired driving, vehicle rollover, vehicle compatibility, and traffic records and data improvement. I will talk briefly about each priority, but they are interrelated and their solutions, in many ways, are common.

Safety belt use is our most effective tool in reducing death and injury on the highways. It cuts the risk of death in a crash in half. But you have to wear it. The good news is that belt use reached 75 percent last year, which is a record. But the bad news is that 25 percent of Americans involved in a motor vehicle crash who did not buckle their safety belts resulted in 6,800 preventable deaths and 170,000 hospitalizable injuries. This failure to wear seatbelts cost Americans $20 billion, mostly in medical costs and lost productivity.

Our national target for next year is 79 percent belt use. Reaching that would save 1,000 lives a year and prevent more than 28,000 injuries. If we reach a 90 percent usage, we will see 4,000 more lives saved every year. This is not a dream. More than 90 percent belt use has been achieved in California, Washington, Hawaii, and Puerto Rico. We know what is required for States to achieve these high levels—primary belt laws, strict enforcement, public education, using paid media and earned media, and our high-profile law-enforcement programs, such as "Click It or Ticket".

We conducted a highly effective "Click It or Ticket" program in eight southeastern States in 2001. In 2002, we conducted a similar campaign in 30 States, involving media saturation and highly visible enforcement. In the 10 States that completely adopted our model, belt use increased an average of 9 percentage points, with Vermont experiencing a 19 percentage point increase and West Virginia a 15 percentage point increase.

We are now in the middle of our 2003 "Click It or Ticket" national campaign. With the help of this committee, we have national "Click It or Ticket" advertising going on as we speak. This year, 43 States, D.C., and Puerto Rico chose to join the campaign.

But for high visibility enforcement campaigns to work fully, States must have standard safety belt laws. But only 18 currently have them. In fiscal year 2004, NHTSA's budget proposes a new, primary safety belt incentive grant program that we expect to result in more States enacting primary belt laws.

Regarding impaired driving, preliminary data for 2002 show an estimated 17,970 people dying in alcohol-related crashes, which is 42 percent of total traffic deaths. Alcohol traffic deaths are down 25 percent since 1988, but are 3 percent higher than in 2001. Our

target for 2004 is to reduce the rate of alcohol traffic deaths to 0.53 per 100 million VMT from our 0.64 that we experienced last year.

This will not be done by doing business as usual. We need to focus resources on where they are most needed, encourage States that are doing a good job to keep it up, and to help those States that are not to begin to do a good job.

So, in addition to focusing highly visible law enforcement campaigns in 2004, we are proposing a grant program that will provide additional resources to those States that have particularly severe impaired driving problems.

Rollovers account for less than 5 percent of all vehicle crashes, but one-third of vehicle fatalities. In 2002, 10,000 people died in the United States in rollover crashes, up nearly 5 percent from the previous year. Light trucks, including SUVs and pickups, are most at risk. We began rating vehicles in 2001 for their likelihood of rollover, which correlates closely with experience in real world crashes. The National Academy of Sciences recently evaluated our rollover ratings and found them valuable and accurate, but reported that ratings could be better if we evaluated vehicles in a dynamic rollover test that measures performance in emergency steering. NHTSA's fiscal year 2004 budget proposes to implement that change.

The U.S. fleet has changed dramatically in the last 20 years, producing mismatches between trucks and cars, and while light trucks and vans account for 38 percent of all registered vehicles, they are involved in about half of all two-vehicle crashes involving passenger cars. About 80 percent of the deaths occur in passenger cars. Since light trucks are half of all new vehicle sales today, we cannot delay action to address this problem.

Regarding traffic records, our budget request includes $10 million to enable us to update NHTSA's crash causation data, last generated in the 1970's. A lot has changed since then—vehicles, traffic patterns, numbers and types of vehicles, on board technologies, and driver demographics. Therefore, we are requesting support for a new traffic records and data improvement program in the States that will provide money where it is needed to support State traffic records.

My final point, we are proposing to restructure our highway safety grants to make the program simpler, smarter, and more effective. We are simplifying the grant delivery system by reducing the number of programs and increasing States' flexibility to use the grant funds.

PREPARED STATEMENT

Mr. Chairman, this concludes my statement. In closing, I would like to thank the committee for its support of our programs in the past. I look forward to working with you in the future.

Senator CAMPBELL. Thank you.

[The statement follows:]

PREPARED STATEMENT OF JEFFREY W. RUNGE, M.D.

Mr. Chairman and members of the Committee: I welcome the opportunity to appear before you to discuss our country's priority highway and motor vehicle safety issues that are administered by the National Highway Traffic Safety Administration (NHTSA). My staff and I look forward to working with this committee in addressing

these issues of great national importance. Today I am pleased to appear with my fellow highway safety colleagues.

In these uncertain times, the American public is looking to the highest levels of government for assurance of its safety. The President has pledged that the safety and security of our citizens is this Nation's highest priority. To that end, the Secretary of Transportation has established transportation safety as the Department's number one priority. NHTSA is pledged to solving the highway safety issues confronting this Nation.

NHTSA's fiscal year 2004 budget request of $665 million will help us build on past successes to address highway safety. The paramount highway safety goal within the Department is to reduce the fatality rate on our Nation's roadways to no more than 1.0 fatality for every 100 million vehicle miles traveled (VMT) by 2008. This is not just a NHTSA goal; it is a goal of the entire Department of Transportation. Our fiscal year 2004 budget request reflects the resources NHTSA needs if we are to attain this goal, along with the help of our DOT colleagues, the States, and the many non-Governmental organizations that are partners in this effort.

Motor vehicle crashes are responsible for 95 percent of all transportation-related deaths and 99 percent of all transportation-related injuries. They are the leading cause of death for Americans ages 2–33. The total number of highway fatalities has been increasing slightly since 1998, while the rate per vehicle miles traveled has decreased. Preliminary estimates for 2002 indicate that an estimated 42,850 people were killed on America's roads and highways, up 1.7 percent from 2001. The fatality rate per 100 million vehicle miles traveled (VMT) remained unchanged at 1.51, according to these estimates. Collectively, we have much work to do since the Department has established a performance goal of no more than 1.38 fatalities per 100 million VMT by the end of fiscal year 2004.

Traffic injuries in police-reported crashes decreased by four percent in 2002. This is excellent news. But we still are faced with the overwhelming fact that, during that same year, nearly 3 million people were injured in these crashes. The average cost for a critically injured survivor is estimated at $1.1 million over a lifetime. This figure does not even begin to reflect the physical and psychological suffering of the victims and their families.

Traffic crashes are not only a grave public health problem for our Nation, but also a significant economic problem. Traffic crashes cost our economy $230.6 billion in 2000, or 2.3 percent of the U.S. gross domestic product. This translates to an average of $820 for every person living in the United States. Included in this figure is $81 billion in lost productivity, $32.6 billion in medical expenses, and $59 billion in property damage. If safety is our number one priority, our Nation must become more aware of the deaths of nearly 43,000 Americans, the cost of these deaths, and the solutions. Given increased mobility estimates and the likely increase in miles traveled, a failure to improve the fatality rate will result in more than 50,000 Americans killed annually by 2008.

Consequently, our fiscal year 2004 budget request of $665 million is a performance-based budget with clear goals and measures. In addition, the budget is established around two major performance-based programs: Vehicle Safety and Traffic Injury Control. Program budgets are grouped under their corresponding goals for more efficient use of resources and more accurate performance measurement in meeting each goal. The budget includes measurable performance targets and outputs that clearly demonstrate not only how, but also how well, the budgetary resources are expended.

Before discussing the highlights of our program, I want to describe briefly the restructuring we are proposing for highway safety grants. The fiscal year 2004 budget consolidates all highway traffic safety grant resources provided by TEA–21 ($447 million) within NHTSA. This includes $222 million of resources for the Sections 157 and 163 grant programs formerly appropriated in the Federal Highway Administration's budget. NHTSA has administered these funds since their creation; the fiscal year 2004 budget merely proposes that those same funds be appropriated directly to NHTSA.

The grant award process under TEA–21 was very complex and time consuming for the States, and resulted in increased administrative overhead that could otherwise be applied to safety programs. It contained eight programs with various qualification and administrative requirements. NHTSA wants to simplify the system by reducing the number of programs and streamlining the process to qualify for, and administer, grant funds. NHTSA is also tying additional Section 402 funds to a State's highway safety performance, based on performance measures that are aligned with the national highway safety goals. Last week, the Administration released its proposal to reauthorize the surface transportation programs. These reforms are outlined in that proposal.

PROGRAM HIGHLIGHTS

Deaths and injuries can be prevented by building on the proven success of existing programs and, when indicated, developing new programs and evaluating their effectiveness. Within the two broad program areas, our programmatic emphasis for fiscal year 2004 focuses on five priority areas: safety belt and child restraint use, impaired driving, vehicle rollover, vehicle compatibility and traffic records/data collection. We have set up internal Integrated Project Teams (IPTs) in four of these areas to examine the issues and recommend solutions. The teams have recently concluded their work and have developed recommendations for the agency to pursue. Recently, the Secretary reiterated his commitment to implementing a balanced program focused on the 3 Es of Injury Prevention—engineering, enforcement, and education. The IPTs' work reflects the program strategies and options needed to produce such a balanced effort. My statement will address each of these.

Safety Belt and Child Restraint Use

Safety belt use cuts the risk of death in a crash in half. The good news is that in 2002, safety belt use in the United States reached 75 percent—an all-time high. All 50 States, the District of Columbia, and Puerto Rico had child passenger safety laws, and 49 States had adult safety belt laws in effect. As of October 2002, eighteen States, the District of Columbia, and Puerto Rico had primary safety belt laws in effect, meaning that drivers and passengers can be cited for failure to wear a safety belt. The remaining States, except New Hampshire, had laws preventing police from issuing a citation unless another traffic law was broken. These are referred to as secondary laws. New Hampshire continues to have no adult safety belt law. We are pleased to report that, due to immense effort and a successful partnership among government, safety groups, and African-American interest groups, safety belt use among African-Americans increased to 77 percent, a level above that of the general population, and an eight percentage-point increase since 2000. Belt use among those living in rural areas increased to 73 percent in 2002, a five percentage-point gain. However, the bad news is that despite these success stories, we continue to have entrenched and intractable problems that continue to challenge us. Most notably, during 2002, the 25 percent of passenger vehicle occupants who failed to use safety belts cost themselves and America 6,800 preventable deaths and 170,000 preventable injuries, resulting in $18 billion in medical costs, lost productivity, and other injury-related expenses.

Our safety belt use target for 2003 is 78 percent, and our 2004 target is 79 percent nationwide. These targets are optimistic but achievable. Based on the National Occupant Protection Use Survey (NOPUS) data for 1994–2001, the agency estimates that each year approximately 8.5 percent of non-safety belt users have converted to being regular belt users. Continuing to convert this percentage each year becomes increasingly more difficult because, as the conversion occurs, the hard-core non-users become a higher proportion of the remaining non-users. If we are successful in meeting the 2004 target, an estimated 1,000 more lives would be saved and 28,000 more injuries prevented.

Most passenger vehicle occupants killed in motor vehicle crashes continue to be totally unrestrained. If we were to achieve a national 90 percent belt use, nearly 4,000 additional lives would be saved each year. This usage rate is not only possible, it can be exceeded. For example, in 2002, Hawaii achieved a 90.4 percent use rate, Puerto Rico a 90.5 percent use rate, California a 91.1 percent use rate, and Washington State a 92.6 percent use rate. To achieve these high use targets in the remaining States, NHTSA will need to continue to employ a combination of education, enforcement, and engineering strategies to raise belt use, particularly among the most at risk populations.

States achieve high levels of belt use through enacting primary safety belt laws, strict enforcement of existing laws, public education using paid and earned media, and high profile law enforcement programs, such as the Click it or Ticket campaign. Highway safety research and our continuing evaluation of our programs have demonstrated that an intensive, high visibility traffic enforcement program significantly increases safety belt use.

NHTSA has supported high visibility enforcement for the last decade, following a model that was developed in several States in the early 1990s. With funding authorized under TEA–21 and with support from this Committee, these campaigns have grown tremendously, saving thousands of lives. Following a highly effective Click It or Ticket program in eight southeastern States in 2001, the agency undertook a similar campaign involving media saturation and highly visible enforcement in 30 States in May 2002. In a study of ten States that completely adopted the model, safety belt use was shown to increase an average of nine percentage points,

with one State—Vermont—experiencing a 19 percentage-point increase, followed by West Virginia with a 15 percentage-point increase.

We are in the midst of carrying out the 2003 Click It or Ticket national campaign. This year, 43 States, the District of Columbia, and Puerto Rico qualified for grant funds to support Click It or Ticket campaigns. This year, Congress provided funding for NHTSA to purchase $10 million of national advertising that will further enhance the benefit of these State and local enforcement campaigns. These ads are currently playing. In addition, the occupant protection program includes demonstrations of new strategies for increasing belt use among high-risk, low-use groups, such as pick-up truck drivers, minorities, and teens. Support for the high visibility enforcement campaigns, together with resources to support paid and earned media and new strategies for reaching high-risk groups, will contribute to achieving our 2003 target and prepare for further gains in coming years.

In fiscal year 2004, NHTSA plans to continue to encourage States to embrace the Click It or Ticket campaign and to begin investigating strategies to assist States with integrating high visibility enforcement into their ongoing routine enforcement. NHTSA has proposed a new primary safety belt law incentive grant program that is expected to result in additional States upgrading their laws, and a performance-based safety belt use rate grant program for States to encourage them to make progress on raising safety belt use. In 2002, States with primary safety belt laws averaged 80 percent use, 11 percentage points higher than those with secondary laws. We are hopeful that by rewarding States for enacting primary safety belt laws or achieving 90 percent use rates, fatalities and injuries in those States will decline. As an additional inducement, we are proposing that the States receiving such incentive awards be permitted to apply those funds to highway safety infrastructure projects contained in the State's Integrated Highway Safety Improvement Program. In addition, the agency will utilize the results of our high-risk group demonstration programs to develop educational programs and materials that are intended to increase use among these populations.

We will continue these high profile programs in fiscal year 2004 because they succeed in reminding the motoring public that using safety belts and child safety seats saves lives, and create an added incentive to wear belts for those who currently break the law. We are serious about reducing the yearly financial toll to America from the failure to wear safety belts.

In addition to our success in raising safety belt use, we have made steady progress in getting more children restrained. Restraint use by young children rose to unprecedented levels in 2002. In 2002, NHTSA's NOPUS survey showed that the rate for child restraint use was 99 percent for infants (under 12 months), 94 percent for toddlers (1–3 years), and 83 percent for children ages 4–7. Our 2002 estimates indicate that fatalities among children ages 0–7 years continued to decline, reaching another historic low. Unfortunately, these data also show an increase in highway deaths for children 8–15 years. The number of occupant fatalities for children in this age range rose by nearly nine percent over 2001.

To comply with the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act's goal of reducing deaths and injuries by 25 percent among 4- to 8-year-olds by 2006, NHTSA published a five-year strategic plan in a report to Congress in June 2002, focusing on improving consumer awareness, booster seat safety benefits, and the enforcement of booster seat laws, as well as a study on the overall effectiveness of booster seats. A November 5, 2002, final rule established a consumer information program to rate child restraints on ease-of-use. The fiscal year 2004 New Car Assessment Program (NCAP) budget request will support child safety seat Ease-of-Use ratings for over 90 percent of the child safety seats on the market. These ratings will be published annually in a brochure and on the Internet, starting this spring.

Impaired Driving

Impaired driving rates have decreased for drivers of all age groups involved in fatal crashes over the past decade, with drivers 25 to 34 years old experiencing the greatest decrease, followed by drivers 16 to 20 years old. However, our 2002 estimates indicate that alcohol-related fatalities rose for the third consecutive year. Preliminary 2002 data indicate that an estimated 17,970 people died in alcohol-related crashes (42 percent of the total fatalities for the year), and even though this is a 25 percent reduction from the 23,833 alcohol-related fatalities in 1988, it is an increase of 3 percent over 2001. We must reduce these statistics even further through more aggressive programs that deter impaired driving.

NHTSA's target for 2004 is to reduce the rate of alcohol related fatalities to 0.53 per 100 million VMT from the current 2002 actual rate of 0.64.

In 2003, the agency is encouraging States to adopt high-profile law enforcement programs, combined with paid and earned media saturation. These programs will combine a high level of sustained enforcement with intense enforcement mobilizations around the July 4 and December holiday periods. As with the Click It or Ticket campaign, these programs will use both paid and earned media to alert the public about the increased risk of arrest if they fail to observe highway safety laws. In fiscal year 2002, Congress provided $11 million for paid media and $1 million for evaluation in support of these programs. NHTSA is working intensely with 13 States on this type of high visibility, enforcement-focused campaign. The first of these campaigns was in December 2002 through early January 2003. We are currently collecting the data from these States to determine the overall success of this mobilization on the numbers of deaths and injuries. We appreciate the support of Congress in enhancing these law enforcement campaigns.

In fiscal year 2003, we are also continuing to support State activities to upgrade impaired driving laws. Currently, 39 States, the District of Columbia, and Puerto Rico have enacted laws making it unlawful for a driver to operate a motor vehicle with a blood alcohol concentration (BAC) of .08 percent, up from 28 this time last year. In addition, all States and the District of Columbia now have zero tolerance laws setting the illegal BAC limit at no higher than .02 for drivers under age 21. We will continue to urge strong State legislation as a framework for an effective impaired driving program. In addition, NHTSA is conducting a range of demonstration programs to develop strategies for upgrading prosecution and adjudication processes, and improving impaired driver records systems to track repeat offenders.

NHTSA's fiscal year 2004 impaired driving program will continue to focus on highly sustained and periodic law enforcement campaigns, together with implementing improvements to the prosecution, adjudication, and records systems. We will also be developing additional strategies based in part on what we learn from the You Drink & Drive. You Lose. campaign results. For fiscal year 2004, the agency has proposed a State grant program that will focus resources on a small number of States with high alcohol-related crashes. The grant program will include support for States to conduct detailed reviews of their impaired driving systems by a team of experts and assist them in developing a strategic plan for improving programs, processes, and reducing impaired driving-related fatalities and injuries. This year, we have begun implementing recommendations from the Criminal Justice Summit on Impaired Driving held in November 2002. These include training and legal advice in the prosecution and adjudication of DWI cases, and working with licensing and criminal justice authorities to close legal loopholes. NHTSA will also focus on the increasing rates of motorcycle fatalities, particularly since 37 percent of all motorcycle fatalities are alcohol-related. Finally, in addition to the enforcement campaign and grant program, in fiscal year 2004 we will continue to focus on the most at-risk populations such as youth, 21–34-year-olds, and repeat offenders, and conduct more studies on finding vehicle-based solutions for impaired driving behavior including using the National Advanced Driving Simulator. These studies will be used to refine agency countermeasures and regulatory initiatives.

NHTSA believes that continued nationwide use of sustained high-visibility enforcement, encouraging States to adopt proven remedies and paid and earned media campaigns, together with the targeted State grant program and support activities, will lead to a resumption of the downward trend in alcohol-related fatalities that we experienced over the past decade.

Vehicle Rollover

Rollovers account for less than five percent of all passenger vehicle crashes, but one-third of passenger vehicle occupant deaths. In 2002, an estimated 10,626 people died in the United States in rollover crashes, up 4.9 percent from 10,130 in 2001. This type of crash accounts for less than five percent of all passenger vehicle crashes, but one-third of passenger vehicle occupant deaths. Light trucks (particularly pickup trucks and sport utility vehicles) have a rollover rate significantly higher than passenger cars because light trucks have higher centers of gravity and are more prone to rollover during certain handling maneuvers. Fatalities in rollover crashes involving pickup trucks and sport utility vehicles accounted for 53 percent of the estimated increase in highway fatalities for 2002. Since light trucks account for an increasing portion of total light vehicle sales, deaths and injuries in rollover crashes will become a greater safety problem unless something changes.

One step we have taken (beginning in 2001) is to rate vehicles in our New Car Assessment Program (NCAP) for their propensity to rollover. Our NCAP ratings are based on the vehicle's static stability factor, which is calculated based on the height of the vehicle's center of gravity and its track width. These rollover ratings correlate very closely with experience in real-world crashes. The lowest rated, one-star vehi-

cles in our rollover NCAP have a 40 percent chance of rollover per single vehicle crash compared to a 10 percent chance for vehicles with the highest five-star rating. The National Academy of Sciences independently evaluated our rollover NCAP ratings and found that our current ratings are valuable and accurate, but suggested the ratings could be even better if we also evaluated vehicles in a dynamic rollover test that measures how vehicles perform in emergency steering conditions. We have proposed to adopt this change, consistent with Congress's direction in the TREAD Act, and our fiscal year 2004 budget includes $1.9 million to implement this change in the 2004 model year. We believe this combined rollover rating will help us understand the real-world rollover experience and thereby give the American public a more useful piece of information for choosing a new vehicle.

Our experience in rating vehicles for rollover shows that vehicles differ significantly. For instance, sport utility vehicles receive from one star to four stars for rollover resistance. Pickup trucks range from one star to three stars. We want to make sure that people who are choosing to drive sport utility vehicles and pickup trucks have the information that will allow them to choose the ones less prone to roll over.

While we would like to prevent rollovers from happening in the first place, we recognize that some rollover crashes will occur. Thus, we must also consider other actions that will help reduce deaths and injuries in rollover crashes. We expect to announce proposed upgrades of our door lock requirements and our roof crush standard in fiscal year 2004. Finally, we are considering a proposal to reduce ejections through windows.

However, there is another step that we need to emphasize for improved safety in rollovers—one that can be taken today with no changes whatever to vehicles. We can significantly reduce deaths and injuries in rollover crashes if we can get more Americans to use the safety belts that are in their vehicles today. Most people killed in rollovers are ejected totally or partially from the vehicle. Safety belts can prevent nearly all of these ejections. Safety belts are 80 percent effective in preventing deaths in rollovers involving light trucks and 74 percent effective in rollovers involving passenger cars.

Vehicle Compatibility

The vehicle fleet has changed dramatically in the last 20 years, and these changes have given rise to an unprecedented vehicle mismatch in vehicle-to-vehicle crashes. Of course, vehicle compatibility has been a concern for longer than the past 20 years, but the earlier concerns about compatibility among different vehicles on the road were primarily related to differences between large and small cars, and the primary difference was simply the mass of the vehicles. However, more recently, the rising popularity of light trucks, vans, and SUVs has made the problem substantially more complex. Now, in addition to differences in vehicle mass, we must address inherent design differences, including disparities in vehicle height, geometry, and vehicle stiffness. The fleet average weight of light passenger vehicles that was approximately 3,000 pounds in 1990 is almost 4,000 pounds today. Similar changes are occurring in front-end heights and stiffness. The average initial stiffness of light trucks is about twice that of passenger cars. This increases the risk of death and injury to occupants in certain passenger vehicles when they interact with the more aggressive ones.

While light trucks and vans (LTVs) account for 38 percent of all registered vehicles, they are involved in approximately half of all fatal two-vehicle crashes involving passenger cars. In these collisions, about 80 percent of the fatalities are passenger car occupants. We need to address this problem now since LTVs constitute half of all new vehicle sales.

An Integrated Project Team from offices within the agency has been addressing this issue. I expect to publish that team's recommendations for public comment in the very near future. This team has identified some ways in which the safety features of a struck vehicle may be improved to better protect the occupants in a crash with a more aggressive vehicle and measures to reduce the aggressiveness of striking vehicles. The safety problems associated with vehicle compatibility are complex and will need focused research and other efforts to solve them.

The greatest problem in vehicle compatibility occurs when an LTV strikes a passenger car in the side. In the near term, we expect to propose a significant upgrade to our side impact protection standard. While improving upon the protection already provided to the chest and pelvis in our side impact standard, this upgrade will also add a measure of head protection to our side impact standard, because our data show that head injury is a serious risk in side crashes. We will also explore the idea of adding different sized dummies to our side impact standard.

I am also happy to tell you that NHTSA is not the only party that is trying to address compatibility. Vehicle manufacturers have acknowledged that they also

have a responsibility to address this issue. Manufacturers have formed their own working groups to develop recommendations for some voluntary actions that can be taken to improve vehicle compatibility. These manufacturers have committed to developing initial recommendations by late spring. In addition, the government of Japan has committed to share test data and other information with NHTSA on the issue of vehicle compatibility. With this international cooperation, the American people will get a much quicker response to the problem of vehicle compatibility than if NHTSA were to address this issue by itself.

Traffic Records/Data Collection

Crash Causation Data

NHTSA's fiscal year 2004 budget request includes a proposal to enable us to update our crash causation data, last generated comprehensively in the 1970s. Vehicle design, traffic patterns, numbers and types of vehicles in use, on-board technologies, and lifestyles have changed dramatically in the last 30 years. Old assumptions about the causes of crashes may no longer be valid. Since the agency depends on causation data to form the basis for its priorities, we must ensure that this data is current and accurate. We have requested $10 million to perform a comprehensive update of our crash causation data that will allow us to target our efforts for the next decade on the factors that are the most frequent causes of crashes on American roads.

NHTSA has in place an infrastructure of investigation teams that will enable us to perform the study efficiently and accurately. These teams are currently performing a similar study for large, commercial truck crashes and are adept at gathering evidence from the crash scenes, the hospital, and from victim and witness interviews. Their findings will guide the agency's programs in crash avoidance, including vehicle technologies, as well as human factors.

State Traffic Records

Reliable, valid, and comprehensive crash data are the backbone of all efforts to improve highway safety. Accurate problem identification is vital if the highway safety community is to understand the scope and extent of their crash issues. Problematic to this is the fact that States are under increasing budgetary constraints that severely impact their ability to maintain or improve their Traffic Records System (TRS) data. Due to personnel reductions, law enforcement agencies in many States now maintain data only on fatal and severe injury crashes as opposed to crashes of all severities. Deficiencies in States' TRS data negatively impact national databases including the Fatality Analysis Reporting System, General Estimates System, National Driver Register, Highway Safety Information System, and Commercial Driver License Information System, as well as State data used to identify local safety problems. In fiscal year 2004, NHTSA is requesting an additional $50 million for a new Traffic Records/Data Improvement Program in the States. The new initiative will provide incentive grants to States to support improved TRS data. In addition to police reports, emergency medical services, driver licensing, vehicle registration, and citation/court data provide essential information not available elsewhere. All would be improved by this program. Accurate State TRS data are critical to identifying local safety issues, applying focused safety countermeasures, and evaluating the effectiveness of countermeasures.

Mr. Chairman, this concludes my statement. I would like to thank the Committee for its continued steadfast support of our programs. I look forward to working with you, as well as my partners appearing today to testify, in developing a strong and productive performance-based, results-oriented, safety program that will provide national leadership through effective and efficient programs. I would be pleased to answer any questions.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

STATEMENT OF ANNETTE SANDBERG, ACTING ADMINISTRATOR

Senator CAMPBELL. Ms. Sandberg.

By the way, your complete written testimony will be included in the record. If anyone on the panel wants to abbreviate, feel free to do so.

Ms. SANDBERG. Thank you, sir.

Good morning, Mr. Chairman and members of the committee.

Thank you for the opportunity to appear before you today to discuss the Federal Motor Carrier Safety Administration's initiatives in fiscal year 2004. I want to thank you for your support and the resources you have provided to our agency since our creation in 1999.

Fatalities and crashes involving large trucks have declined 4 years in a row. This is significant progress. However, we know we can make our highways even safer.

Accordingly, a goal of the Bush Administration is to improve safety and to reduce the number of accidents and deaths on our highways. Fulfilling this goal is Secretary Mineta's top priority. I, too, share this priority.

DOT's current highway safety goal is to reduce the fatality rate by 41 percent by the year 2008. This equates to a rate of 1 fatality per 100 million vehicle miles traveled.

The Federal Motor Carrier Safety Administration has a goal that is part of the overall Department goal. The Federal Motor Carrier Safety Administration's goal is a rate of 1.65 commercial vehicle crash fatalities per 100 million miles of truck travel. Achieving our goal will be challenging, as commercial vehicle miles of travel is increasing at a rate faster than passenger car miles of travel.

The Motor Carrier's performance-based budget is consistent with the goals and programs established in SAFETEA, the administration's reauthorization proposal. Our fiscal year 2004 request focuses resources in several critical areas.

One of these areas is our New Entrant Program. As directed by Congress, the New Entrant Program will require that new car carriers undergo a safety audit within their first 18 months of operation. New entrants represent a significant commercial motor vehicle safety risk. Statistics show new carriers are less likely to know and to comply with Federal safety standards.

Our fiscal year 2004 budget request includes resources for a Federal/State partnership to implement the New Entrant Program. Forty-six States are committed to working with us, in full or in part, to conduct new entrants safety audits. We believe that the Federal/State partnership will yield significant benefits.

Another area for investment is hazardous materials transportation. Each day more than 800,000 hazardous material shipments cross the United States, 94 percent of which travel by highway.

Our goal is to achieve a 20 percent reduction in truck-related HAZMAT incidents by the year 2010. We will accomplish this goal through targeted enforcement and compliance efforts, including the implementation of a permitting program for certain carriers of extremely hazardous materials.

In partnership with the States, we propose to expand inspection efforts at the northern border with an emphasis on increased roadside inspections at remote border crossings. Inspecting commercial motor vehicles transporting hazardous materials will be a priority with emphasis on driver's license checks and vehicle screening for explosives. We anticipate that the program will yield more inspections of Canadian vehicles, more inspections of vehicles transporting HAZMAT, and an increased inspection presence at the U.S. and Canadian border crossings.

Southern border safety also remains a priority for our agency. The fiscal year 2002 Appropriations Act required that the DOT Inspector General verify that a number of statutory conditions be met before the U.S./Mexican border could order to long haul commercial traffic. The Federal Motor Carrier Safety Administration has met these requirements.

Currently, the border remains closed due to a ruling of the 9th Circuit Court of Appeals. The administration is considering appropriate next steps. Meanwhile, our agency is ready now to ensure the safety of border operations and will be ready whenever the border opens.

Another area of investment is the Commercial Drivers License Grant Program. We propose increasing the CDL grant funding in fiscal year 2004 to improve State control and oversight of licensing and third-party testing facilities to detect and prevent fraudulent testing and licensing activities, and to support the transfer of Mexican and Canadian driver conviction and disqualification data from the States to the Federal Motor Carrier Safety Administration's central depository.

FMCSA is concerned about the increasing number of consumer household goods complaints. The FMCSA receives thousands of complaints annually about household goods carriers. In our fiscal year 2004 budget request, FMCSA requested additional staff to enhance our ability to pursue enforcement against these abusive carriers.

Finally, it is crucial that the Federal Motor Carrier Safety Administration institute a number of medical certification programs in the fiscal year 2004, including an establishment of a medical review board, the certification of medical examiners, and the pilot programs on medical waivers and exemptions. Establishment of the registry would respond to the National Transportation Safety Board, which issued eight safety recommendations in September, 2001, recommending that FMCSA establish more comprehensive standards for qualifying medical providers and conducting medical qualification exams.

PREPARED STATEMENT

I look forward to working with this subcommittee to advance our mutual goal of improving safety on our Nation's highways, and would be happy to answer any questions that you may have.

Thank you very much.
[The statement follows:]

PREPARED STATEMENT OF ANNETTE SANDBERG

Good morning, Chairman Shelby, Ranking Member Murray, and Senators. Thank you for this opportunity to discuss plans for the Federal Motor Carrier Safety Administration (FMCSA) in fiscal year 2004. The ongoing support provided by this Committee has enabled FMCSA to make significant progress on several safety fronts, including increased safety enforcement and compliance, as well as enhanced border safety operations. Though we have seen fatalities in crashes involving trucks reduced for four years in a row, clearly there is more that needs to be done. My commitment is to improve commercial motor vehicle safety by bringing greater efficiency and effectiveness to FMCSA's programs and activities as reflected in the Administration's fiscal year 2004 budget submission, and as envisioned by Congress when the agency was created. This budget is consistent with the goals and programs established in the Administration's reauthorization proposal, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA), released on May 14.

The Department recognizes that a collaborative effort among agencies is needed to significantly reduce the fatality rate on our Nation's highways. The DOT highway safety goal is to reduce the fatality rate by 41 percent by 2008. This equates to a rate of one fatality per 100 million vehicle-miles-traveled. To achieve the DOT goal, FMCSA, along with the National Highway Traffic Safety Administration and the Federal Highway Administration, set goals within their respective programs to contribute to meeting the Department-wide target. FMCSA's targeted contribution to the DOT goal is set at a rate of 1.65 commercial vehicle crash fatalities per 100 million miles of truck travel by 2008. Achieving our goal will be a particular challenge, as commercial vehicle miles of travel have been growing at a faster rate than passenger car miles of travel. On average, over the past 15 years, truck and bus travel has increased by 3.4 percent annually while passenger car travel increases have been running at 2.8 percent. This trend is projected to continue.

I believe that our success will be driven by how well we target our resources at safety problems. To do this effectively, we must use the multiple data sources available to us. FMCSA is a data-driven, performance-based organization. This makes the timely collection of complete data a critical goal for us. Our programs and activities will be focused on reliable and timely data upon which to base our policy and programmatic decision-making and allocation of our operational resources. Our performance-based approach will enable us to accomplish three critical objectives: 1) achieve dramatic improvements in commercial motor vehicle safety; 2) ensure that resources are directed toward activities with the potential for the greatest safety impact; and 3) develop information that demonstrates the value of the government's investment in safety.

FMCSA's fiscal year 2004 budget request has been structured to strengthen the linkage between resources and accomplishment of these objectives. We have integrated our budget and performance information, framed around the achievement of objectives in several critical areas.

NEW ENTRANT PROGRAM

Let me begin by outlining a critical area for investment, FMCSA's New Entrant Program. As Congress set out in the Motor Carrier Safety Improvement Act of 1999, a new entrant program to bring motor carriers into compliance with safety regulations at the onset of operations can improve safety. These new entrants, numbering 40,000–50,000 annually, represent a significant commercial motor vehicle safety risk. Our fiscal year 2004 budget request includes resources for a Federal-State partnership effort to implement the New Entrant Program.

Overseeing and supporting the conduct of safety audits, establishing baseline data, and implementing a program of regular data collection to assess the progress of the New Entrant Program will enable FMCSA to fulfill the statutory mandate to improve new entrant safety performance. This program will also meet the requirements set out in Section 350 of the fiscal year 2002 DOT Appropriations Act as a precondition to opening the Southern border to Mexican commercial vehicles.

We know already that 46 States will work with us, in full or in part, to conduct new entrant safety audits. These States have agreed to provide approximately 195 of the estimated 262 State and Federal personnel needed to audit the 40,000 to 50,000 new entrants per year. The State personnel will be either new hires or be reassigned from other law enforcement duties. In fiscal year 2003, these individuals

are supported through Motor Carrier Safety Assistance Program grant funds. Contracted safety auditors will be used to make up the balance of staff needed. We also plan to hire 32 full-time Federal staff to cover program oversight, including management, review, and approval of the safety audits. We believe this Federal-State partnership will yield significant results by placing funds in the hands of those closest to the new entrant population, while maintaining appropriate Federal support and oversight.

HAZMAT SAFETY AND SECURITY

Another area where resources are needed is in the transportation of hazardous materials. Each day, there are more than 800,000 shipments of HAZMAT in the United States, 94 percent of which move by highway. We have established a goal of a 20 percent reduction in truck-related hazardous materials incidents by 2010, as measured from the baseline of 2000. We plan to accomplish this through targeted enforcement and compliance efforts.

First, our request includes funds for a HAZMAT permitting program for certain carriers of extremely hazardous materials, as required by Congress. This program will ensure that carriers of these dangerous materials have implemented safety and security measures. FMCSA anticipates issuing 2,700 HAZMAT permits in fiscal year 2004.

Second, a program to enhance commercial motor vehicle safety and security at the northern border is being proposed. In partnership with the States, we propose to expand current inspection efforts at the northern border with an emphasis on conducting additional roadside inspections at or near the more remote border crossings. The highest priority will be given to inspecting commercial motor vehicles transporting HAZMAT, with emphasis on driver license checks and vehicle screening for explosives. It is anticipated that 200,000 HAZMAT vehicle inspections will be performed at the northern border in 2004 by the State inspectors hired under this program.

Third, FMCSA will continue its base program of hazardous materials regulatory compliance and outreach and education. For example, responding to the events of September 11, FMCSA contacted nearly 42,000 hazardous materials carriers and conducted nearly 31,000 Security Sensitivity Visits. FMCSA has since launched a program of "Security Contact Reviews" to maintain a high level of vigilance within the industry. Funds requested will enable FMCSA to integrate Security Sensitivity Visits into compliance review activities conducted by our field offices.

SOUTHERN BORDER ENFORCEMENT

Southern Border safety activities remain a high priority for FMCSA. In the fiscal year 2002 Appropriations Act, Congress established requirements for opening the U.S.-Mexico border to long-haul commercial traffic. One of these requirements was that the DOT Inspector General must verify that all statutory conditions have been satisfied. As DOT Inspector General Ken Mead reported in March, FMCSA has met these requirements, including the hiring and training of enforcement personnel and the establishment of inspection facilities and safety procedures at the southern border. Because of our actions, Secretary Mineta was able to certify that the Department had met the requirements of Section 350 providing a basis for the President to lift the moratorium on granting operating authority for Mexican carriers to operate within the interior of the United States.

Currently, the border remains closed due to the 9th Circuit Court ruling that DOT had not conducted the appropriate, in-depth environmental analysis for certain rules designed to satisfy the Congressional requirements. The Court held that the environmental assessment that the agency prepared was inadequate, and that FMCSA should have prepared an Environmental Impact Assessment and Clean Air Act Conformity Analysis. The Administration filed an en banc appeal of the decision to the 9th Circuit on March 10, which was denied. The Administration is considering appropriate next steps in responding to the ruling. Meanwhile, FMCSA is ready now, and will be ready whenever the border is opened, to ensure the safety of border operations. At present, border inspectors and auditors are conducting inspections and safety audits on commercial zone carriers. Border safety investigators are assisting other FMCSA staff in conducting compliance reviews to maintain their skills, as well as conducting compliance reviews on commercial zone carriers. Additionally, border safety investigators have been deployed to do additional inspections at the border.

COMMERCIAL DRIVERS LICENSE (CDL) GRANTS

Improving the accuracy and completeness of driver history records is key to enhanced safety. The driver's license is the main form of personal identification in the United States. Ensuring positive identification license holders is dependent upon a diverse set of security technologies. Particularly in the transport of hazardous materials, States need current driver licensing technology for security purposes. Grants under this program will allow States to enhance this technology.

We are proposing increased CDL grant funding in fiscal year 2004 to accomplish: 1) improving State control and oversight of State licensing agency and third party testing facilities; 2) developing management control practices to detect and prevent fraudulent testing and licensing activities; 3) supporting State efforts to conduct Social Security Number and Immigration and Naturalization Service number verification for CDLs; and 4) maintaining the central depository of Mexican and Canadian driver convictions in the United States, the disqualification of unsafe Mexican and Canadian drivers, and the notification of Mexican and Canadian authorities of convictions and/or disqualifications.

Together, these activities will add to the variety of driver's license technologies for safety and security, as well as enhancing our ability to identify problem drivers.

HOUSEHOLD GOODS ENFORCEMENT

I am sure that the Chairman and Senators of this Subcommittee, as well as your Senate colleagues, have noticed an increase in the number of constituent complaints regarding unscrupulous household goods carriers. The letters we receive, as well as the calls coming into the FMCSA hotline, have been increasing. FMCSA receives thousands of consumer complaints annually. Currently, the Agency has three full-time commercial investigators devoted to the Household Goods Enforcement and Compliance program and has budgeted for more in fiscal year 2004 to expand enforcement of the Federal Motor Carrier Commercial Regulations.

While the household moving industry as a whole performs over a million successful moves annually, a small group of unscrupulous people scattered over a handful of States has used this industry to defraud unsuspecting consumers of their hard-earned money. The complaints from the American moving public have reached significant proportions. FMCSA has gathered data to define how, when, and where to focus a limited number of requested resources to inoculate the public against these predators.

These resources will establish a more visible enforcement program through increased investigations, and a more robust outreach effort to reduce the number of consumer complaints filed against household goods carriers and brokers. Our efforts will also be aimed at increasing consumer awareness to allow the public to make better-informed decisions before they move across State lines.

FMCSA also proposes to conduct an extensive study of existing Household Goods Dispute Settlement Programs and alternative arbitration programs in the household goods moving industry. We need this critical information to determine the extent of the challenge, to determine effective strategies and countermeasures, and to evaluate the effectiveness of these programs in resolving loss and damage disputes and claims between shippers and carriers.

Household goods carriers operating in interstate commerce are required to have or participate in an arbitration program as a condition of their registration with FMCSA. The arbitration programs must comply with the requirements of 49 U.S.C. 14708, and the carrier must submit to binding arbitration upon a shipper's request for cargo damage or loss claims of $5,000 or less. Seventy-five percent of the complaints we receive pertain to loss and damage claims. FMCSA believes this study is necessary to determine what changes are needed to assist the moving industry in establishing effective arbitration programs to resolve loss and damage disputes. Currently, FMCSA does not have adequate data or records to evaluate effectively the arbitration programs in the moving industry. We are hopeful that this study will provide a future roadmap to better address household goods complaints.

REGULATORY DEVELOPMENT

Regulatory Development is the cornerstone of FMCSA's compliance and enforcement process. This is an area where greater attention and resources are needed to promulgate all mandated regulations to ensure program performance will not be compromised. For this reason, we are proposing to dedicate funds to our regulatory development program and have already implemented a defined operating procedure to further accelerate our efforts.

I recently issued a directive to the agency establishing a revised process by which our agency will develop regulations. This directive is modeled on the procedures used in other Federal agencies. It promotes staff collaboration, establishes early regulatory evaluation and analysis, while setting out clear milestones. The new process is designed to improve both the quality and timeliness of our rulemakings. It is team-based and designed to build agency consensus through early involvement by senior managers. Staff has been instructed that all FMCSA rulemakings should immediately begin to follow the new procedures set forth in the order.

The new process is already being put to use as FMCSA responds to a Writ of Mandamus. As you may know, on November 26, 2002, the DOT Secretary and FMCSA were served with a Petition for a Writ of Mandamus for Relief from Unlawfully Withheld Agency Action. Citizens for Reliable and Safe Highways (CRASH), Parents Against Tired Truckers (PATT), Teamsters for a Democratic Union (TDU), and Public Citizen filed the Petition. The Petition seeks a court order directing DOT to promulgate six regulations. In February 2003, the FMCSA, through a settlement agreement, committed to a timetable for completing these rules (referred to as the Mandamus rules). The Hours-of-Service rule was among them. FMCSA published the Final Rule on Hours-of-Service in the Federal Register on April 28, 2003. The effective date is June 27, 2003, with a compliance date of January 4, 2004. This time period is needed to train 8,000 enforcement officers, update FMCSA computer systems and manuals, and to educate the industry.

MEDICAL PROGRAMS

We will use our funds to examine alternative regulatory programs. Congress provided FMCSA with authority to establish exemption and pilot programs under strict safety controls. We now operate a vision exemption program where applications total more than 60 per month. We are approached routinely to consider other alternative programs to our safety regulations. These resource intensive programs require a consistent funding stream to operate successfully with ample oversight and over multiple years.

Among the projected uses for regulatory development funding are the establishment of a medical review board and the creation of a national medical examiner registry. The medical review board will provide expert medical opinion and advice to the agency as we update our medical qualifications requirements. Expert medical advice will help us to supplement the experience of our staff and enhance our medical program.

The medical examiner registry will permit FMCSA to provide more comprehensive information on medical practitioners to drivers and carriers. It will also help disseminate information to physicians regarding medical policies and requirements relevant to the physical qualifications of commercial drivers. This is an essential step to upgrade the quality of CDL driver medical qualification exams. With the registry, we will be able to better monitor the quality and practices of medical examiners. A certification process will ensure that medical examiners are qualified to perform driver physical exams. Establishment of a medical registry would respond to the National Transportation Safety Board, which issued eight safety recommendations in September 2001 requesting that FMCSA establish more comprehensive standards for qualifying medical providers and conducting medical qualification exams.

ORGANIZATIONAL EXCELLENCE

Finally, I would like to speak to FMCSA's organizational capacity. Many lessons have been learned during these first three formative years. The agency has experienced the traditional growing pains of a new organization, but has also had to grapple with some nontraditional ones as well. The rapid rate at which new programmatic and management responsibilities came to the agency could not have been predicted. These new activities, like the opening of the U.S.-Mexico border and Security Sensitivity Visits, exacted a toll on both FMCSA and FHWA's administrative capacities. Each agency was inundated with ever-increasing workloads and heightened performance expectations.

The agency now finds itself at a critical juncture in its organizational development. It is poised to meet the challenges of the President's Management Agenda through human capital management, improved financial performance, competitive sourcing, performance based budgeting, and E-government. However, the agency's administrative and information technology infrastructures are in need of additional resources to support its workload and continue to focus on improved safety performance. Our request in fiscal year 2004 will enable FMCSA to procure the necessary administrative and information technology resources at competitive market rates.

CONCLUSION

Thank you Mr. Chairman, Ranking Member Murray, and Senators of the Subcommittee for this opportunity to present my plans for the Federal Motor Carrier Safety Administration. I believe that your continued investment in the agency will be rewarded by improved data collection, reporting, analysis, and most importantly, higher levels of safety on our Nation's highways. I look forward to working with you to achieve our mutual goals and would be happy to answer any questions you may have.

NONDEPARTMENTAL WITNESSES

STATEMENT OF WENDY J. HAMILTON, NATIONAL PRESIDENT, MOTHERS AGAINST DRUNK DRIVING

Senator CAMPBELL. Ms. Hamilton?

Ms. HAMILTON. Good morning. I am Wendy Hamilton, the National President of Mothers Against Drunk Driving.

It is an honor to be here today testifying on DOT's fiscal year 2004 request and MADD's priorities for the reauthorization of TEA–21. We look forward to working with this committee to develop transportation policies that save lives and prevent injuries on our Nation's highways.

I would like to take a moment to thank Chairman Shelby and Ranking Member Murray for their commitment to reduce traffic crashes and injuries and fatalities.

In DOT's fiscal year 2003 budget, this subcommittee dedicated increased funding to NHTSA's impaired driving program and began a historic effort by funding paid media to publicize law-enforcement mobilizations designed to increase seatbelt use and reduce alcohol impaired driving.

Senator Shelby and Senator Murray, your efforts mark the beginning of what MADD hopes will be a renewed National, State and local effort to reverse the deadly trend on our Nation's highways.

For the third consecutive year, alcohol-related traffic deaths have increased. Early statistics show that last year nearly 18,000 people were killed and hundreds of thousands more were injured in these crashes. Alcohol-involved crashes accounted for an overwhelming 46 percent of all fatal injury costs.

Unfortunately, the data speaks for itself. The Nation, including its political leaders, has become complacent in this effort. Lack of funding for effective behavioral traffic safety programs and minimal resources for law-enforcement officers to enforce existing laws are a major part of the problem.

Last week, MADD released its new Federal plan for the reauthorization of TEA–21. On that day, we heard from members of the Senate who expressed their firm commitment to move the Nation in the right direction. MADD sincerely thanks Senator Murray, Senator DeWine, Senator Lautenberg, and Senator Dorgan for their participation in this event and their leadership to reduce traffic death and injury.

Today, MADD is asking Congress and the administration to adopt MADD's research-based plan. I would like to submit our plan for the record and I believe that you have all received copies of this.

Senator CAMPBELL. It will be included in the record.

[The information follows:]

Alcohol-Related Traffic Fatalities on the Rise

For Third Consecutive Year

In 2002, the nation experienced – for the third year in a row – an increase in alcohol-related traffic fatalities. Preliminary data show that at least 17,970 people were killed in crashes involving alcohol – representing 42 percent of the 42,850 people killed in all traffic crashes, up from 41 percent in 2001.

Crash Facts

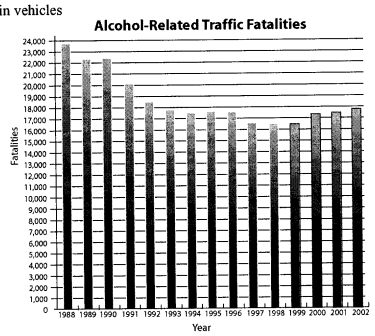
- Motor vehicle crashes are the leading cause of death for Americans ages 1 to 35 years old
- On average, 117 people die each day from motor vehicle crashes in the United States
- Traffic crashes cost America more than $230 billion annually according to the U.S. Department of Transportation
- Forty-two percent of all traffic deaths are alcohol-related
- Sobriety checkpoints reduce crashes involving alcohol by 20 percent according to the Centers for Disease Control
- About one-third of all drivers arrested or convicted of driving while intoxicated are repeat offenders
- Seat belts reduce the risk of fatal injury by 45 percent and reduce the risk of serious injury by 50 percent

Put Research into Practice: TEA-21 and Traffic Safety

Reauthorizing TEA-21 Presents a Historic Opportunity to Reduce Alcohol-Related Traffic Deaths and Injuries

Mothers Against Drunk Driving's (MADD) goal for the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21) is to advance traffic safety programs that will save lives and prevent injuries. Progress will occur when: 1) adequate funding is provided for traffic safety programs, and 2) a commitment is made to put proven countermeasures into practice. MADD believes the reauthorized traffic safety section of TEA-21 should:

- Establish a ***National Traffic Safety Fund*** to support state and national traffic safety programs, enforcement and data improvements
- Increase accountability for expenditure of federal funds
- Expand impaired driving and seat belt law enforcement mobilizations
- Enact a national standard to reduce repeat DWI and other higher-risk driver recidivism
- Enact a national primary seat belt standard
- Enact a national standard banning open containers of alcoholic beverages in vehicles



Graph courtesy of National Highway Traffic Safety Administration

Reductions in alcohol-related fatalities have stalled since the early 1990s

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Accountability... Linking Results with Funding

While the nation experienced a substantial decrease in alcohol-related deaths in the 1980s and early 1990s, the U.S. is now experiencing an upward trend. This is due to inadequate funding, public complacency and the lack of coordinated plans of action at the state and federal levels.

Congress must hold states and the National Highway Traffic Safety Administration (NHTSA) accountable for the expenditure of federal highway safety funds. To reduce traffic fatalities, states must work in cooperation with NHTSA to develop strategic highway safety plans that establish goals and evaluation measures for funded programs. NHTSA must have and exercise the authority to approve state highway safety plans — conducting meaningful reviews and requiring these plans to include effective impaired driving countermeasures that meet federal policy goals.

Research demonstrates that initiatives such as sobriety checkpoints and aggressive seat belt enforcement significantly reduce traffic deaths and injuries. MADD believes that these strategies must be the cornerstone for the reauthorization of the TEA-21 traffic safety section.

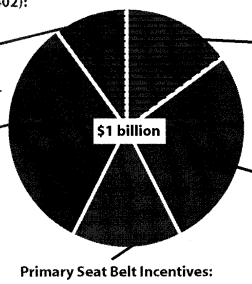
■ ■ ■ ■

Traffic Safety Funding: Dedicating Dollars For Programs That Work

In 2001, federal funding for traffic safety programs was approximately $522 million — less than one quarter of one percent of what traffic crashes cost Americans each year. Of the $522 million, only $133 million (26 percent) was spent on alcohol-related countermeasures.

MADD recommends establishing a $1 billion dedicated ***National Traffic Safety Fund*** to provide increased, ongoing resources for priority traffic safety programs. It has been estimated that for every dollar spent on effective highway safety programs about $30 is saved by society in the reduced costs of crashes.

National Traffic Safety Fund



State and Community Grants (Section 402): $425 million

Law Enforcement Programs: $425 million

Data Improvements: $100 million earmarked for traffic safety data improvements.

National Mobilizations: $150 million to NHTSA to support three impaired driving and seat belt law enforcement mobilizations. Funds would support enforcement costs and paid media to increase public awareness of these efforts.

Traffic Safety Grants: $325 million for state efforts to improve traffic safety. Programs must be data-driven and include comprehensive impaired driving and seat belt initiatives.

Enhanced Year-Round Enforcement and Awareness: $275 million to sustain ongoing high-visibility impaired driving and seat belt law enforcement efforts and supportive activities throughout the year.

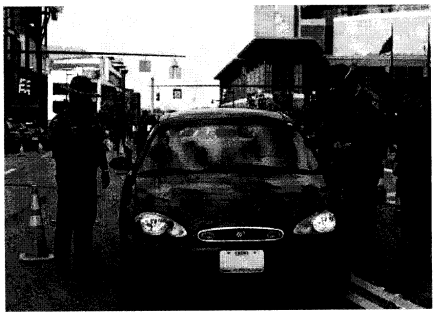
Primary Seat Belt Incentives: $150 million
$150 million for "jumbo" incentives available to states that enact primary seat belt laws.

State and Community Highway Safety Grants (Section 402)

Section 402 funding must be significantly increased. However, states must be held accountable for the expenditure of these funds to ensure that they are spent on effective traffic safety programs. These programs must be based on problem identification and reflect data-driven priorities.

Key Action Items:

- Create three levels of accountability for performance: NHTSA, NHTSA Regional Administrators, state highway safety offices
- Require strengthened NHTSA approval process of state highway safety plans, requiring a strong correlation between problem identification, strategy, program selection and funding
- Require Improvement Plan implementation for states with poor performance
- Priority programming must include comprehensive alcohol-impaired driving countermeasures and seat belt initiatives
- Dedicate $100 million annually for state data improvements
- Require increased funding for Law Enforcement Liaisons to better coordinate state and national law enforcement efforts



Law Enforcement Resources and National Mobilizations

Law enforcement is the front line in the fight against impaired driving. Traffic safety laws must be consistently enforced and the public must be educated about the consequences of noncompliance. Law enforcement needs more resources from the federal government in order to strengthen traffic safety enforcement efforts. Funding is needed for officer training, technology and equipment, overtime and the deployment of aggressive enforcement strategies.

Law enforcement needs more resources from the federal government.

MADD recommends dedicated funding to carry out high-visibility traffic law enforcement campaigns. These campaigns combine targeted enforcement — sobriety checkpoints, saturation patrols and/or seat belt enforcement — with the purchase of advertising in broadcast or print media. These campaigns will focus on reducing drunk driving and increasing seat belt use.

Key Action Items:

- ✔ Provide $275 million to sustain ongoing high-visibility law enforcement efforts and supportive activities throughout the year. $165 million would be dedicated to impaired driving enforcement and $110 million would be dedicated to seat belt enforcement. These funds may be used for enforcement-related expenses including training, technology, equipment, overtime and media support.
- ✔ Dedicate $150 million to NHTSA to support three national law enforcement mobilizations focusing on reducing impaired driving and increasing seat belt use. Funds would support enforcement costs and paid media to increase public awareness of these efforts.

Priority Traffic Safety Laws

Higher-Risk Driver Standard

Higher-risk drivers fall into three categories: repeat offenders, offenders with a blood alcohol concentration (BAC) of .15 or higher, or offenders convicted of driving on a suspended license when the suspension was the result of driving under the influence. Nationally, one-third of all drivers arrested or convicted of driving while intoxicated are repeat offenders and in 2000, 58 percent of the alcohol-related traffic fatalities involved drivers with a BAC of .15 or above. A national standard must be enacted to ensure that higher-risk drivers are subject to consistent and aggressive detection, arrest and prosecution.

Key Action Items:

- Restrict vehicle operation by suspending licenses, impounding or immobilizing vehicles and requiring alcohol ignition interlock devices on offenders' vehicles.
- Require compensation to the community through fines, mandatory incarceration and financial restitution to crash victims.
- Promote recovery programs through mandatory alcohol assessment and treatment, intensive probation and attendance at victim impact panels.
- States that do not enact the national higher-risk driver standard would face the loss of highway construction funds.

Open Container Standard

Open container laws separate the consumption of alcohol from the operation of a vehicle. A common-sense measure, banning open containers in the passenger compartment of a vehicle will decrease the likelihood that drinking and driving will occur.

Key Action Item:

- Enact a national ban on open containers in the passenger compartment of motor vehicles. States that do not enact a ban on open containers would face the loss of highway construction funds.

Primary Seat Belt Standard

The best defense against an impaired driver is a seat belt. According to NHTSA, for every percentage point increase in seat belt usage, 280 lives can be saved.

Key Action Item:

- Establish a national primary seat belt standard. States would be eligible for "jumbo" financial incentives for three years. States that have not enacted a primary seat belt standard after three years would face the loss of highway construction funds.

.08 BAC Standard

Since the passage of the national .08 per se BAC standard in 2000, 18 states have passed this important legislation, bringing the total number of states in compliance to 38 and the District of Columbia (as of early May 2003).

Key Action Items:

- MADD will continue to work to ensure .08 BAC is the standard in every state.
- MADD will vigorously oppose any attempt to repeal the national .08 BAC standard.

MADD
Activism | Victim Services | Education™

Mothers Against Drunk Driving (MADD) is a 501(c) (3) non-profit grass roots organization with more than 600 chapters nationwide.

MADD's mission is to stop drunk driving, support the victims of this violent crime, and prevent underage drinking.

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For additional information on MADD's priorities for the reauthorization of TEA-21, please contact:

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Ms. HAMILTON. MADD's plan establishes a national traffic safety fund of $1 billion annually. Under this fund, MADD recommends dedicating increased funding for highly visible law enforcement activities.

The "Click It or Ticket" national law enforcement mobilization campaign has been very successful in increasing seatbelt usage. We know that sobriety checkpoints are one of the most effective tools this Nation has to stop impaired driving, and that they are especially effective when coupled with media campaigns that raise the visibility of these efforts.

Thanks to this committee, funds were dedicated in fiscal year 2003 to conduct these mobilizations. Why then has NHTSA not requested any funding to continue this lifesaving effort?

I would like to thank Senator DeWine and Senator Lautenberg for introducing legislation today that would provide substantial funding for enforcement efforts to stop drunk driving and increase seatbelt use. If enacted, this bill will save lives.

MADD also recommends dedicating increased behavioral funding for State efforts to improve traffic safety. While NHTSA's funding appears to have increased dollars for behavioral funding, this is not the case. Only a percentage of this funding will be spent specifically on behavioral safety since States are able to use much of this funding for roadway construction and highway safety projects. Though NHTSA continuously states that reducing alcohol-related traffic fatalities is a top priority, the fiscal year 2004 budget request simply does not support these claims.

MADD was shocked to learn that the impaired driving programs merit less than one page out of DOT's 378-page SAFETEA proposal. SAFETEA actually decreases funding for alcohol-impaired programs by 67 percent. The only funding specifically allocated for impaired driving is $50 million. The overwhelming majority of safety funding in the SAFETEA proposal is budgeted in the new Highway Safety Improvement Program which is really dedicated to roadway construction safety projects. This specific construction safety program receives an overwhelming 117 percent increase.

While construction safety is important, the DOT itself, along with the GAO, recognizes that human behavior not roadway environment is overwhelmingly seen as the most prevalent contributing factor to crashes. To compare DOT's recreational trails program, funded at $60 million in fiscal year 2004, it receives 20 percent more funding than the impaired driving grants program. It appears, from a budget standpoint, that keeping recreational trails safe for a small population of users is even more important to DOT than keeping all highway users safe from impaired drivers. Again why?

MADD's plan calls for greater accountability controls to ensure that Federal funds are being used in a strategic and coordinated manner. Recently the GAO, at the request of Senator Dorgan, released a detailed report detailing the management and use of Federal highway safety funds. GAO concluded and "NHTSA's oversight of highway safety programs is less effective than it could be, both in ensuring the efficient and proper use of Federal funds and in helping the States achieve their highway safety goals."

GAO's report shows that in the face of rising traffic deaths more Federal oversight and guidance is needed for the expenditure of Federal safety dollars to ensure that these funds are spent on effective behavioral programs. This is fiscal responsibility.

MADD is urging Congress to strongly encourage States to enact proven traffic safety laws, such as a national primary safety belt standard and high risk driver standards. MADD knows that the best defense against a drunk driver is a seatbelt. As NHTSA proposes, States should be given financial incentives to enact primary belt laws.

However, States that do not enact this lifesaving measure after 3 years should lose Federal highway construction funds.

MADD also calls for the enactment of a national standard to combat higher risk drivers. While higher risk drivers are a small portion of the problem, they pose a significant threat to motorists.

Again, we thank Senator Lautenberg and Senator DeWine for introducing legislation today that targets this dangerous population. If enacted, this bill would close loopholes to ensure that repeat and high blood alcohol concentration offenders do not continue to slip through the cracks.

This priority is one that has personal meaning to me. On September 19th, 1984, a high BAC driver caused the head-on collision that killed my 32-year-old sister, Becky and my 22-month-old nephew, Timmy. The crash occurred at 1:50 p.m. on a beautiful Wednesday afternoon filled with sunshine. Three hours after that crash, the offender tested at a .16 blood alcohol concentration and police pulled four empty bottles of alcohol from his vehicle.

This Nation lacks a clear coordinated solution to reduce impaired driving fatalities. Maintaining the status quo or, even worse, decreasing resources dedicated to fighting drunk driving will not reverse this deadly trend. The reauthorization provides the best chance, a historic opportunity to provide adequate behavioral safety funding to ensure that these funds are being used effectively and to enact laws that will save lives.

PREPARED STATEMENT

I urge Congress to adopt MADD's proposal and create safer roads for all Americans. Thank you and I welcome the opportunity to answer questions.

[The statement follows:]

PREPARED STATEMENT OF WENDY J. HAMILTON

Good Morning. My name is Wendy Hamilton and I am the National President of Mothers Against Drunk Driving. I am honored to be here today to testify on the Department of Transportation's (DOT) fiscal year 2004 budget request and MADD's priorities for the reauthorization of the Transportation Equity Act for the 21st Century (TEA–21). We look forward to working with the Committee to develop transportation policies that provide appropriate funding and employ effective, aggressive countermeasures to prevent injuries and save lives on our Nation's roads.

I would like to take this opportunity to thank Chairman Shelby and Ranking Member Murray for their commitment to reduce traffic crash fatalities and injuries. In DOT's fiscal year 2003 budget Senator Shelby and Senator Murray dedicated increased funding to the National Highway Traffic Safety Administration's (NHTSA) impaired driving program, and began a historic effort by funding paid media to publicize law enforcement mobilizations designed to increase seat belt use and reduce alcohol-impaired driving. Senator Shelby and Senator Murray—MADD's 2 million members and supporters thank you for your dedication and leadership to highway safety. Your efforts mark the beginning of what MADD hopes will be a renewed national, State and local effort to reverse the deadly trend on our Nation's highways.

ADMINISTRATION OUTLINES HIGHWAY SAFETY AS A PUBLIC HEALTH CRISIS; HOWEVER, FUNDING REQUESTS DO NOT ADEQUATELY ADDRESS PROBLEM

According to DOT, motor vehicle crashes are responsible for 95 percent of transportation sector deaths and 99 percent of all transportation-related injuries within the United States as well as the leading cause of death for people ages 4 through 33. In 2002, an estimated 42,850 people died on the Nation's highways, up from 42,116 in 2001.

This alarming amount of injury and death on our Nation's roadways creates a tremendous drain on the Nation's economy. Economic losses due to motor vehicle crashes cost the Nation approximately $230.6 billion each year, an average of $820 for every person living in the United States.

DOT's announcement of preliminary 2002 fatality estimates calls for "better State laws that address the causes of the problem and stricter enforcement." But DOT's fiscal year 2004 request and its reauthorization proposal cut funding for behavioral safety initiatives, even while DOT's own research demonstrates that human behavior is overwhelmingly the leading factor in death and injury on our Nation's roads.

ALCOHOL-RELATED TRAFFIC FATALITIES ON THE RISE FOR THIRD CONSECUTIVE YEAR

For the third consecutive year, alcohol-related traffic deaths have increased. Preliminary statistics show that nearly 18,000 people were killed and hundreds of thousands more were injured in these crashes just last year. That's 49 deaths and hundreds of injuries day in and day out. Alcohol-involved crashes accounted for 21 percent of nonfatal injury crash costs, and an overwhelming 46 percent of all fatal injury crash costs. In order to reverse this trend, the Nation cannot maintain the status quo and expect a different result.

Last week at a national news conference, MADD commemorated the 15-year anniversary of the worst drunk driving crash in U.S. history—the Kentucky Bus Crash. On May 14, 1988, 27 people—24 children and 3 adults—were killed and 30 others were injured coming home from a church outing. They were victims of a repeat drunk driving offender, behind the wheel of his pickup driving on the wrong side of the road. He had a blood alcohol concentration of .24—three times the illegal limit today in Kentucky and the majority of all other States and DC.

The Kentucky Bus Crash was heard around the world because 27 perished and 30 others were injured in an instant. But tragically, one by one, over the past 15 years, the equivalent to 10,400 Kentucky Bus Crashes have occurred in our country as nearly 281,000 Americans have been killed and millions of others have been injured in alcohol-related traffic crashes since that tragic day.

Unfortunately, the data speaks for itself: the Nation—including its political leaders—has become complacent in this effort. Drunk drivers continue to slip through cracks in the system. Weak laws, lack of funding for effective traffic safety programs and minimal resources for law enforcement officers to enforce existing laws are all part of the problem. There is no coordinated effort at the national, State and local level to combat this public health problem. Additionally, drunk driving is still often treated as a minor traffic offense rather than what it really is—the most frequently committed violent crime in our country.

MADD'S SAFETY PLAN: PUTTING RESEARCH INTO PRACTICE

Last week MADD released its new Federal plan for the reauthorization of Federal traffic safety programs. In conjunction with MADD's announcement, we heard from Members of the Senate who expressed firm commitment to move the Nation in the right direction. MADD sincerely thanks Senator Patty Murray, Senator Frank Lautenberg, Senator Mike DeWine and Senator Byron Dorgan for their participation in this event and for their leadership to reduce traffic death and injury.

Today, MADD is asking Congress and the Administration to ensure that highway safety is a cornerstone of the reauthorized TEA–21. And they can do so by embracing MADD's research-based reauthorization plan. MADD's plan would:

—Establish a National Traffic Safety Fund (NTSF)—$1 billion annually—to provide a major infusion of dedicated Federal funds to support State and national traffic safety programs, enforcement and data improvements;
—Under the NTSF:
  —dedicate increased funding for States and local communities to expand highly visible law enforcement activities to reduce impaired driving and increase seat belt use, including national enforcement mobilizations supported by paid media;
  —dedicate significantly increased funding for State efforts to improve traffic safety by implementing data-driven programs;
—Create stricter accountability controls to ensure that Federal funds are being used in a strategic and coordinated effort at both the State and Federal level;
—Encourage States to enact priority traffic safety laws, such as primary seat belt enforcement, higher-risk driver and open container standards.

I want to briefly talk in more detail about MADD's reauthorization priorities.

Funding is key to the success of national, State and local traffic safety programs to reduce drunk driving. But in the year 2001, while traffic crashes cost taxpayers $230 billion, the Federal government spent only $522 million on highway safety and only one-quarter of that was used to fight impaired driving. Compared to the financial and human costs of drunk driving, our Nation's spending is woefully inadequate to address the magnitude of this problem.

Establishing a National Traffic Safety Fund would give those on the front lines an increased, ongoing and reliable funding stream for national, State and local highway safety programs. MADD recommends an annual $1 billion dedicated fund for traffic safety programs. We know that for every dollar spent on effective highway safety programs about $30 is saved by society in the reduced costs of crashes. This would be a wise investment.

States must have additional resources if they are expected to reach their highway safety goals. Section 402, State and Community Highway Safety grants, provides funding to States to support highway safety programs designed to reduce traffic crashes and resulting deaths, injuries, and property damage. TEA–21 authorized $163 million in fiscal year 2003 for Section 402 grants. MADD recommends a substantial increase in Section 402 funding to help States reach their highway safety goals. Of the $1 billion annually, MADD recommends $425 million for the reauthorized Section 402.

Although alcohol is a factor in 42 percent of all traffic deaths, only 26 percent of all highway safety funding available to the States through TEA–21 is spent on alcohol-impaired driving countermeasures. Too often highway safety funding made available to the States is used for other programs that may not save as many lives or prevent as many injuries as priority traffic safety programs. It is critical that these funds are spent on data-driven programs that include comprehensive impaired driving and seat belt initiatives.

The National Traffic Safety Fund would also be used to expand States' well-publicized law enforcement activities to curb drunk driving and increase seat belt use. These law enforcement resources would support training, over-time, technology and paid advertising throughout the year. Additionally, funds would be available for three highly visible national impaired driving and seat belt law enforcement mobilizations.

These law enforcement activities should utilize, when possible, frequent and highly visible sobriety checkpoints. These are among the most effective tools used by law enforcement to deter impaired driving. We know through research and real world experience that sobriety checkpoints save lives. The CDC found that sobriety checkpoints can reduce impaired driving crashes by 18 to 24 percent. These checkpoints are especially effective when coupled with media campaigns that raise the visibility and awareness of drunk driving enforcement efforts in the community with the bottom line goal of deterring impaired driving before it happens.

Without significant increases in the level of funding for these critical safety programs, the current deadly trend will continue to worsen.

But it is just as important to know where the money is going and how it is being spent. That is why MADD is asking Congress to hold States and the National Highway Traffic Safety Administration accountable for the expenditure of Federal highway safety funds. Our goal is not to make their jobs more difficult. It is to recognize that political pressures and "flavor of the month" traffic safety issues can influence how dollars are spent. If DOT's primary goal is to reverse the current trend, it is time to create a more consistent process that ensures the efficient and proper use of Federal funds to help the Nation achieve its highway safety goals.

MADD also urges Congress to strongly encourage States to enact proven traffic safety laws, such as a national primary seat belt enforcement standard. According to NHTSA, for every percentage point increase in seat belt usage, 280 lives can be saved. MADD knows that the best defense against a drunk driver is a seat belt. The fact is, of those killed in alcohol-related traffic crashes, 76 percent were not wearing their seat belt. Had they been, a significant portion of them would be alive today.

Drunk drivers typically do not buckle up, nor do they make sure their passengers are properly restrained. The sad fact is that two-thirds of children killed in alcohol-related crashes are passengers driven by an impaired driver. We also know that seat belt use for children generally decreases the more impaired a driver becomes. MADD calls for the establishment of a national primary seat belt standard. States would be eligible for "jumbo" financial incentives for three years. States that have not enacted this lifesaving measure after three years would lose Federal highway construction funds.

MADD also calls for the enactment of a national standard to combat "higher-risk drivers." "Higher-risk drivers" are defined as repeat offenders, those with BACs of .15 or higher, or persons caught driving on a suspended license when the suspension is a result of a prior DUI offense.

This priority is one that has personal meaning for me. On September 19, 1984, a high BAC driver caused the head-on collision that killed my 32-year-old sister Becky and my 22-month old nephew Timmy. Three hours after the crash, the offender tested at a .16 BAC. Police pulled four empty bottles of alcohol from his vehicle.

While higher-risk drivers are a small portion of the population, they pose a significant threat to innocent motorists. On a typical weekend night, only one percent of drivers have a BAC of .15 or higher, but high BAC drivers were involved in over one-half of all alcohol-related traffic deaths in 2000. And, about one-third of all drivers arrested or convicted of DUI are repeat offenders. Clearly, we need leadership from Congress and the Administration to encourage States to act now to get this most dangerous segment of the driving public off of our roads.

MADD is backing research-based solutions to address the higher-risk driver through what we call: Restrictions, Restitutions and Recovery. Restrictions include mandatory sentencing, strict licensing and vehicle sanctions such as immobilization and ignition interlock devices. Restitution includes payment to victims and to the community by offenders. Recovery focuses on efforts to address the offender's substance abuse and addiction. States that do not enact comprehensive higher-risk driver legislation would lose Federal highway construction funds.

Lastly, MADD calls on Congress to enact a national ban on open containers in the passenger compartment of motor vehicles. Open container laws separate the consumption of alcohol from the operation of a vehicle. A common-sense measure, banning open containers in the passenger compartment of a vehicle will decrease the likelihood that drinking and driving will occur. One NHTSA study found that States with open container laws have lower rates of alcohol-related fatalities, while another study conducted by the Stanford University Institute for Economic Policy Research found that, controlling for other variables, open container laws had a significant effect on reducing fatal crash rates (by over 5 percent).

The Kentucky Bus Crash reminds us that for every loss and for every tragic death and injury there is untold suffering and emotion. That said, MADD is committed to advocating research-based and proven-effective countermeasures to prevent others from having to experience what the families of these victims have suffered.

It's not about feel good. It's about doing what is right, and doing what will most effectively save lives. That is what drives our agenda, and that is what is behind our proposals for the reauthorization of TEA–21.

NHTSA'S FISCAL YEAR 2004 BUDGET PROVIDES INADEQUATE RESOURCES AND LITTLE GUIDANCE TO REACH HIGHWAY SAFETY GOALS

In the Fiscal Year 2004 Budget in Brief, NHTSA states that it is "committed to pursuing an aggressive safety agenda" and that "[b]ehavioral safety initiatives will be directed to increasing safety belt use and deterring impaired driving, which are central to achieving the Department's traffic fatality goal." While NHTSA's funding request appears to have increased monies for behavioral funding, this is not the case. In fact, the fiscal year 2004 request is less than the fiscal year 2003 request. This is because the fiscal year 2004 request includes $222 million of TEA–21 resources for the Sections 157 and 163 grant programs formerly appropriated in the Federal Highway Administration budget. NHTSA has always administered these funds and is now requesting receipt of this funding directly. This apparent increase is really no increase at all, just a shifting of grant funds.

The current fiscal year 2004 request for behavioral funding is $516,309,000, but once Sections 157 and 163 monies are subtracted the amount is lowered to $294,309,000. The fiscal year 2004 request is actually $234,000 less than the fiscal year 2003 request.

Additionally, only a percentage of this funding will be spent on behavioral safety since States are able to use this funding for roadway safety/highway construction projects.

One of NHTSA's primary fiscal year 2004 goals is to reduce the rate of alcohol-related highway fatalities per 100 million vehicle miles traveled (VMT) to 0.53. In its Budget in Brief, NHTSA states the following:

"The 2003 target of .53 per 100 million VMT, if met, will result in a reduction of alcohol-related fatalities to 15,600 . . . It will be a challenge to meet this target by the end of 2003. The agency is implementing new programs in 2003 that should begin to see positive results by the end of the year. Even though NHTSA should begin to see results in 2003, the agency still may not be able to achieve the target without the States and communities enacting and, more importantly, enforcing strong alcohol laws and reforming their individual impaired driving control systems."

However, it is not clear from the fiscal year 2004 budget what these new programs are and where the money is coming from to continue them. NHTSA's fiscal year 2004 budget request clearly does not reflect the severity of the impaired driving problem. While NHTSA's fiscal year 2004 budget states that "Protecting vehicle

occupants and deterring impaired drivers are among the major ways we are able to reduce death and injury," the level of funding for impaired driving countermeasures is utterly insufficient. For example, the Impaired Driving Division budget request is significantly lower than fiscal year 2002 enacted levels (10,926,000 fiscal year 2004 request compared with 13,497,000 fiscal year 2002 enacted). NHTSA states that "Aggressive actions are needed to expand focus on several key high-risk populations, including underage drinkers, 21–34 year olds, and repeat offenders," but seeks fewer resources to reach these goals.

Under "Anticipated Fiscal Year 2003 Accomplishments" NHTSA recognizes that "Two nationwide law enforcement mobilizations (July and December) will be conducted," bolstered by a national media public service advertising campaign. The "Click It or Ticket" national law enforcement mobilization campaign has been highly successful at increasing seat belt usage. Thanks to the Senate, funds were dedicated in the fiscal year 2003 budget to conduct similar national mobilizations to reduce alcohol-impaired driving deaths and injuries. However, NHTSA does not request any funding to continue this effort.

Additionally, NHTSA's State & Community Highway Safety Program drastically reduces funds available to States for impaired driving initiatives. NHTSA's fiscal year 2004 request provides a $50 million impaired driving grant program to only a subset of States to demonstrate the effectiveness of a comprehensive approach to reducing impaired driving and for identifying causes of weakness in a State's impaired driving control system. This funding level is $100 million less than funds available to States in fiscal year 2003 for impaired driving improvements.

While NHTSA continuously states that reducing alcohol-related traffic fatalities is a top priority, the fiscal year 2004 budget request does not support these assertions.

ADMINISTRATION'S "SAFETEA" PROPOSAL CUTS ALCOHOL-IMPAIRED DRIVING FUNDING AND INCENTIVES, LACKS BEHAVIORAL SAFETY FUNDING

MADD was dismayed to learn that impaired driving control programs merit less than one page out of the 378 page U.S. Department of Transportation (DOT) surface transportation proposal. DOT's proposal, "SAFETEA," falls woefully short of real "safety" for America's roadways and includes an inadequate response to this urgent national problem.

"SAFETEA" decreases funding for alcohol-impaired programs by 67 percent. The proposal recommends an impaired driving program of only $50 million, far less than current funding levels and clearly not enough to reverse this deadly trend. In fiscal year 2003, TEA–21 authorized $150 million for alcohol-impaired driving countermeasures and also contained requirements for States to enact repeat offender and open container laws. If States failed to pass these alcohol-impaired driving laws then a percentage of their Federal construction funds were transferred. Not only does "SAFETEA" cut impaired driving funding to $50 million, it also does not include any incentives to States to enact alcohol-impaired driving laws.

In comparison, DOT's Recreational Trails Program (RTP)—$60 million in fiscal year 2004—receives 20 percent more funding than the Impaired Driving Grants Program. The RTP program provides funds to develop and maintain recreational trails for motorized and non-motorized recreational trail users. It appears, at least from a budget standpoint, that keeping recreational trails safe for a small population of users is even more important to DOT than keeping all highway users safe from impaired drivers.

The overwhelming majority of "safety" funding in the "SAFETEA" proposal is budgeted in the new "Highway Safety Improvement Program" (HSIP), which is really a highway construction project program. In 2004 alone, $1 billion is allocated to the HSIP program. These funds are to be used for "safety improvement projects," defined below.

"A safety improvement project corrects or improves a hazardous roadway condition, or proactively addresses highway safety problems that may include: intersection improvements; installation of rumble strips and other warning devices; elimination of roadside obstacles; railway-highway grade crossing safety; pedestrian or bicycle safety; traffic calming; improving highway signage and pavement marking; installing traffic control devices at high crash locations or priority control systems for emergency vehicles at signalized intersections, safety conscious planning and improving crash data collection and analysis, etc."

While these are all important activities, DOT itself recognizes that human behavior, not roadway environment, is overwhelmingly seen as the most prevalent factor in contributing to crashes. The General Accounting Office (GAO) released a report

in March 2003 that reconfirms this premise after surveying data, experts and studies focusing on factors that contribute to motor vehicle crashes. Given that behavioral factors account for the majority of traffic crashes, it is difficult to understand the vastly disproportionate funding levels for behavioral versus roadway construction safety programs and why DOT allows a significant portion of the behavioral funds to be used to augment even more roadway construction spending.

While NHTSA continuously states that reducing alcohol-related traffic fatalities is a top priority, the Administration's "SAFETEA" proposal does not support these claims.

INCREASED RESOURCES ARE REQUIRED TO SIGNIFICANTLY REDUCE HIGHWAY DEATHS AND INJURIES

Research demonstrates that certain programs and initiatives will significantly reduce traffic deaths and injuries. In order to implement these programs and initiatives, increased resources are needed. The reauthorization of Federal highway safety programs provides the vehicle to obtain more resources to combat this public health problem. MADD urges Congress to consider the merits of each traffic safety program based upon their ability to reduce or prevent alcohol-related traffic fatalities. MADD's goal is to ensure that Federal traffic safety dollars are spent on effective programs and that States pass basic laws to combat alcohol-impaired driving.

NHTSA's traffic safety budget is wholly inadequate. Faced with the highest number of highway fatalities since 1990, and a cost to America's economy of over $230.6 billion annually, the agency's budget request should reflect the growing need for more resources rather than maintain the status quo. Currently, the Federal government's funding for traffic safety programs does not reflect the importance of this public health crisis. The reauthorization of TEA–21 offers Congress the opportunity to review and reallocate funds to traffic safety.

GAO REPORT HIGHLIGHTS DEFICIENCIES IN OVERSIGHT OF HIGHWAY SAFETY INITIATIVES

Recently the General Accounting Office (GAO) released a report detailing the management and use of Federal highway safety programs and funding. GAO concluded the following:

" . . . NHTSA's oversight of highway safety programs is less effective than it could be, both in ensuring the efficient and proper use of Federal funds and in helping the States achieve their highway safety goals."

GAO's report shows that Federal oversight of State spending on highway safety programs has been inadequate in the face of rising traffic deaths and that NHTSA has not been consistently monitoring how funds are being used. GAO also found that NHTSA has no consistent policy for conducting State reviews or improvement plans. As a result, some regional offices conduct reviews as infrequently as every two years, while others conduct them only when a State requests one. This clearly enables some States to slip through the cracks. For example, the report found that the rate of alcohol-related traffic deaths rose in 14 States between 1997 and 2001; in seven of those States, the rate was higher than the national average, but only one of the seven States had a NHTSA improvement plan. The GAO also found that seat belt use was declining in some States that didn't have NHTSA improvement plans.

The GAO report also reveals how States use some of their highway "safety" funding. States that did not meet either the open container or the repeat offender requirements in TEA–21 has a percentage of funds transferred from their Federal highway construction program to their Section 402 highway safety grants program. However, States were also able to allocate transferred funds to highway construction projects under the Federal Highway Administration's (FHWA) Hazard Elimination Program (HEP). An overwhelming 69 percent of the transferred funds were used by States for construction anyway projects anyway, the GAO reported.

The GAO report demonstrates that more Federal oversight and guidance is needed for the expenditure of Federal highway safety funds to ensure that these funds are spent on effective behavioral programs. Clearly there are legitimate areas of public health and safety in which the Federal government should be involved in setting standards. Similar to airline safety, highway safety warrants Federal government involvement. In this country we have a national highway system. Families should be protected from the consequences of impaired driving whether they are driving through Alabama, Washington or North Dakota. Impaired drivers do not recognize state boundaries. Drunk driving is a national problem and it demands a national solution.

CALL TO ACTION: NATION'S LEADERS MUST PROVIDE A ROADMAP

However, our Nation lacks a clear, coordinated national and state solution to reduce impaired-driving deaths and injuries. Congress now has the opportunity to dedicate proper funding to address this public health epidemic, and to ensure proper use of these funds. While continued research efforts are critical in order to identify new and improved methods to deter drunk driving, there are many proven, research-based strategies that are not being used to reverse the current deadly trend. These strategies can and must be employed to make progress in the effort.

MADD urges Congress to provide adequate funding to NHTSA , and to require NHTSA to develop a roadmap for itself and the States to significantly reduce alcohol-related deaths and injuries. The Nation is waiting for short-term, immediate strategies such as high-visibility enforcement efforts and sobriety checkpoints to turn this trend around, as well as long-term strategies that will ensure our safety on America's roadways for years to come. Our Nation can no longer afford the current state of inaction on this issue.

Today, we are at a historic crossroads as Congress takes up the multi-billion dollar reauthorization of TEA–21 that will shape transportation policy for the rest of this decade and beyond. Maintaining the status quo, or worse, decreasing resources dedicated to fighting drunk driving will not reverse this deadly trend. This is our best chance to ensure adequate highway safety funding, to ensure that these funds are being used effectively, and to enact laws that will keep drunk drivers from getting behind the wheel. I urge Congress to adopt MADD's proposal and create safer roads for all Americans. Thank you.

Senator CAMPBELL. Thank you. Mr. Hurley.

STATEMENT OF CHARLES HURLEY, VICE PRESIDENT, NATIONAL SAFETY COUNCIL

Mr. HURLEY. Thank you, Senators. I am Chuck Hurley, Vice President of the National Safety Council's Transportation Safety Group and Executive Director of the Airbag and Seatbelt Safety Campaign.

Much of the recent progress in highway safety is a direct result of the leadership of this committee. Chairman Shelby's support of "Click It or Ticket", Senator Murray's support of "Click It or Ticket", and the support that the committee has given to paid ads has been instrumental. In fact, people are alive across this country because of the work the committee has done in recent years. Other States certainly on the committee are also involved in this progress.

Regarding the administration, we want to applaud the administration's focus on belt use, and specifically the $100 million fund that Dr. Runge, we give him credit for getting that in the budget. We believe that that will entice a number of more States.

I am proud to say, and Senator Durbin will probably say when he gets here, that Illinois this week became the 19th State plus the District of Columbia and Puerto Rico to get a primary belt law. That makes right at 59 percent of the population of the United States covered by belt law, which is a good start. We need to get that to 100 percent.

Again, to emphasize how important belt use is, if we could get the country to where Washington State has proven we can go—and as Dr. Runge said, the other Western States and Puerto Rico as well—we could save upwards of 4,000 lives a year by getting belt use up to the level of most developed countries in the world.

Belt use and drunk driving are not just two other highway safety priorities. They are fundamental to the progress we hope to achieve.

I would also like to commend the performance of the Federal Motor Carrier Safety Administration for its 4-year record of reductions, the 3.5 percent reduction I think in fatalities since last year, and also the provisions for traffic records and data collection in the budget as well.

Regarding MADD, the Nation owes MADD an extraordinary debt of gratitude. I have been with the National Safety Council a long time, have lobbied the U.S. Senate before MADD. Senator Pell introduced a bill in the late 1970's, a very modest bill, got no hearing whatsoever.

With MADD's first national press conference in October, 1980 things began to change. Without MADD, we would not have had President Reagan's Drunk Driving Commission. We would not have had a drinking age of 21. We would not have had most administrative license revocation laws. We would not have had the .08 law. And we probably would still be losing 27,000 lives a year. Equally importantly, the victims of this violent crime would have no place to turn. So, again MADD is owed an extraordinary debt of gratitude.

Regarding law enforcement, it is hard to overstate the role that they play in highway safety. I know a number of us, Wendy and I, really consider law enforcement to be every day heroes. Out there all day long, late at night, stopping people not knowing what is in that car. A good example was this week at the checkpoint and the launch here in the District of "Click It or Ticket", where at 10:00 in the morning they stopped a suspected drunk driver on Nebraska Avenue that was so drunk at 10:00 in the morning that he passed out and was taken away in an ambulance.

The work law enforcement does every day is extraordinary. We ask them to do some of our toughest jobs, but none tougher than pulling kids out of cars and knocking on doors late at night. A number of them have said that they would rather give out 1,000 tickets than have to do that again.

Regarding the budget, we at the National Safety Council have a sincere concern that the budget in key areas is simply not adequate. Wendy Hamilton of MADD raised the issue of the paid ads. That is critical, I think, to make further progress in this country on both belts and alcohol. The fact that it is not in the budget is very concerning to us.

It has been said that people who admire law and sausage have watched neither being made. The same probably extends to budgets. I am not sure how it was not put in the budget but we hope that this committee will put it back.

We also are concerned, again, that there is simply not enough funding for drunk driving efforts. As Wendy Hamilton indicated, for the proposed funding to be higher for recreational trails than for drunk driving programs in this country to us makes no sense whatsoever and we hope this committee will seek to address that.

In the exhibits attached to my statement we have tried, at the Airbag and Seatbelt Safety Campaign to put what has proven to work into your hands in exhibits. We hope that that will be made a part of the record.

The one exhibit I would like to draw your attention to is one of our favorite charts. This is exhibit D, I believe. It is on the left-

hand side, the last attachment on the left-hand side. It shows how important paid advertising is and how important high visibility enforcement is.

You can see with the green line of serious and fatal covered injuries and the red line of observed driver belt use in North Carolina, where Dr. Runge and I would like to be, you can see that real progress began really with the Operation Buckle Down Program. As you drive belt use over 80, the serious and fatal injuries drop very substantially.

At 75 percent we have virtually every low risk driver in the Nation buckled up. But that is a daytime rate. That is when belt use is observed.

In contrast to that, the high risk drivers, specifically teenagers, their belt use in fatal crashes is only 36 percent. The belt use their teen passengers is only 23 percent. And it is not really until you get to high visibility enforcement that you do pick up the high risk drivers.

In addition, in North Carolina the Booze It and Lose It Program was able, through highly visible enforcement and paid ads, just as we are recommending to the committee, that took an already good program in North Carolina and cut the rate of intoxicated drivers at nighttime checkpoints in half.

High visibility enforcement works. We strongly support its inclusion in the budget.

If Senator Durbin were here I am sure he would want to also point out that with Illinois' enactment of the primary belt law this week that they are looking very much forward to the administration's proposal where they would qualify for a maximum grant of $31,280,000. I believe they would be the first success story of this proposal. We would strongly support any effort to get Illinois that money.

They also passed probably the Nation's best racial profiling law, a booster seat bill, a passenger restriction on graduated licensing intermediate stage drivers as well, and have really become a model for the Nation.

PREPARED STATEMENT

Finally, I would like to thank the funders of the campaign, without whom our work would not be possible, the automobile manufacturers, the airbag suppliers and one major insurer.

We would, I think, all be delighted to respond to questions that the Senators might have. Thank you.

[The statement follows:]

PREPARED STATEMENT OF CHARLES HURLEY

Mr. Chairman and members of the Subcommittee, thank you for inviting us to testify before you about a very important issue, highway safety. I am Chuck Hurley, Vice President of the Transportation Safety Group at the National Safety Council and Executive Director of its Air Bag & Seat Belt Safety Campaign.

Allow me to express our thanks for the leadership of the Subcommittee—Senators Shelby and Murray—for the support you have provided for the efforts of NHTSA and the Campaign to increase seat belt use. The resources you have made available have helped to save lives and prevent injuries.

HISTORY/CAMPAIGN'S PHILOSOPHY

In July 1996, an alarming trend was emerging: people—most of them children—were being killed by air bags. Pressure to overturn the mandate for driver and passenger side air bags—proven life savers for properly restrained adults—was mounting. As one million new passenger air bag equipped vehicles entered the fleet every month, a coalition of interested parties, primarily funded by the auto manufacturers, formed what is now the Air Bag & Seat Belt Safety Campaign, which celebrated its seventh anniversary yesterday.

Our goal was to save lives by informing the public of the steps they could take to maximize the benefits and minimize the risks of air bags, and to increase seat belt use. A close examination of the child air bag fatalities revealed a chilling trend—these children were almost all unbuckled or incorrectly restrained in the front seat.

Seat belt use is the key to maximizing the lifesaving benefits of air bags and to reducing the staggering number of people killed and injured in crashes every year. The Campaign is focused on increasing seat belt and child safety seat use in addition to continuing to promote air bag safety. The Campaign's work is grounded on a fundamental principle—to employ only strategies tested and proven to work. As such, communications are used to support interventions proven effective in getting people to buckle up.

At recent and current levels of belt use, the only interventions proven effective in significantly increasing seat belt and child restraint use are strong laws and highly visible enforcement. The three key elements of the Campaign's strategy are to enact strong safety belt laws, enforce those laws to the fullest extent of the law and to educate the public.

PRIMARY BELT LAWS

Achieving the country's current 75 percent belt use rate has been remarkable considering that we are building on a foundation of weak State seat belt laws. Only 18 States and the District of Columbia have strong, primary enforcement laws which allow a vehicle to be stopped and the driver and/or passengers ticketed solely for not wearing a safety belt. Secondary laws, which require the vehicle to be stopped for another violation before issuing a seat belt ticket, are more suggestions than they are laws.

The Campaign has been active in 25 States pursuing stronger seat belt laws with successes in seven States. We have been involved with every State that has passed a primary enforcement law since 1997. When we started, 37.5 percent of the U.S. population was covered by primary laws. Today, that figure stands at 54 percent. This increase represents an additional 51 million people now covered by these lifesaving measures.

ENFORCEMENT MOBILIZATIONS

The centerpiece of the Campaign is the Click it or Ticket Mobilization—a twice yearly, 50-State seat belt and child passenger safety enforcement drive. The Mobilization is sponsored by the Campaign in partnership with the National Highway Traffic Safety Administration, the National Transportation Safety Board, the International Association of Chiefs of Police, Mothers Against Drunk Driving, the National Sheriffs Association, the National Organization of Black Law Enforcement Executives and with the support of more than 1,000 businesses and community organizations.

Just last week, we were delighted to be joined by so many members of the Administration, including Transportation Secretary Norman Mineta, NHTSA Administrator Jeff Runge, M.D., and Surgeon General Richard Carmona, M.D., as we kicked off the Click it or Ticket Mobilization. This is the first Mobilization to be supported by significant national and State advertising, with funding sponsored by the leadership of this Subcommittee.

The Click it or Ticket enforcement push runs from May 19 to June 1. During the Mobilization, the message to teens and young adults—in the TV and radio ads, in schools, in internet chat rooms, and at enforcement zones near where young people congregate—is to use a seat belt or risk getting a ticket.

The purpose is not to give out more tickets, it is to increase belt use, save lives, and prevent injuries.

The Click it or Ticket Mobilization replicates a highly effective seat belt enforcement example that is based on a model developed in Canada where high visibility enforcement has resulted in belt use rates that exceed 90 percent.

The first statewide implementation of the Click it or Ticket model, including paid advertisements that supported the enforcement, came in North Carolina in 1993. Belt use immediately jumped 15 percentage points in three weeks and remains above 80 percent in the State. This sTEP (selective Traffic Enforcement Program) model combines periodic waves of stepped up enforcement of seat belt and child passenger safety laws with aggressive publicity highlighting the enforcement. The program aims to deliver the message that law enforcement will be ticketing seat belt and child passenger safety law violators.

The Air Bag & Seat Belt Safety Campaign created the first nationwide Mobilization in May 1997, with 1,000 law enforcement agencies from all 50 States participating. Now, after 12 Mobilizations, the number of participating agencies has climbed to more than 12,500, representing hundreds of thousands of law enforcement officers nationwide, and reaching 99 percent of the U.S. population.

The fact that there continues to be such strong participation and leadership from our Nation's law enforcement in the Mobilizations is a clear demonstration of their commitment to saving lives. We ask our police to do the toughest jobs, but none tougher than pulling dead children out of vehicles, and knocking on doors late at night to inform family members they've lost a loved one to a traffic crash. We are honored to work with police throughout the year, but especially during these Mobilizations.

In the 6 years since the Mobilizations began:

—Child fatalities from traffic crashes have dropped by 20 percent.

—Restraint use among toddlers has jumped dramatically from 60 to 94 percent and among infants, ages 0–1 from 85 to 99 percent. Restraint use for children ages 4 to 7 is 83 percent.

—Adult seat belt use has risen from 61 percent to 75 percent—the highest use rate ever—with 39 million more Americans buckling up.

—The rate of child-related airbag fatalities has declined 94 percent.

SUCCESS OF PAID ADVERTISING

In the early days of the Mobilizations, there was a heavy emphasis on earned media. Working with others, we were able to generate extensive coverage about the job that our law enforcement was doing to ensure our safety. However, it became evident to us that to continue to achieve gains in national seat belt use rates, the element of paid advertising needed to be added to the equation.

Young people in particular are least likely to buckle up and least likely to be impacted by earned media because they tend to not watch or read the news. To reach them with an enforcement message (research shows that those who refuse to buckle up are likely to change their behavior with the threat of a ticket and not from a public education message), we needed paid advertising to assure targeted messaging. By targeting paid advertisements to their demographic, we directly let them know that if they won't buckle up to save their lives, they should do so to avoid a ticket.

In May 2001, high-visibility enforcement was coupled with paid advertising in eight southeastern States with remarkable success. The Campaign partnered with NHTSA's Region IV office in Atlanta to implement the first multi-state seat belt use enforcement program. The Campaign invested $500,000 in paid advertisements throughout the region as the individual States purchased an additional $3.25 million worth of paid media.

As a result of this program, safety belt use increased in the region by nine percentage points. Sustaining belt use at that rate would have produced a savings of 650 lives and $950 million in economic costs. This increase represented an additional 4.5 million people buckling up!

The success of Region IV was followed up with an additional 12-State pilot program in May 2002. With the assistance of this Subcommittee, $8 million was earmarked in NHTSA's budget to expand on previous successes and determine if the program would work in other parts of the country.

Once again, the program worked and lives were saved. While there were 12 States that received specific funding through the earmark, additional States also participated in high-visibility enforcement activities with their own funds. In total, 23 States and the District of Columbia used the Click it or Ticket slogan with paid advertisements. Another 14 States used a non-Click it or Ticket slogan with paid advertisements.

With so many States implementing varying programs, NHTSA was able to extensively evaluate the effectiveness of these projects. States that fully implemented the Click it or Ticket model with paid advertising saw an average increase of 8.6 percentage points in seat belt use. That was compared to States that diverged slightly

from the model, with some paid advertising and States that diverged from full implementation with no paid advertising. The latter two categories of States saw an increase in belt use of 2.7 percentage points and 0.5 percentage points, respectively.

Congress followed up this past February with another earmark to support the Mobilization that is happening right now across the country. In the Omnibus fiscal year 2003 Appropriations bill, $10 million was earmarked for a national paid advertising campaign to support the current seat belt Mobilization.

Through the leadership of this Subcommittee, as well as other groups like MADD, this same strategy has been extended to include impaired driving mobilizations. We are pleased to be able to partner with MADD in our mutual goal of reducing fatalities through enforcement strategies that are proven to work.

The Campaign continues to believe that paid advertising is an essential element in the national effort to increase existing belt use rates. Research has shown that further educational appeals to non-belt users will produce little or no change in behavior.

The 2001 Report of a National Seat Belt Summit, a gathering of more than 45 national leaders in early 2001, concluded the following: "Catchy slogans and public service campaigns alone are not the answer. Public policies must support strong State belt-use laws, encourage effective enforcement of those laws, and provide the resources necessary to carry out these activities." The Report called for expansion of "highly visible and effective enforcement programs, supported by coordinated paid advertising . . ."

MOVING FORWARD

Given all of the data that is available, we request that the Subcommittee continue to earmark substantial funding to purchase national and State paid advertising to support three Mobilizations in fiscal year 2004. By providing funding to purchase national paid media the country can take the necessary steps to achieve the goals of higher seat belt use, and improved traffic safety.

We are still studying the Administration's highway reauthorization and funding proposals. We applaud the Administration's emphasis on seat belt use and primary seat belt use laws. We specifically support the $100 million in incentive grants to States that have or will enact primary belt use laws.

On behalf of the National Safety Council, let me state that we do not believe there is adequate funding in the Administration's reauthorization proposal for drunk driving or the other important state highway safety programs.

Thank you, Mr. Chairman, and I would be pleased to respond to any questions the Subcommittee might have.

[CLERK'S NOTE.—Attachments to Mr. Hurley's prepared statement will be retained in subcommittee files.]

Senator CAMPBELL. Thank you. I have a few and I am going to bounce around a little bit here. Maybe I will just go ahead, since you were the last one who spoke, Mr. Hurley.

You mentioned some of the highway funding going to perhaps other things. What is your view on transportation money, highway money, going to bike trails and hiking trails and so on?

Mr. HURLEY. We support that obviously, and we also support the safety-related construction. It does save lives. But most of the SAFETEA road construction would see benefits over a 20- to 30-year period.

As Wendy Hamilton of MADD has said, if we want to reduce the FARS right now, the best way to do it is the things that are recommended in high visibility enforcement. It is an unfortunate fact that priorities do have to compete in the highway bill. But for recreational trails to be funded at a higher level than drunk driving, we think, is a hugely misplaced set of priorities.

Senator CAMPBELL. Thank you.

As you know, we went from a huge surplus in just about 20 months now to who knows, maybe a $350 billion deficit in the next 10 years. I think a lot of things are going to be in competition for the existing dollars, as you probably know.

Ms. Sandberg, did I hear you say there are 800,000 shipments of HAZMAT a day in the United States?

Ms. SANDBERG. Yes, sir.

Senator CAMPBELL. Do you have a figure for the number that are involved in accidents?

Ms. SANDBERG. I do not have that, but I can get it for the record.

[The information follows:]

Only 15–20 trucks transporting hazardous materials are involved in an accident each day. In the majority of these crashes (84 percent), there is no leakage of hazardous materials.

Senator CAMPBELL. If you would supply that I would appreciate it. I was one person that was not thrilled at all about the movement of the hazardous material to Yucca, Nevada. One of the reasons was a lot of it was going to go through the city in my State which is Denver, or on rail down what is called Glenwood Canyon besides a river that supplies something like seven States. It is part of the Colorado system. We were really concerned about that. I would be interested in knowing that number.

Let me skip to maybe something else now and I will probably get in trouble for bringing this up, but the Federal Motor Carrier Safety Administration is reviewing and about to change their hours of service proposal. I am not sure if we have got the availability of resources to carry at the rulemaking and to conduct what the Congress has mandated. Would either one of you like to, Dr. Runge or Ms. Sandberg, like to comment on that?

Ms. SANDBERG. The changes in the hours of service rule?

Senator CAMPBELL. Yes.

Ms. SANDBERG. Yes. Actually, we recently made those changes after a number of years of deliberation. Actually, we had over 53,000 comments.

The changes in the rules, in working with our partners at the States who do most of the enforcement, the main group is the Commercial Vehicle Safety Alliance, has indicated that they feel that the new rules are going to be easier to enforce because they move truck drivers more towards a 24-hour clock.

What it requires is that driver have 10 hours off. They can work 14 consecutive hours. Once they go on the clock, those hours start consecutively so that they cannot take breaks and build their work day into 20 or 24 work days.

Senator CAMPBELL. They can work 14, but not drive 14.

Ms. SANDBERG. No, they are only allowed to drive 11 of that 14. So that moves them more towards a 24-hour clock, which helps law enforcement look at their log books and determine exactly how much they have been working and able to enforcement that.

We also have a follow-on rulemaking that will occur within the next year or so which is to shore up one of the areas that has been a concern of the enforcement community, and that is the documents that drivers are required to keep as part of their log book. So that it shows restaurant receipts and those kinds of things.

So we are working on trying to shore up the areas where enforcement has told us that there are some concerns.

Senator CAMPBELL. I never was a supporter of that, either. You probably know that. I do not know if you have ever driven much in the 18-wheelers, but I have. And I can tell, knowing from some

people who have done it, that faking log books is not all that difficult. It has been done for years. Even before there was log books there were things called clocks that they used to keep. Not difficult at all to fake those things.

So I hope it works. I know the ATA is supporting these rule changes, the American Trucking Association. But all I hear from drivers themselves is that it is going to be bad. It is going to really cut into their ability to make a living. It is going to clog the highways with more trucks that have to make up the shipping for the ones that have to be parked.

I have heard it from truck stop owners, literally all kinds of people thinking that the hours of service are going to be more detrimental than helpful. I hope they will be helpful.

But there is something else that has been on my mind lately. And this is probably where I am going to get in trouble with AARP and a few other senior groups. That is the way the regs work now, if you have a truck that is over 26,000 pounds gross vehicle weight you have to have a license. You have to have a CDL, different levels.

But there are vehicles out there, big RVs, 45 feet long. They can go legal limit now 45 feet. Some of them gross 40,000 pounds. That is big vehicle. And they can tow a 20-foot trailer, too. And a lot of the people that are buying those great big beautiful motor homes, that are very expensive as you might guess, are people that summer where it is nice in the summer and they go where it is nice in the winter. That means they are going back and forth twice a year from Wisconsin to Florida or from maybe Oregon to Yuma, Arizona, where there are thousands upon thousands of RVs every winter.

I guess the good news of that is that they are only driving it twice a year. But that is also the bad news, they are only driving it twice a year. Because these vehicles are much bigger than most of the lower levels of the guys who have to have CDLs that are professional drivers and have to go through training and do all this other stuff, I am wondering what your reaction is to the view, at least in some circles, the people that drive these great big RVs ought to also be required to have some kind of training or special licenses, because they have got air brakes, they have got diesel engines, they have everything that the tracks have on them. And yet they do not have to comply with anything.

Ms. SANDBERG. We have not, at the Motor Carrier Administration, specifically looked at requiring commercial drivers licenses for these types of vehicles. Right now our focus has been on commercial motor vehicles, which is trucks and buses.

Senator CAMPBELL. They are not going to be commercial drivers. They do not haul anything except their family and their toys. But I am thinking from a safety standpoint and a training standpoint because a lot of them—one thing about the truck drivers, they are out there 8 or 10 hours a day driving the things. But the people during the big RVs are not. They drive them from A to B and then they park them for months.

Ms. SANDBERG. Clearly from a training standpoint, and I will have to put on my NHTSA hat here from when I was over at NHTSA, one of the things that we always looked at is that any

time somebody moves to a different type of vehicle, they should have some type of training. I think we were speaking before the hearing about people that buy a motorcycle and how helpful it is if they have some motorcycle training before they get on that motorcycle.

The same with some of the training regimes that we have worked on in NHTSA with States to look at young drivers and making sure that they are appropriately trained before they get behind the wheel of that car, whether it be through graduated drivers license programs or other types of education.

I am not aware of any studies looking specifically at RVs and drivers that have not driven that large of a vehicle before.

MOTORCYCLE FATALITIES

Senator CAMPBELL. From a legislative standpoint, there is the low of possibility and the law of probability. It is possible we could make some kind of a law or rule about training but the probability, knowing what kind of a buzz saw that would cause with the senior groups, it is probably not going to happen. But it is just something for thought.

Since you brought up something that is of particular interest to me, as you know, and that is motorcycles and motorcycle safety, I read recently that the number of deaths on motorcycles has gone up quite a bit in this last year. Have you done, Dr. Runge, studies on who it is that is dying? Age group, training, something along that nature.

Dr. RUNGE. Yes, Senator Campbell. As a matter of fact, when we look at the increase in deaths on the highways over the last year, a goodly proportion of that increase was due to an increase in motorcycle fatalities. Fortunately, this past year the increase has dampened a bit, but we still saw about a 3 percent increase in motorcycle fatalities year to year. As you suggest, the largest number of those is in the 50- to 59-year-old age group.

However, we still have a tremendous problem with impaired riding. Although just under 40 percent of motorcycle crashes are alcohol-related, it should be pointed out that even at lower levels of alcohol, riding a motorcycle becomes more difficult. I think there are right brain functions, activities that are second nature to a rider, such as handling a curve and looking peripherally, that do not do well.

Senator CAMPBELL. People who drive automobiles and drinking are impaired. People to drive motorcycles and drink are just plain crazy.

Dr. RUNGE. Thank you for pointing that out.

We are addressing this. We do have a $656,000 request in the fiscal year 2004 budget particularly related to programs for motorcycle riders. We are interested in training. We just developed a motorcycle safety plan, which I hope you have had a chance to take a look at, that we sent over in December. We would like to begin to implement the recommendations in that plan in the coming fiscal year.

This is an area where our stakeholders and our customers have very strong feelings about what should be done. We developed our

plan in concert with them. We hope that kind of collaboration can continue.

HIGH VISIBILITY ENFORCEMENT FOR IMPAIRED DRIVING

Senator CAMPBELL. In my view, the education and training certainly is more acceptable than more and more penalties which sometimes work and sometimes do not. We talk about alcohol-related crashes. My dad was an alcoholic. And over the years, I came to believe that all that tragedy and stuff that alcoholism causes, it is a form of sickness. Sometimes more and more penalties do not stop a person that has a sickness. They do it anyway.

I might also note with interest that the people who are dying, the highest percent that are dying on motorcycles now are the 50 to 60, you said. It would be my guess they were people who did not ride their whole life. Mom said they could not have one when they were young. Now mom is gone and they have got some money. And they saw that movie, Easy Rider, and they know they can do it. And they are too macho to take any dang training and so they have got to get on there and they buy some hundred thousand dollar killer and get out there and get hurt. But thank you for those numbers.

I think I had one other question before I ask Senator DeWine for his input. This "Click It or Ticket" campaign that was talked about, considering that has been rather successful, is there anything in the wind or being suggested that we might use something along that line for impaired driving or alcohol-related accidents?

Dr. RUNGE. Yes, sir, we currently do that. In fact, Mr. Hurley and Ms. Hamilton have gone on record as supporting high visibility enforcement with us. Mr. Hurley mentioned the "Booze It & Lose It" campaign that was successful in North Carolina.

This committee, in fact, appropriated right around $10 million for a high visibility national advertising campaign this year, which we will kick off in about 4 weeks. In the alcohol area, we want to replicate those successes that have been achieved with seatbelts.

EMERGENCY VEHICLE SENSORS

Senator CAMPBELL. Thank you. Maybe one last question, and you might not have an answer to this because it came to me kind of accidentally.

There are so many noises out there driving now, distractions and noises. Radios, soundproof cars to drown out some of those noises, and older drivers that may have some hearing problems. I was recently told about a sensor that has been developed that can be put in commercial vehicles or personal vehicles that indicate when an emergency vehicle is near. I did not know how it senses it.

I was thinking, you know, we have got those things that you put on your bumper where deer can sense that you are near through some kind of a sound they can hear. So maybe it is related to that.

Are you aware of any kind of a pilot program that is being developed? I heard of one that is being developed in Colorado, by the way, in Summit County. A program is being developed that would tell you if police cars are coming? And I do not mean radar units. Something to keep you out of trouble.

Dr. RUNGE. I am not aware of that, but we will be happy to check into it and get back to you.

[The information follows:]

EMERGENCY VEHICLE CRASH AVOIDANCE TECHNOLOGIES

According to NHTSA statistics, in 1997 approximately 15,000 emergency vehicles were involved in traffic crashes, 75 percent of which are attributable to the other driver not yielding to the emergency vehicle. For emergency vehicles to safely respond to calls, they need systems that attract the attention of other drivers and elicit an appropriate response, specifically creating a clear path through which the emergency vehicle can travel. To accomplish this goal, many organizations operate sirens when responding to critical situations. However, with enhanced soundproofing in vehicles and increased capabilities of in-vehicle sound systems, there is newfound concern that sirens are not heard, thereby contributing to crashes with emergency vehicles.

To remedy this issue, numerous inventors have developed technologies to provide enhanced information of emergency vehicle travel to other drivers. These devices are probably similar to the one being tested in Colorado. Some systems use wireless transmitters to send warning signals from the emergency vehicle to a transmitter in vehicles nearby. Other systems use acoustic sensors to pick up sirens and amplify them inside the vehicle. For example, Safety Cast, consists of a mobile transmitter designed to broadcast messages from emergency vehicles to other vehicles in the area. The Safety Cast consists of a two-mode alert: a tone followed by a message detailing the situation. Promoters of the product state that with this design drivers will be able, ". . . to make a much more planned and safer decision on how to respond" to emergency vehicles.[1] Another recent design, the Emergency Vehicle Early Warning Safety Systems (E-Views),[2] delivers directional information of emergency vehicle location with signs mounted on traffic signal mast arms. The Keio University in Japan has also designed a siren detection system that provides warning information to drivers when an external microphone detects sirens. (These systems operate on a different principle than air-fed deer whistles which were mentioned in the Congressional question. Contrary to popular beliefs, a recent study from the University of Connecticut found the whistles to be "acoustically ineffective."[3])

Previous NHTSA research found that the costs of achieving effective in-vehicle emergency vehicle warning systems far outweighed the benefits.[4] The systems need to overcome significant technical hurdles to make the devices reliable under harsh driving environments and to minimize presenting drivers with distracting or annoying false alarms. However, advancing in-vehicle technology could prove to make such interventions cost-effective. In order to determine effectiveness, extensive research would need to address the following issues:

—System compatibility with all sirens implemented in the United States;
—Infrastructure requirements;
—Interface design, intended to not only gains the attention of drivers but promotes the most appropriate response;
—Maintenance requirements and system reliability;
—System state requirements, e.g., does the driver need to have the radio on, etc.

Senator CAMPBELL. Thank you. I have no further questions. Senator DeWine, did you have some questions?

Senator DEWINE. Mr. Chairman, thank you very much. Let me first just say that I am sure that Chairman Campbell would not charge you anything for his great quote about those who drink and ride motorcycles, if you want to use that. You would not charge them anything would you, Senator, about your great quote about those who drink and drive motorcycles? They could probably use that.

Senator CAMPBELL. Yes, you can use it. They are either crazy or suicidal.

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[1] More information is available at www.mysafetycase.com.
[2] More information is available at www.eviewsinc.com.
[3] Palmer, J. "Air-fed Deer Whistles Scientifically Tested." UConn News, University of Connecticut Office of University Communications, November 19, 2002.
[4] Peterson, D.D. and Boyer, D.S. (1975). "Feasibility Study of In-vehicle Warning Systems." DOT HS–801 569.

BUDGET REDUCTIONS IN IMPAIRED DRIVING PROGRAM

Senator DEWINE. I think that is a great quote.

Doctor, let me ask you, we have talked about the cuts in the alcohol programs. They cut, I believe, $110 million in the safety incentives to prevent operation of motor vehicles by intoxicated persons, Section 163, $40 million cut in the alcohol impaired driving countermeasures incentive grants. We have talked a little bit about those.

But you are not saying that those are not effective programs, are you?

Dr. RUNGE. If I could just frame this issue, Senator DeWine, this is one of these unfortunate issues of timing where we have reauthorization, and the budget moving through simultaneously. But, it is worth reflecting on the philosophy behind this reauthorization. Those monies that you just spoke of were formerly in the Federal Highway Administration's budget, but were administered by NHTSA.

What we are trying to do with reauthorization is to put the responsibility where it belongs, and the ability to deal with it where it belongs. And that is in the States.

The State alcohol-related fatality rates go from a low of 0.29 fatalities per 100 million vehicle miles traveled in Utah to 1.27, 3½ times that much, in South Carolina. We have, in the past, painted a very broad brush across this entire country. That has not been shown to be effective. There are pockets in this country where it is very dangerous to drive.

The reauthorization proposal brings the funds that formerly were in the Federal Highway Administration budget over to NHTSA in a combined 402 program that gets the money into the States with performance incentives. That is, the State's goals will be aligned with the national goals. In order to qualify for incentive funds, States will need to implement programs with their money—and the same money is there, it is level funded—they will have to apply those funds, instead of buying key chains and bobble-headed dolls. They will have to spend money where it belongs, which is in high-visibility enforcement and in dealing with the repeat offender and the chronic alcohol-user who gets behind the wheel of a car.

That is the philosophy behind this, and that is the basis of our fiscal year 2004 budget proposal.

Over the course of 6 years, there is a decrease in the funding that is specifically for alcohol from about $14.7 million to right around $11 million. However, that does not include the 402 funds that are still there, which we want to be applied to tackle the problem.

We are setting up incentives that will require States to do that, and giving them best practices which you all have paid for. We know what works. We know what is there. Getting the States to do it is a real challenge.

In Tennessee, they reduced alcohol fatalities with a double-digit effectiveness with "Checkpoint Tennessee". But, when the money went away, that money that you are speaking of, the program went away. That cannot happen anymore. We have got to hold States accountable for the money that they spend on these issues.

REAUTHORIZATION PROPOSAL EFFECT ON IMPAIRED DRIVING PROGRAM

Senator DEWINE. I want to make sure I understand, and I am going to take some more time to study your proposal. I have looked at it already, but we are not going to resolve this obviously today. I will be in contact with you personally about this. But I want to make sure I initially understand what you are telling me.

You are not telling me that you are transferring money away from this overall anti-drunk driving prevention or education program. Is that what you are telling me?

Dr. RUNGE. That is correct. What we have done with reauthorization is to take seven or eight different grant programs and combine them into a single 402 program. Plus, we added a $50 million program that is specifically for alcohol programs in those States with the worst impaired driving problems. That $50 million is not meant to be spread all over the entire country.

There are 12 States that, if they just got themselves to the national average, the result would be that we would be 80 percent of the way to our goal. We have got to get into those States and, first of all, evaluate them, find out what is going on in there, and then give them some special resources to pull themselves up by their boot straps, because right now, what we are doing is not working.

That is the $50 million program that is being talked about. The rest of the grant programs are in a combined 402 program, with a level-funded formula program, as well as a well-funded incentive piece on top of that, so that States who meet those goals can get additional resources.

Senator DEWINE. Would anybody on the panel like to comment on that? Mr. Hurley or Ms. Hamilton?

Ms. HAMILTON. We have information that we will be happy to submit to the panel. The highway safety performance grant—there are three pockets of money. The State and community grants, the 402, is $162 million. That is down $3 million from the year before. That is a loss in funding.

There is performance grants of $175 million, which can be given to the States to be used on alcohol-impaired countermeasures, but it gives the States the option of using that money for highway safety improvement programs.

As we saw from the GAO report, that is what happened in the majority of the times in the previous program where they were allowed to use that money for hazard elimination. It is just the same thing, a new game, and basically a shell game.

Again, previously in TEA–21, there was $150 million that went to the States each year to deal with impaired driving programs. It is only $50 million now. That is $100 million loss. And it is only going to 12 States.

There needs to be money. I agree with Dr. Runge, there are States out there that it is more deadly to drive in than others. They need to have funding to do it, using it on effective research based programs that have shown to work and save lives and prevent injuries. But they also need to provide money to States so that they can sustain the level of performance and perhaps benefit even more.

DIVERTING IMPAIRED DRIVING FUNDS

Senator DEWINE. Doctor, what about the argument? And you can argue whether or it is good policy or not. But is she correct? Is Ms. Hamilton correct when she is saying that States could actually, under your proposal, divert the money to highway construction? You can argue that is good or bad, but is that true?

Dr. RUNGE. The programs that she is talking about were incentive grant programs for repeat offenders, and required States to meet four or five criteria to receive funding. Those funds can also be spent partly on road hazard elimination in the States that meet those eligibility criteria.

Therefore, it should not change the ratio significantly.

Senator DEWINE. You are saying they could do it before and they can do it again?

Dr. RUNGE. That is right. Let me back up for a second and talk about an underpinning of this program. Every State would be required to submit a comprehensive highway safety plan under the reauthorization proposal. The plan will have stakeholders that will be defined by regulation, but it will be people like MADD and law-enforcement, as well as the road builders and others in the State DOT, who will, based on each State's data, determine where their safety problems are.

There is no need for Utah to have largess for alcohol programs. But there is a tremendous need for South Carolina, Louisiana, Montana, South Dakota, Arizona, Wyoming, and others with very high impaired driving-related fatality rates, to devote significant portions to reducing impaired driving.

U.S. DOT will take it very seriously when a State submits a comprehensive highway safety plan, whether or not the data truly represent how they intend to spend their money. The flexibility that we give States also enables them to spend a good portion of their hazard elimination money on behavioral programs if their State data indicates that it is needed.

We are putting a tremendous amount of eggs in the basket of each State's traffic records and data improvement, which is why we also have $50 million in our proposed fiscal year 2004 budget to help States shore up their State traffic data, so that we can pinpoint where the problems are occurring.

STATE DATA ACCOUNTABILITY

Senator DEWINE. Let me play off that for a moment. My home State of Ohio has begun to do a pretty good job in listing the most hazardous intersections and stretches of highway. We do it statistically. We do it in ranking order. Some States are doing that. Few States, based on my experience at least, in what I have seen, are doing both a ranking and then putting their money where their ranking is.

In past highway bills, we have paid lip service to that. We have said oh, that is a good thing. You should do that. We have not put much teeth behind that. And we have not insured, in the highway bills, that significant money would go to that.

I would like your comments on that because I am very interested, frankly, as we write a new highway bill, that we do that. It

seems to me that when we are talking about putting highway dollars—I am beyond frankly what we are talking about here today, but this is your area of highway safety—that what we should be doing is figuring out where we can save the most lives for the most dollars and at least taking part of the general highway construction dollars and saying okay, we are going to find the 50 or the 100 most dangerous places in Indiana or Ohio our Maine, and let us go deal with them every year. And let us figure out where we can get the most bang for the buck or save most lives for the buck. But we have not really been doing that consistently across the country.

Now what you are talking about doing it frankly is on a fairly—with all due respect I think it is the right thing to do—but it is on a fairly small dollar amount when we are talking about the dollars we are dealing with here.

I am talking about doing it on big highway bill and doing it with some serious dollars, I mean big dollars.

Do you want to comment on that? It seems to me that the good news I am hearing from what you are saying is that the studies you are talking about doing, and the $50 million you are talking about doing, certainly is a start at least in trying to compile the data that the States will need to be able to come up with that information.

Dr. RUNGE. Thank you. I think you are exactly right.

In the past, there has been lip service played to accountability. The A in SAFETEA is accountability.

A lot depends on a State's comprehensive highway safety plan, and a lot depends on their ability to gather traffic data and to acquire it in a way that is scientifically legitimate.

With respect to where those problems are, it may not just be where, it is also the who, what, when, and where of the issue, the whole epidemiology of the problem. Some States do a great job of defining that. Low velocity highways with high crash fatalities may not need road design. They may need just higher seatbelt use and less impaired driving.

We will strive to make sure that those data are acquired and that States are held accountable for that highway safety plan.

Also, in the reauthorization bill there is a billion dollar highway safety core program in Federal highways. A State's share of that can be spent—100 percent of it can be spent on data improvements if the State needs it. It can be spent on hazard elimination. It can be spent on behavioral programs. It can be spent on alcohol programs and belt programs.

We are trying to give States the flexibility to spend their money where it needs to go. You are exactly right. A lot depends on how we define that safety plan and how the U.S. DOT is able to insist that the money be spent in a way that, in fact, does address the highway safety problem.

I hope we have the committee's support for that accountability.

FLEXIBILITY AND ACCOUNTABILITY

Senator DEWINE. The key, it seems to me, we are all for flexibility, but it is clear from your comments earlier you are for flexibility but you are also for accountability.

Dr. RUNGE. Yes sir.

Senator DEWINE. You talked about key chains and other things that you do not seem to think amount to a whole lot, and I would happen to agree with you.

I go back to my experience as Lieutenant Governor of Ohio, and one of the areas where I was in charge was highway safety. We looked at things that mattered and some things that frankly did not matter.

So how we strike the right balance of allowing States to pick and choose what is appropriate for their State but also give them the guidance to move forward and to try to target things that do, in fact, matter is the key I think.

Ms. Hamilton?

Ms. HAMILTON. Senator, flexibility is important to the States. We understand that they are struggling with this and they are very concerned about MADD's proposal. However, we saw in the past that that money is going for hazard elimination programs.

What you talked about before, what is going to save the most lives most quickly is, quite frankly, the bill that you introduced today with Senator Lautenberg for enforcement on belt and alcohol prevention programs to give law enforcement the resources that they need for the next 6 years and the paid advertising to let people know that impaired driving and seatbelt usage is important.

We can build better roads. We can design safer cars. But unless we develop safer drivers, we are not going to make any kind of a dent in this problem. And we have got to take the time right now to put the resources into behavioral safety programs that we know are effective. We have 30 years of research and data from NHTSA, from all over this country and the world, in fact, that tells us what works, enforcement.

Senator DEWINE. Mr. Chairman, if I could just make one additional comment. I know I have gone over my time. But just to make sure everyone understands at least this one Senator's position.

I believe that the money we are talking about today, frankly, should primarily be going for education issues and behavioral modification issues and the things that Ms. Hamilton is talking about.

The highway construction and the hazardous changes in construction that I was talking about, I think, should come out of the big bill that we are talking about, and the bill that frankly we will be, I hope, writing later this year. I think a bigger percentage of that bill should be absolutely dedicated to focusing on trying to eliminate the hazards on the highway.

I think we do not put enough of that into targeting what matters on our highways. And I think what the doctor is talking about is it makes sense to spend some money to get the data and allow every State to have some assistance to get the data to make those intelligent decisions, but then take money out of our big bill and focus that money on the things that really do, in fact, matter.

Let us go into every State. Every State has got them. Every State has got the dangerous intersections. Why in the world do we keep waiting until we get the fifth or sixth fatality when we know, and everyone in the community knows, this is a bad intersection. Everyone in the community knows this is a bad curve. Highway pa-

trol can tell you. You go into the Xenia, Ohio highway patrol post, they can tell you the bad intersections. They can tell you where there is going to be a bad accident. They can tell you it is going to come. Now when it is going to come, but it is going to come.

Why do we wait? It is just absolutely crazy.

Mr. HURLEY. Senator, first, I want to thank you for your leadership on highway safety, your support for MADD, and specifically your support for high visibility enforcement.

On the accountability issues, which is critical, and it is a very complicated bill. We are still studying it. But it does appear to be an overall flat funding of highway safety with very serious concerns about reduced funding in key areas that we have talked about.

We support the idea of performance partnerships with the States of accountability and the rest of that. However, NHTSA, without a change in the statute, gave up plan approval 4 or 5 years ago. The General Accounting Office report that Senator Dorgan just asked for and received had some very serious comments about that. I would hope that this could be a part of the record, as well.

The best States probably do not need plan approval. The worst States probably need more than plan approval. There has to be a whole consideration of performance partnerships with the States that really has not occurred yet. I am hopeful that we can get into that with the leadership at DOT because the current system does not seem to be working all that well. Thank you.

Senator DEWINE. Mr. Chairman, thank you very much.

Senator CAMPBELL. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

We have no further questions from the members that are here. However, Senator Shelby does have some. Rather than asking them for him and getting them all confused, I will submit those to you in writing. If you could answer them in writing.

And I think Senator Murray may also have some questions.

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

QUESTIONS SUBMITTED TO THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

Question. The positive effects of the "Click It or Ticket" mobilizations to increase seatbelt usage rates are undeniable. According to NHTSA's evaluation, seatbelt usage increased by 8.6 percent. In the Omnibus Appropriations Act this Committee again set aside funds for these mobilizations and directed NHTSA to expand this approach to target alcohol-related driving, which we are all concerned about. With the demonstrated success of the program, why isn't funding specifically identified in your budget proposal to continue these campaigns in 2004?

Answer. NHTSA intends to continue the "Click It or Ticket" and "You Drink & Drive. You Lose." mobilizations in 2004 and beyond. For the last 5 years, funding has been provided through the Sec. 157 Incentive/Innovative Grant Program, authorized under TEA–21. NHTSA utilized most of the Innovative grant funds awarded to the States to support the semi-annual mobilizations.

The momentum and commitment for the mobilizations reached an all time high this year with 43 States, DC, and Puerto Rico adopting the "Click It or Ticket" model in May 2003. Early in 2003, the Agency solicited input from the Governors Highway Safety Association and the highway safety offices of the 50 States, the District of Columbia, and Puerto Rico regarding their future plans to conduct the mobi-

lizations. The responses indicated a solid commitment to continue the mobilizations through Section 402 apportionments or other funding mechanisms. Thus, NHTSA did not specifically earmark grant funds to the States for this purpose. The President's fiscal year 2004 budget request rolls $112 million of what was Section 157 funding in fiscal year 2004 into a consolidated Highway Safety Grant program. This proposal is also reflected in SAFETEA, the administration's reauthorization proposal. This proposal eases the grant administration burden of the States while providing the same level of resources as previously to fund these programs.

The Department's SAFETEA reauthorization proposal also includes special performance-based incentive grant programs under Section 402 as incentive for State progress in both reducing impaired driving and increasing safety belt use.

Question. The Department's goal for highway-related fatalities in 2004 is 1.38 per 100 million vehicle miles traveled. The budget indicates that the two major reasons for the lack of significant progress in reducing overall highway-related fatalities can be directly attributed to motorcycles and pedestrians. The budget, however, appears to assume a steady rate among these groups and a necessity to focus on passenger cars and light trucks. What specific actions will the Department undertake to address and to reduce the number of fatalities among motorcycles and pedestrians in particular?

Answer. NHTSA's fiscal year 2004 budget addresses the action items in the NHTSA "Motorcycle Safety Program" document released in January 2003 and the "National Agenda for Motorcycle Safety" developed in collaboration with motorcycle safety partners.

A new fiscal year 2004 initiative will address a concern that motorcycle-training programs accommodate all those who seek training. NHTSA plans to work with identified State rider education and training programs to develop and implement long-range strategic plans to make training available for all those who need it and in a timely fashion. NHTSA will continue research on motorcycle lighting as a means to improve motorcyclist conspicuity and will continue research on motorcycle braking systems.

Additionally, NHTSA will: conduct research on crash avoidance skills; conduct research on motorcyclists conspicuity; support projects to reduce impaired riding by developing and testing activities that may include peer-to-peer efforts, social norm models, enforcement efforts, and motorcycle impoundment; and collect and analyze motorcycle crash, injury, and fatality data and compare motorcyclists who successfully completed formal rider training to those who have not to determine any difference in crash involvement.

Pedestrian crashes are addressed through a combination of public information, legislation, enforcement, engineering, and outreach strategies. NHTSA will: fund competitive demonstration projects designed to involve the law enforcement community to improve pedestrian safety; develop a community guide to tackle the challenges of implementing comprehensive pedestrian safety programs; explore the feasibility of developing and disseminating a school crossing guard curriculum; and develop community-level Safe Routes to School workshops to increase pedestrian safety around schools.

NHTSA will also disseminate tools to encourage communities to promote safe walking. Non-traditional partners, such as smart growth coalitions or local government commissions, will be identified and encouraged to incorporate pedestrian safety into their organizations' missions. NHTSA will continue its partnership with the Federal Highway Administration to incorporate infrastructure improvements with behavioral safety principles.

Question. The NHTSA budget proposes a new initiative to award discretionary grants to States to demonstrate the effectiveness of a comprehensive approach to reducing impaired driving. Could you explain how this program is different from the old program in terms of scope, distribution of dollars and more importantly, how it is an improvement over the old program?

Answer. The SAFETEA proposal would make $50 million available each year for discretionary grants to a certain number of States with high rates of alcohol-related fatalities and/or high total numbers of alcohol-related fatalities. These discretionary grants would fund programmatic activities specified by NHTSA and agreed to by the recipient States. These activities would be of proven effectiveness, e.g., well-publicized and high-intensity enforcement of impaired driving violations. Thus, under the proposal, NHTSA would annually direct $50 million to States with the greatest need for improvement in the impaired driving arena, and would see to it that those States spend the money in ways most likely to succeed in moving the impaired driving numbers down.

Under TEA–21, the only State grant funds, which had to be spent on impaired driving programs, were the Section 410 alcohol incentive grant funds, which totaled

$40 million in fiscal year 2003. The States that received these funds already had good legislative and programmatic infrastructure for combating impaired driving, because these laws and programs were needed to qualify for funding. Additional funds were awarded to States that enacted .08 BAC laws. However, these funds could be spent on any highway construction or highway safety program, not just impaired driving.

Additionally, of the $337 million that SAFETEA would provide in Section 402 basic formula and performance grants in fiscal year 2004, all but $25 million resulting from safety belt use rate performance would be available for impaired driving programs if States choose to allocate for that purpose. SAFETEA thus gives States great latitude in directing resources to address priority problems, including impaired driving.

HIGHWAY SAFETY INITIATIVES

Question. Dr. Runge, your opening statement says that NHTSA has "pledged to solve the highway safety issues confronting this Nation." However, other than consolidating some grant programs and a new accounting of other grant programs, I see no new, innovative programs included in this budget or in reauthorization proposal that would convince me that NHTSA is on the way to solving the highway safety issues confronting this Nation.

What specifically in this budget is going to make significant strides in improving safety?

Answer. The Department's reauthorization proposal offers more than consolidation of grants. The two performance based grant programs, the General Performance Grant Program and the Safety Belt Performance Grant Program would encourage States to take actions on strengthening their highway safety programs and implementing laws to increase safety belts and to deter impaired driving. The proposal will also help States with high alcohol-related fatalities receive much needed support to improve their alcohol programs. The proposal calls for NHTSA to develop and facilitate a coordinated and comprehensive EMS infrastructure by designating NHTSA as the lead agency for EMS.

Another component of the reauthorization proposal is to conduct a national motor vehicle crash causation survey. The survey will collect much needed, real-world crash causation data to identify and understand motor vehicle crash factors that are integral to developing crash-preventing countermeasures. The proposal will also authorize NHTSA to institute an International Cooperative Safety Program to exchange research and educational programs that are beneficial to NHTSA in carrying out its mandate to reduce motor vehicle injuries and fatalities. Further, the proposal provides incentive grants to the States to improve their traffic record data, which will benefit the local, State, and Federal transportation-related agencies in identifying their transportation safety problems and evaluating their programs and countermeasures.

HIGHWAY SAFETY GRANT FUNDING LEVELS

Question. I am concerned that much of this "increase" in funding for highway safety is merely the shifting of funds from Highways to NHTSA. I have expressed this to the Secretary and still believe that we need more information to conduct a proper analysis.

Dr. Runge, how much of NHTSA's increase is actually new money?

Answer. NHTSA's proposed total funding for grants to States in fiscal year 2004 is $447 million. That is identical to the amount of funds provided to the States under TEA–21 in fiscal year 2003.

SAFETY BELTS

Question. With respect to seat belt usage, Dr. Runge, you have said, "we have a model that works. For every 1 percent increase in belt use, we get $800 million in economic costs saved, 2.8 million more people buckling up, 276 lives saved, and reduce the severity of 6,400 moderate to critical injuries."

Dr. Runge, given the clear benefits of increasing seat belt usage rates, why does the fiscal year 2004 budget exclude specific funding for "Click It or Ticket" Campaigns in the States when I am not aware of any program that has been more effective at getting people to buckle up?

Answer. "Click It or Ticket" has indeed proven effective in increasing safety belt use. NHTSA intends to continue the "Click It or Ticket" mobilizations in 2004, and beyond. Early in calendar year 2003, the Agency solicited input from the Governors Highway Safety Association and the highway safety offices of the fifty States, the District of Columbia, and Puerto Rico. Given the commitment to continuing the mo-

bilizations that was expressed, NHTSA does not believe that it is necessary to earmark grant funds to the States for this purpose. Also, the Agency's intent is to focus a significant portion of research and development (Section 403) funds to support the two mobilizations through program development, technical assistance, and evaluation initiatives.

Question. Is there an initiative in the budget that will work as well or better than the mobilizations?

Answer. Given the proven success of conducting high visibility enforcement campaigns and the expressed commitment from State Highway Safety Offices to continue the national mobilization strategy, NHTSA plans ongoing support for the "Click It or Ticket" mobilizations. However, the Agency also plans to work with States on the development of a variation on the model that involves continuous high-visibility enforcement operations (24 hours a day, 7 days per week).

Through additional incentive funds proposed in the Department's SAFETEA reauthorization submission, NHTSA will continue support for "Click It or Ticket" mobilizations during fiscal year 2004. At the same time, States that have experienced the full benefit of the "Click It or Ticket" approach will be encouraged to move toward a continuous high-visibility enforcement model. Several States with the highest use rates, including California and Washington, have had success with this approach.

In 2004, States will be conducting one safety belt mobilization in May, an impaired driving crackdown in December, and the States will conduct high visibility enforcement mobilizations throughout the summer months.

IMPAIRED DRIVING

Question. The preliminary National Highway Traffic Safety Administration (NHTSA) data estimates 17,970 deaths last year due to crashes involving alcohol—that's about 500 more than in 2001 and represents 42 percent of all traffic fatalities. This number is too high and we must take action.

Dr. Runge, can you tell me what NHTSA is doing this year to focus on the problem of impaired driving and further what specifically the budget propose to reduce the number of impaired drivers and related accidents in the future?

Answer. NHTSA's 2004 goal is to reduce alcohol-related fatalities to no more than 0.53 alcohol-related fatalities per 100 million vehicle miles traveled (VMT). To achieve the goal, NHTSA will work with States to develop a plan for maximizing general deterrence through high visibility law enforcement, while also maintaining attention to effective specific deterrence programs for dealing with offenders.

NHTSA demonstration programs in both the safety belt and impaired driving areas have proven that highly visible enforcement, coupled with paid and earned media, is an extremely effective general deterrent strategy. Nearly all States have agreed to pursue both sustained (year-long) high-visibility impaired driving enforcement, as well as periodic enforcement crackdowns during July and December 2003. Sustained enforcement will continue in 2004, with States conducting high visibility enforcement operations according to their own schedules throughout the summer months and a coordinated national crackdown in December.

Media directed at high-risk groups is critical to the success of these enforcement efforts. States and the District of Columbia have agreed to utilize the national "You Drink & Drive. You Lose." theme, which reminds motorists that if they drive while impaired, they will be arrested. In 2003, Congress provided the agency with $12 million to support paid advertising to supplement State efforts during these periods and to evaluate the efforts.

The Agency believes that this unprecedented level of coordinated national law enforcement and associated media coverage will be effective in creating deterrence to drinking and driving and will change behavior. The Agency is currently conducting an evaluation of the effect of paid media and sustained enforcement on impaired driving.

To ensure longer-term progress, the Agency will also encourage sustained, highly visible enforcement and continue to advance the areas of prevention, intervention, and treatment. Long-term success will be dependent on people making informed choices about drinking and driving and getting treatment to resolve substance abuse problems.

Question. The NHTSA budget proposes a new initiative to award discretionary grants to States to demonstrate the effectiveness of a comprehensive approach to reducing impaired driving.

Dr. Runge, could you explain how this program is different from the old program in terms of scope, distribution of dollars and more importantly, how it is an improvement over the old program?

Answer. The SAFETEA proposal would make $50 million available each year for discretionary grants to certain States with high rates of alcohol-related fatalities and/or high total numbers of alcohol-related fatalities. These discretionary grants would fund programmatic activities specified by NHTSA and agreed to by the recipient States. These activities would be of proven effectiveness, e.g., well-publicized and high-intensity enforcement of impaired driving violations. Thus, under the proposal, NHTSA would annually direct $50 million to States with the greatest need for improvement in the impaired driving arena, and would ensure that those States spend the money in ways most likely to succeed in moving the impaired driving numbers down.

Under TEA–21, the only State grant funds, which had to be spent on impaired driving programs were the Section 410 alcohol incentive grant funds, which totaled $40 million in fiscal year 2003. The States that received these funds already had good legislative and programmatic infrastructure for combating impaired driving, because these laws and programs were needed to qualify for funding. Additional funds were awarded to States that enacted .08 BAC laws. However, these funds could be spent on any highway construction or highway safety program, not just impaired driving.

Additionally, of the $337 million that SAFETEA would provide in Section 402 basic formula and performance grants in fiscal year 2004, all but $25 million resulting from safety belt use rate performance would be available for impaired driving programs if States choose to allocate for that purpose. SAFETEA thus gives States great latitude in directing resources to address priority problems, including impaired driving.

CHILD SAFETY SEATS

Question. For the past several years, the Committee has provided funding for child safety seat campaigns. These campaigns have been very successful at increasing the proper use of child safety seats while we developed the second generation of child safety seats, which are now accompanied by LATCH systems in all new passenger vehicles to allow for easier installation and safer car seats.

One of the reasons this campaign has been so successful is due to the broad base of support coming from State and local public safety community, community activists, and private industry. Without this coalition of support it is difficult to imagine that the campaign would have had the effect of continued decreases in child fatalities.

Question. Dr. Runge, is this a model that can be used in other areas that need improvement?

Answer. The success of the child passenger safety campaign has clear and compelling implications for its utility as a model in other program areas. NHTSA recognizes the transferable nature of this model to other highway safety programs and has already taken numerous steps to incorporate similar strategies in ongoing and future efforts.

In the early years of the campaign, the model focused solely on child occupant restraints. NHTSA and partners, such as the Air Bag & Seat Belt Safety Campaign (ABSBSC), were able to build on the momentum created in child passenger safety in particular the hazard posed to front seated children by airbags and transfer the effort to occupant protection issues for all ages. Over the years, what began as "Operation ABC (America Buckles Up Children)" evolved into an endeavor that included teen and adult restraint use as well. This model was also used as the basis for what is known now as the "Click It or Ticket/Operation ABC" campaign, which is also demonstrating considerable gains in safety belt use.

The model is being refined even further in the area of Impaired Driving. NHTSA and partners, such as Mothers Against Drunk Driving (MADD), embarked on the NHTSA-led "You Drink, You Drive. You Lose." campaign in fiscal year 2003. Here again, the State and local public safety community, community activists, law enforcement, key advocacy groups, and private industry are coming together to address a public health concern and implement strategies to overcome this problem.

OCCUPANT PROTECTION

Question. The Committee has supported NHTSA's efforts to increase seat belt usage among target populations whose usage rates are well below the national average. We know that safety belt usage among teens and young adults is lower than the national average.

Dr. Runge, what is NHTSA doing to identify and reach out to these and other target populations?

Answer. NHTSA is conducting a variety of focused outreach and demonstration programs to increase safety belt use among high-risk groups. One important strategy for NHTSA is continuing the long-standing partnerships with minority organizations to increase safety belt use within these communities. Examples of these partnerships include: The National Council of Negro Women; The National Latino Children's Institute; The Hispanic American Police Command Officers Association; The Bureau of Indian Affairs; and The National Asian Pacific American Families Against Substance Abuse.

Successful outreach to the African American community was exemplified in a recent meeting of African American leaders cosponsored by Secretary Mineta and Dr. Dorothy Height, Chair of the National Council of Negro Women, for the purpose of reviewing the success of the Blue Ribbon Panel to Increase Seat Belt Use Among African Americans and laying out plans for next steps. The 2002 National Occupant Protection Usage Survey (NOPUS) showed an 8 percentage point increase in African American safety belt use since the Panel's findings were released in 2000.

In the Hispanic community, families are being educated about the importance of safety belt use through child passenger safety venues. Culturally sensitive educational materials and curricula have been developed, and an infrastructure of certified child passenger safety technicians and fitting stations will soon be implemented in Hispanic neighborhoods.

In 2001, NHTSA awarded teen safe driving demonstration grants in Pennsylvania, Maryland, Minnesota, and Washington. This program focuses on common high-risk behaviors for youth 15–20 years of age, including lack of safety belt use, impaired driving, and speed. NHTSA also tailored the May 2003 "Click It or Ticket/Operation ABC" mobilization to teens, reaching out to high schools around the Nation to encourage students to buckle up. NHTSA is also: conducting research into the effectiveness of Graduated Driver's Licensing in reducing teen injuries and fatalities in motor vehicle crashes; researching innovative and model programs to increase teen safety belt use; and conducting focus groups to develop effective messaging and strategies to reach teens.

Question. How are the programs being received in these communities?

Answer. Preliminary results from the four Teen Safe Driving Demonstration Programs administered by NHTSA suggest that the strategies implemented are well received and hold promise to increase the awareness of young people about high risk driving behaviors and increase safety belt use.

For example, in the Spokane, Washington, Teen Safe Driving initiative, law enforcement officers visit high schools and conduct "Room to Live" presentations on risky driving behavior for teens—speeding, lack of safety belt use, and impaired driving. Results from the 500 students that evaluated this portion of the program include: 97 percent of students thought the program was effective; 98 percent of the students thought other students would benefit from the program; 91 percent of the students felt that safety belts were more important to them after the presentation; and there was a 29 percent increase in the number of students who said they would wear their safety belt all the time.

Preparing communities for interventions to increase safety belt use through education and direct involvement in the planning and implementation of programs is key to building consensus and positive reception by the community. In the teen demonstration grants awarded by NHTSA in 2001, letters were sent to families, schools were notified, press events were held, and young people were (and are) directly involved in the development and implementation of the program. This has resulted in support for the program goals, strong partnerships, and successful collaboration. In fact, the cities involved in the Minnesota Teen Safe Driving Initiative jointly won the League of Minnesota Cities Achievement Award in Public Safety for their initiative.

Successful strategies identified in these demonstration grants, as well as findings from current research by NHTSA to identify effective and promising strategies to reach teens, will be documented and promoted as effective strategies for use by other States.

Question. If 75 percent of rollovers are unbelted, is it possible to focus on occupants who are at greater risk of being in a rollover accident as a target population?

Answer. NHTSA believes that it is possible to focus safety belt program efforts on drivers of vehicles that are more likely than others to be involved in rollover crashes. In fiscal year 2001 and 2002, the Agency awarded two demonstration projects to test strategies for increasing belt use in sport utility vehicles (SUV) and pickup trucks. Early results from these demonstrations appear encouraging. Occupants of these vehicles are over-represented in rollover crashes. Preliminary results from the Virginia and Colorado demonstration sites highlight the benefit of these projects. Virginia's "Buckle Up Now" demonstration project, which focused on the

southern counties of the State, saw safety belt usage increase from 61 to 77 percent following introduction of the campaign.

The pickup truck demonstration projects in Florida and South Dakota made significant strides in increasing safety belt usage among pickup truck occupants. Florida reported a 16-percentage point increase—from 33 to 49 percent. Best practices guides based on findings from these projects will be published in fiscal year 2004.

SHARE THE ROAD

Question. How do NHTSA and FMCSA coordinate with regard to the "Share the Road" education program, and how do you believe that program can be made more effective?

Answer. As directed by TEA–21, NHTSA provided FMCSA with funding to support the "Share the Road" program. This program is executed by FMCSA. With the transfer of funds, FMCSA provides NHTSA with an overview of program activities. FMCSA also coordinates program activities through the Share the Road Coalition and intermittent notification of issues as they arise during the fiscal year.

Recently, GAO completed a report on the effectiveness of the "Share the Road" program and how to improve the program delivery. GAO provided recommendations on improving the effectiveness of the "Share the Road" program. The DOT agrees with the GAO's recommendations.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

Question. Dr. Runge, when the Federal Government has tried to get the States to enact meaningful safety laws, it has taken two approaches. In some instances, like the Minimum Drinking Age Act and the 0.08 law, we have withheld highway construction funds from States that don't pass the law. In other instances, we have provided incentive payments to get the States to make safety improvements. The record is clear, when we sanction highway construction funds, all the States eventually comply. When we provide incentive payments, the record is quite mixed. NHTSA's own data show that seat belt use increases as much as 15 percent in States that have primary seat belt laws on the books. Currently, 18 States and the District of Columbia have primary seat belt laws in effect, including my own State of Washington. Yet, your 2004 budget request includes $100 million for a new primary belt incentive grant program. This program is designed to encourage the remaining 32 States to pass a primary seat belt law.

Why did NHTSA choose to create an incentive grant program rather than a penalty program to get States to enact primary seat belt laws? Given the lives that can be saved as a result of these laws, doesn't this safety requirement call out for universal compliance?

Answer. NHTSA believes incentives have a greater opportunity to be effective because the fiscal landscape has changed. Many States are facing huge fiscal challenges. NHTSA dialog with State legislative and executive offices during last year has indicated their desire to keep incentive programs in the reauthorization. The Agency believes that the proposed incentive for enacting a primary safety law—five times the State's fiscal year 2003 allocation for Section 402—is significant enough to create impetus for law changes in States that are searching for financial help in almost every program.

Question. What specific examples can you provide us to demonstrate that States are more likely to pass safety legislation when the Federal Government provides incentive funding?

Answer. The Section 410 Alcohol-Impaired Driving Countermeasures Grant program was amended by the Intermodal Surface Transportation Equity Act (ISTEA) to provide financial incentives to States for the development of improved laws and programs to deal with impaired driving. Many States actively pursued enacting new or improved laws to reduce drinking and driving, such as administrative license revocation (ALR), .02 BAC laws for under age 21 drivers, and .08 BAC laws. During the ISTEA authorization (1991–1997):

—Eight States enacted .08 BAC laws.

—Thirty-four States plus enacted .02 BAC laws for drivers under age 21 (25 enacted before the passage of the NHS sanction provision in 11/95).

—Ten States enacted ALR laws.

ISTEA also established an innovative occupant protection law incentive grant phase of Section 153, which authorized 3 years of incentive grants, beginning fiscal year 1992, for States with both a safety belt and a motorcycle helmet use law.

—Ten States took legislative action to enact a conforming safety belt or motorcycle helmet law during the incentive phase (fiscal year 1992-fiscal year 1994).

—Seven States adopted new safety belt laws: Nebraska, North Dakota, West Virginia, Vermont, Massachusetts, South Dakota, and Kentucky.
—Two States, Ohio and Connecticut, amended their existing safety belt use laws to remove unacceptable air bag exemptions.
—For the seven States which enacted new safety belt laws and the one State which enacted a motorcycle helmet law during the Section 153 incentive phase, increased belt and helmet use rates following the enactment of these laws resulted in a combined savings of about 140 lives, 2,400 moderate to serious injuries, and nearly $220 million.
—Twenty-five of 27 eligible jurisdictions chose to participate in the grant program. Thirty-six million dollars in grants leveraged $52 million dollars in matching funds to increase safety programs and compliance with occupant protection and motorcycle helmet laws.

NHTSA believes significant incentives will work again because the fiscal landscape has changed dramatically in the past 2 years. Many States are facing huge fiscal challenges. The dialog between NHTSA and State legislative and executive offices in the past year has been increasingly about incentives remaining in the current authorization. A fivefold Section 402 amount incentive for passing a primary safety law is significant enough, NHTSA believes, to create law changes in States that are searching for economies in every program.

MOTORCYCLE FATALITY INCREASES

Question. Dr. Runge, motorcycle deaths have gone up every year since 1997 and the deaths of older cyclists have been rising for an even longer period of time. The early estimates for 2002 indicate that the overall number of motorcycle fatalities increased by 3 percent over 2001. And while the number of fatalities for younger riders decreased, for riders over the age of 50, there was an astounding 24 percent jump in the number of motorcyclists killed.

To what do you attribute the increase in the number of motorcycle fatalities and why has there been a spike in the number of older rider fatalities?

Answer. Three major changes have occurred to impact the motorcycle crash problem: the number of registered motorcycles has increased, the average age of riders has increased, and motorcycle helmet usage has decreased.

Motorcycle sales have increased for 10 consecutive years, resulting in more motorcycles on the highways, thereby increasing exposure. Many of these motorcycles have larger engine displacement.

The average age of a motorcycle operator in 1998 was 38.1 years compared to 33.1 years in 1990, 28.5 years in 1985, and 26.9 years in 1980. Motorcycle ownership by age illustrates that more individuals over the age of 50 are purchasing motorcycles. Ownership for those age 50 years and over in 1998 was 19.1 percent compared to 10.1 percent in 1990, 8.1 percent in 1985, and 5.7 percent in 1980 (Motorcycle Industry Council data).

According to the National Occupant Protection Use Survey, motorcycle helmet use has decreased from 71 percent in 2000 to 58 percent in 2002. Reduced helmet use, impaired riding, especially riders with high blood alcohol concentrations, and speeding are risk factors that have affected the number of motorcyclists killed in traffic crashes.

Question. In last year's bill, we provided additional funding for training and crash avoidance skills. How have you put these funds to use?

Answer. In fiscal year 2003, the Committee increased the motorcycle program budget by $300,000 with the instruction that these additional funds be used to improve crash avoidance skills and motorcyclist conspicuity.

To improve crash avoidance skills, NHTSA is entering into a cooperative agreement with the Motorcycle Safety Foundation to ensure that the appropriate crash avoidance skills are incorporated into revised curricula and are updated as needed. Motorcyclist training will reflect these changes as appropriate.

To improve motorcyclist conspicuity, NHTSA is planning research to determine if daytime running lamps on passenger cars affect the motorcycle visibility in the traffic mix. Additionally, NHTSA will conduct research to determine if modulating headlamps on motorcycles increases the visibility and recognition of a motorcycle in the traffic mix.

NHTSA'S PAID ADVERTISING PROGRAM

Question. Dr. Runge, over the last few years, this subcommittee provided funding for paid media to support the highly successful "Click It or Ticket" program. In fact, the national ads for this program have been running this month during the seat

belt mobilization campaign. This year, we expanded the program to include national media for the drunk driving mobilizations that will occur in July and December.

Dr. Runge and Mr. Hurley, what kind of feedback have you been getting about the "Click It or Ticket" ads?

Answer. It is clear the ad campaign was successful. Anecdotal feedback relating to the frequency of the ads and recall of the campaign message by the public was extremely positive. Further, preliminary research indicates that the campaign moved all key indicators among the core audience of adult drivers and, more importantly, those most at risk, males age 18–34.

Among all drivers surveyed, recall of the special effort by police to ticket drivers for safety belt violations increased from 47 percent in the pre-media survey to 75 percent on May 29, when post-campaign surveys were conducted. Among males age 18–34, recall of the enforcement campaign increased from 49 percent prior to the campaign to 78 percent after the campaign. This level of recall is significantly higher than after the 2002 campaign. A majority (50 percent) of drivers said police in their community were doing more to enforce their State's safety belt laws over the past 4 to 6 weeks. This is up from 32 percent prior to the campaign. Forty-six percent of men age 18–34 said police in their community were doing more to enforce their State's safety belt laws over the past 4 to 6 weeks. This is up from 33 percent among this audience prior to the enforcement effort.

Among all drivers, the percentage of those saying they would be likely to receive a ticket if they did not wear their safety belt increased from 56 percent prior to the campaign to 62 percent after the campaign. This is the highest percentage of drivers who perceived themselves as likely to receive a ticket we have reached in the history of this campaign.

Twenty-nine percent of drivers correctly identified, without being prompted, "Click it or Ticket" as the name of the special effort by police to ticket drivers for safety belt violations. Forty-two percent of men age 18–34 correctly identified, without being prompted, "Click it or Ticket" as the name of the special enforcement effort.

Question. Dr. Runge, given the demonstrated effectiveness of this program, why didn't your 2004 budget proposal include funding for paid media to continue these campaigns?

Answer. NHTSA intends to continue the "Click It or Ticket" and "You Drink & Drive. You Lose." mobilizations in 2004, and beyond. Early in calendar year 2003, the Agency solicited input from the Governors Highway Safety Association and the highway safety offices of the 50 States, the District of Columbia and Puerto Rico to gauge their support continuing the paid media initiative. Given the solid commitment to continuing the mobilizations that was expressed, NHTSA does not believe that it is necessary to earmark grant funds to the States for this purpose. States can use their existing grant funds to support these efforts.

Question. This will be the first year that national media will be used for the drunk driving mobilization efforts in July and December.

Dr. Runge, can you assure us that NHTSA is putting the same level of effort into the media campaign for the drunk driving mobilizations as you did with the seat belt mobilizations? Can we expect the Department to have a national kick-off for the drunk driving media campaign similar to what was held at the National Press Club a few weeks ago for the seat belt mobilizations?

Answer. In fiscal year 2003 Congress provided an additional $11 million appropriation to NHTSA to support paid advertising for the "You Drink & Drive. You Lose." crackdown. With this additional funding, the Agency produced an advertisement, focusing on high visibility enforcement, which will be aired nationally June 20 through July 13. In addition, the Agency has purchased advertising time in 13 States that have either high alcohol-related fatality numbers or rates to saturate their media markets during the same time. The Department conducted a national press event on June 19 to raise awareness of the motoring public that the "You Drink & Drive. You Lose." national crackdown will take place over three weekends surrounding the July 4th holiday. At that event, NHTSA unveiled the national advertisement reinforcing the message that law enforcement will be out in force looking for impaired drivers. In addition to Departmental representatives, potential speakers for the event include members of the law enforcement community, Mothers Against Drunk Driving, and an offender in the high-risk age group (e.g., ages 21–34) who has served jail time for impaired driving. To drive this message home, the location for the press event will likely be a booking facility at a local police department.

INCREASE OF ALCOHOL-RELATED FATALITIES

Question. Alcohol-related fatalities increased for the third year in a row to nearly 18,000 deaths in 2002—and this is just the early estimate. Last year, Senator Shelby and I fought to increase the funding for the NHTSA's impaired driving program in NHTSA's Operations and Research account. We were successful in providing a 36 percent increase over the President's 2003 request. I was disappointed that your 2004 budget request cut the funding for NHTSA's impaired driving program by 25 percent.

Dr. Runge, I'll ask the same question that I asked you last year, why did you decide to cut the funding for your impaired driving program at a time when alcohol-related fatalities are increasing?

Answer. The funding request for fiscal year 2004 has not decreased and remains essentially level compared with the Agency's fiscal year 2003 request. NHTSA's fiscal year 2004 impaired driving program will continue to focus on highly sustained and periodic law enforcement campaigns, together with implementing improvements to the prosecution, adjudication, and records systems. For fiscal year 2004, the Agency has proposed a State grant program that will focus resources on a number of high risk States with high alcohol-related crashes. Targeted use of resources to sustain high visibility enforcement and encouragement of States to adopt proven remedies should revive the downward trend in alcohol-related fatalities that the Nation experienced over the last decade.

Question. NHTSA also administers grant programs to the States for various alcohol-impaired driving countermeasures through the Section 402 State and Community Formula Grant program. A few weeks ago, Secretary Mineta testified before this subcommittee and stated that the 2004 request includes $148 million for impaired driving programs and that the funds will be used to increase the number of highly visible sobriety checkpoints and other State highway patrol programs. In reviewing your 2004 budget, it appears that only $50 million is specifically targeted for State grants on impaired driving initiatives.

Would you outline for us how much funding is specifically directed toward impaired driving programs? For example, how much money will be spent on high visibility enforcement efforts?

Answer. The SAFETEA proposal would direct $50 million each year to initiatives to curb impaired driving through discretionary grants to a limited number of States with high rates of alcohol-related fatalities or high total numbers of alcohol-related fatalities. The discretionary grants would fund programmatic activities specified by NHTSA and agreed to by the recipient States. These activities would be of proven effectiveness, e.g., well-publicized and high-intensity enforcement of impaired driving violations. Additionally, of the $337 million that SAFETEA would provide in Section 402 basic formula and performance grants in fiscal year 2004, all but the $25 million resulting from safety belt use rate performance would be available for impaired driving. SAFETEA thus gives all States greater latitude in directing resources to address priority problems, including high visibility impaired driving enforcement efforts.

NHTSA'S OVERSIGHT OF STATE SAFETY PROGRAMS

Question. Dr. Runge, the second word in the administration's SAFETEA proposal stands for "accountable." Yet, the recent report released by the General Accounting Office draws the conclusion that NHTSA has been inconsistent in holding the States accountable for their highway safety programs. The GAO reported that NHTSA's use of management reviews varied from region to region and that the regional offices have made limited and inconsistent use of improvement plans. While some States may do a good job at meeting their safety objectives, it is clear that others may benefit from greater input and guidance from NHTSA.

How specifically does your SAFETEA proposal improve the accountability of State highway safety programs? Does any part of your SAFETEA proposal withhold Federal funding from States that fail to meet stated safety goals?

Answer. The SAFETEA proposal would improve the accountability of State highway safety programs because it would allocate the majority of funds to States based on specific measures of their performance in achieving safety improvements and improved outcomes. In fiscal year 2004, $100 million would go to States that succeeded in enacting primary safety belt laws, or that achieved belt use rates of 90 percent or higher. Another $50 million would be distributed only to States that succeeded in achieving low or improved rates of total motor vehicle fatalities, alcohol-related fatalities, and/or motorcyclist, pedestrian, and bicyclist fatalities. Another $25 million would go only to States that achieved high or improved safety belt use rates. Fifty million dollars would be distributed to a limited number of States that agree

to conduct assessments of their programs and carry out impaired driving programs that include specified performance elements. Beginning in fiscal year 2005, States that fail to enact primary safety belt laws or achieve 90 percent safety belt use without such a law would transfer 10 percent of their highway safety improvement program funds to their Section 402 highway safety program.

CRASH CAUSATION

Question. NHTSA's 2004 budget includes the first $10 million installment of your $60 million proposal to update the 30-year-old Tri-Level Study on motor vehicle crash causation. The motor vehicle crash causation study is expected to commence at the completion of the truck crash causation study that has been funded through the Federal Motor Carrier Safety Administration but conducted by NHTSA over the last 3 years. The 2003 Conference Report directed NHTSA to have the CDC's National Center for Injury Prevention and Control evaluate the adequacy of the crash causation research design.

Dr. Runge, given that the motor vehicle crash causation study is expected to use the same methodology as the truck crash causation study, would it make sense to see the results of the CDC evaluation before moving ahead with the motor vehicle crash causation study?

Answer. The Large Truck Crash Causation Study (LTCCS) design and implementation was thoroughly reviewed by a knowledgeable Transportation Research Board (TRB) committee. Most of the TRB recommendations were incorporated into the LTCCS study. Those that are applicable to the upcoming National Motor Vehicle Crash Causation Survey (NMVCCS) will be included in its design. In response to the specific direction in the 2003 Conference Report, the National Highway Traffic Safety Administration (NHTSA) has prepared a written description of the Large Truck Crash Causation Study sample design. It details the sampling process, as well as providing a description of the practical application of this design into field operations. This report is being provided to CDC for review. The results of the CDC evaluation will be taken into consideration.

NHTSA'S "CHECKPOINT STRIKEFORCE" CAMPAIGN

Question. Dr. Runge, last June, your agency launched a sobriety checkpoint blitz called "Checkpoint Strikeforce" which was the first border-through-border law enforcement effort to deter drunk driving in the mid-Atlantic region. The program, which utilized sobriety checkpoints, law enforcement saturation patrols and public awareness campaigns, began just before the Fourth of July and ended in January this year.

What can you tell us about the results of "Checkpoint Strikeforce" to date?

Answer. The first phase of NHTSA Region III's "Checkpoint Strikeforce" program ran from July 4, 2002, through January 4, 2003. The five States (Delaware, Maryland, Pennsylvania, Virginia, West Virginia) and the District of Columbia collectively conducted 720 sobriety checkpoints at which they contacted over 406,000 motorists and made 1,775 arrests for driving while under the influence (DWI) of alcohol. Overall, more than 3,000 enforcement actions (e.g., citations, arrests) were taken, including 77 arrests for felony charges.

Analysis of public attitude and awareness survey data is continuing. In Virginia, for example, it is estimated that the "Checkpoint Strikeforce" message reached more than 2 million viewers through television news stories, and 4 million print impressions were made through newspapers and other print media. Surveys showed that 71 percent of Virginians "strongly support" checkpoints and 82 percent believe checkpoints are a "useful tool in keeping drunk drivers off the road."

The ultimate objective of "Checkpoint Strikeforce" is to deter impaired driving and reduce crashes, injuries, and fatalities. Analysis of crash and fatality data is incomplete. However, preliminary results suggest that alcohol-related fatalities are down in four of the six States, compared to the comparable period the year before.

Question. Are you planning a similar effort in any other region?

Answer. A similar effort is underway across the Nation, with every State, the District of Columbia, and Puerto Rico participating to some degree. The Campaign is called "You Drink & Drive. You Lose." although some States use different terminology to describe the program of sustained impaired driving enforcement, punctuated by periodic high-intensity crackdowns with heavy publicity. For example, Illinois and Washington call their Campaigns "Drive Hammered, Get Nailed." The sustained enforcement component of the Campaign is patterned on "Checkpoint Strikeforce", but with a higher degree of intensity. In addition, "You Drink & Drive. You Lose." also relies on the State highway safety offices to coordinate the schedule of the agencies' special operations so that there is a public perception that the

stepped up enforcement occurs continually. Although all States have numerous law enforcement agencies participating, NHTSA's attention in 2003 is focused on 13 Strategic Evaluation States (Alaska, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Montana, New Mexico, Ohio, Pennsylvania, Texas, and West Virginia) that have high rates and/or numbers of alcohol-related fatalities. A nationwide advertising campaign is being enhanced in those 13 States with statewide television and radio advertisements, and their enforcement, public awareness and crash data are being monitored to assess the program's effectiveness.

COORDINATED GOVERNMENTAL EFFORT TO FIGHT DRUNK DRIVING

Question. Dr. Runge, roughly one-third of all drivers arrested or convicted for DUIs or DWIs were repeat offenders. These individuals are over-represented in fatal crashes and less likely to be influenced by education or legal sanctions. Given that these hard-core drinkers are probably the toughest individuals to reach, it seems that there ought to be a coordinated governmental effort to reach them. Last year, we directed NHTSA to work with the Attorney General's office to identify the best strategies to reduce plea bargaining and to make sure that impaired driving convictions are applied in a consistent manner. Beyond that, I think it is important that we look at the public health aspects of this problem to make sure that people are getting the treatment that they need. I know that you spoke to the National Institute on Alcohol Abuse and Alcoholism in February about how your two agencies might work together on this very challenging problem.

What can you tell us about NHTSA's collaboration with the Department of Justice and the Department of Health and Human Services on drunk driving initiatives?

Answer. NHTSA collaborates regularly with both the Department of Justice and the Department of Health and Human Services on initiatives that can reduce impaired driving.

At the Department of Justice, NHTSA works closely with the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Bureau of Justice Assistance (BJA) to support and expand the use of youth courts and impaired driving courts throughout the country. In addition, representatives of the Department of Justice participated in NHTSA's 2002 Criminal Justice Summit and agreed to support its recommendations.

At the Department of Health and Human Services, NHTSA works closely with a number of agencies, including the Substance Abuse and Mental Health Services Administration (SAMHSA), National Institute on Alcohol Abuse and Alcoholism (NIAAA), the Centers for Disease Control and Prevention (CDC), and the Office of the Surgeon General, regarding a range of programs that focus primarily on prevention, intervention, and treatment. In addition, this spring, NHTSA, SAMHSA, and NIAAA co-sponsored a meeting of experts in alcohol research and the criminal justice system, to consider viable treatment options.

TOP PRIORITIES FOR NHTSA AND FMCSA'S SAFETY REGULATORY AGENDA

Question. Ms. Sandberg and Dr. Runge, Americans all across the country rely on your two agencies to establish strong safety regulations to ensure that our trucks and cars are safe and that their drivers operate their vehicles in a safe and sober manner.

What are your top three priorities for safety rules in the coming year that you think will achieve the most for highway safety?

Answer. NHTSA's top three priorities for safety rules for fiscal year 2004 are:

Upgrade Side Impact Requirements for Light Vehicles.—NHTSA is engaged in extensive research and rulemaking activities for an upgrade of FMVSS No. 214, Side Impact Protection. Side crashes killed 9,048 light vehicle occupants and injured 773,000 in 2001. This upgrade will address new safety issues arising out of the significant changes in the U.S. side crash environment in recent years due to the increase in light trucks, vans, and multipurpose passenger vehicles and is a first step in addressing compatibility, one of the Administrator's priorities. Most importantly, the upgrade adds a vehicle-to-pole impact test simulating real world side crashes to rigid narrow objects.

Improved Rear Impact Occupant Protection.—NHTSA estimates that each year 272,088 occupants of vehicles struck in the rear by another vehicle receive whiplash injuries. Although whiplash injuries may be of a relatively minor in severity, they entail large societal costs, estimated at $1.76 billion for rear impact whiplash. To reduce the frequency and severity of injuries in rear-end and other collisions, the Agency is developing rulemaking actions to upgrade its head restraint and seating system standards. It is important to protect occupants in the rear seats from those in the front seats without increasing the injury risk to those in the front. NHTSA

believes that with adequate head restraints and energy management, both goals can be met. In the near term, a final rule on FMVSS No. 202, Head Restraints and Notice of Proposed Rulemaking on FMVSS No. 207, Seating Systems will be published.

Rollover Protection.—Approximately 275,000 light vehicles are involved in rollover crashes each year. Rollover crashes are especially lethal; although they comprise only 4 percent of crashes, they account for almost one-third of light vehicle occupant fatalities and more than 60 percent of SUV fatalities. Rollover crashes cause approximately 10,000 fatalities and 27,000 serious injuries each year. Based on testing and analysis, NHTSA is preparing a final notice to announce dynamic rollover ratings to include in the NCAP rollover consumer information program. In addition, the Agency plans to publish a notice in fiscal year 2004 to upgrade FMVSS No. 216, Roof Crush Resistance.

NHTSA EFFORTS TO IMPROVE SUV SAFETY/REDUCING ROLLOVERS AND AGGRESSIVITY

Question. Dr. Runge, in February, you testified before the Commerce Committee on your agency's efforts to improve the safety of Sport Utility Vehicles. Your testimony pointed out that the rate of rollover fatalities for SUVs is almost three times the rate of passenger cars and rollover crashes represent 32 percent of passenger vehicle occupant fatalities.

The TREAD Act required NHTSA to develop a dynamic rollover test by November, 2002 but this deadline has not been met. When precisely will this final rule be completed?

Answer. The Notice of Proposed Rulemaking for NCAP Rollover Resistance Ratings using both Static Stability Factor and dynamic maneuver tests in accordance with the TREAD Act was published October 7, 2002. We expect to publish this Final Rule in the late summer of 2003.

Question. There is also the issue of the aggressivity of SUVs—when an SUV crashes with a passenger car, there are 16 driver fatalities in a passenger car for every one driver fatality in the SUV. You assigned an Integrated Project Team to evaluate aggressivity and incompatibility in multi-vehicle crashes.

What is your timetable for developing rules to improve the safety features of the passenger car and to reduce the aggressiveness of larger vehicles such as SUVs?

Answer. NHTSA's plans to improve passenger car safety and reduce the aggressiveness of larger vehicles are described in the Compatibility Integrated Project Team report that has been placed in Docket NHTSA–2003–14623. The initiative to improve passenger car safety is focused on side impact protection. A proposal to upgrade Federal motor vehicle safety standard No. 214, "Side impact protection," is now being developed, with an expected publication in late calendar year 2003.

Rulemaking to reduce the aggressiveness (i.e., improve vehicle compatibility) of larger vehicles will not be initiated until some near-term research is completed. Although analyses and studies conducted to date have retrospectively demonstrated several vehicle characteristics that appear to have considerable promise for establishing compatibility requirements, the Agency has yet to demonstrate that any of these characteristics can prospectively be measured in a vehicle crash test and the level of compatibility be quantified. A comprehensive crash test program is being pursued in an effort to determine whether vehicles of comparable mass, but with considerably differing aggressiveness characteristics, produce quantifiable differences for occupants of the struck vehicle. If differences can be quantified, NHTSA will seek to identify countermeasures for potential establishment of compatibility requirements. The Agency expects to complete this testing and analysis in about a year, and then make a determination on whether to initiate a rulemaking effort.

Question. Have you considered using the New Car Assessment Program to determine how well passenger cars fare when struck by a larger vehicle?

Answer. Yes. NHTSA is pursuing this as part of the vehicle compatibility effort, which includes assessment of a number of proposed crash test barriers. When NHTSA is able to develop metrics and requirements that reflect the compatibility of a particular vehicle, the Agency will then investigate whether or not testing with these alternative crash barriers would provide useful consumer information, and if so, how to best convey that information to the public so that they can utilize it in their purchasing decisions.

STEPS NHTSA IS TAKING TO IMPROVE VEHICLE BLIND SPOTS

Question. Dr. Runge, the April issue of *Consumer Reports* includes a dramatic chart showing the blind spots in four different vehicle categories, from passenger sedans to minivans, SUVs and pickup trucks. The blind spots are far larger than many motorists believe, putting especially smaller kids in the greatest danger. Indeed, a 5′1″ woman driving a Chevrolet Avalanche has a 50 foot blind spot in back

of her. Even a 5′9″ man has a 30 foot blind spot in the Avalanche. It is estimated that as many as 58 children were killed last year because they were rolled over by a vehicle that was backing up and unaware that they were there.

What kind of data does NHTSA have on these types of non-crash, non-traffic incidents that many times have grave safety implications? If your agency doesn't collect this data, why not?

Answer. About 2 years ago, NHTSA began efforts to gather data relating to non-traffic, non-crash vehicle safety hazards—a process that, for a variety of reasons, can be difficult. Following the successful completion of a pilot study of 1997 death certificates, a more broad based program was instituted to review 1998 death certificates, as well as other data and information sources such as academic research, various health-related databases, and news sources. By the end of this summer, NHTSA expects to publish a comprehensive interim report on its non-traffic, non-crash research efforts, including those focusing on deaths and injuries resulting from vehicles backing up. NHTSA has reviewed about 60 percent of the 1998 death certificates it has received. The Agency has identified 49 vehicle-backing deaths in those death certificates. Of the 49 deaths identified, 23 of the victims were 4 years old or younger, and 22 were 60 years old or older, with 19 of these older than 70. However, it should be noted that the death certificate data does not indicate whether there was a "blind spot" on the striking vehicle.

Question. What, if any, kind of testing has NHTSA done on backup warning devices already on the market to determine which work best in detecting a small child, for example, in the vehicle's blind spot?

Answer. In 1994, NHTSA published a report evaluating electronic rear object detection systems for large trucks. The results of the testing indicated that the devices have difficulty consistently detecting many critical objects. They had a limited area of coverage, which helps to reduce irrelevant warnings, but as a result, their ability to detect moving pedestrians may be limited. Although NHTSA has not performed any recent testing, the technologies currently in use for passenger vehicles would be expected to have some of the same limitations as those studied previously. Although NHTSA is aware that a number of manufacturers offer some type of electronic backing aid, they characterize these technologies as parking aids and not as collision warning or pedestrian warning devices, in part, due to the current limitations of the technology. Such limitations include the likelihood that these devices could produce many false alarms to non-threatening objects. False alarms are likely to reduce the effectiveness of the warning by making drivers less responsive when there is a real collision threat.

BLUE RIBBON COMMISSION ON HIGHWAY SAFETY

Question. The administration's SAFETEA proposal includes a total of $7 million over 6 years for a National Blue Ribbon Commission on Highway Safety. The purpose of this safety commission is to study the Nation's highway safety needs and to make recommendations on how to reduce highway fatalities. The final report of the Commission would be delivered as late as February 1, 2009.

I'd like the entire panel to answer this question. Given what we know about the benefits of seat belts, tough drunk driving laws, and strong vehicle safety standards, why do we need 6 years and $7 million to study a problem to which we already know the solutions?

Answer. The focus of the Commission would be more than studying individual solutions to highway safety problems. The intent of this initiative is to have a shared effort by the administration, Congress, and the public to raise the level of concern regarding highway safety to the forefront of the public health issues. The level of discussion and awareness such as a Commission would engender, has yet to be generated, even in response to the fact that almost 43,000 Americans are killed each year on our highways. The Agency believes that it is appropriate that innovative policies and organizational perspectives be taken, resulting in a higher level of awareness and commitment to provide appropriate resources to implement the needed strategies.

Question. Isn't this Commission just an excuse to put off meaningful action on the safety remedies that we already know work?

Answer. Reducing the number of highway-related fatalities is a continuing challenge. The Agency does not intend to put off meaningful action on proven safety remedies. The proposed doubling of funds for highway safety in SAFETEA indicates a significant investment to implement the proven safety remedies. However, the Agency believes that it should move forward to develop new strategies to address issues of hardcore drunk-drivers and non-users of safety belts and motorcycle helmets. The Commission would provide a unique opportunity to involve all interested

parties, including Federal, State, and local agencies, and other public and private sectors, to discuss the possible solutions and strategies to such issues.

QUESTIONS SUBMITTED TO THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

Question. The Motor Carrier budget proposes $9 million to implement a Northern Border Truck Safety Grant program for HAZMAT inspections. However, the budget states that an emphasis will be placed on conducting additional roadside inspections at or near the more remote border crossing locations. Could you explain how exactly the Northern Border Truck Safety Grant program will be implemented and what kinds of inspections will be conducted? Additionally, what is the long-term goal of this new program?

Answer. FMCSA intends to develop a formula-based allocation with a small discretionary set-aside modeled after the Motor Carrier Safety Assistance Program (MCSAP). FMCSA has many years of experience working with the southwest Border States in targeting the border enforcement funds to maximize effectiveness and efficiency in meeting the mandates of Congress and the administration. The variety of situations in the Border States, the unique issues with their cross-border partners, the characteristics of the ports of entry, types of cargo being transported and inspection regimes, have provided us with the knowledge and experience to effectively allocate the majority of the border enforcement funds on a formula basis. The formula will be developed through rulemaking.

If authorized, we would continue to distribute the funds according to the priorities and criteria established and published in the Code of Federal Regulations. The amounts available would be based on documented needs, the unique circumstances, and information provided within the individual State's funding request. The FMCSA and States have worked cooperatively to meet Congressional mandates and optimize the level of enforcement and compliance activities conducted with the limited funds available for border enforcement programs. To date, all of the States that have applied for funding have been allocated part of the available funds.

We anticipate the States will request funds for additional inspection activities, primarily on commercial motor vehicles transporting hazardous materials, and to develop communications with Federal inspections agencies in the Bureau of Customs and Border Protection and the Transportation Security Administration (TSA). The overall goal of this program is to ensure that State commercial motor vehicle inspection agencies along the Canadian border have sufficient resources to ensure that drivers and commercial motor vehicles, especially those transporting hazardous materials, are safe and secure from the threat of terrorist acts through increased inspections and enhanced communications with Federal security agencies.

Question. The FMCSA budget proposes a total of $33 million for implementation of the new entrant program. Given that there are approximately 50,000 new entrants every year, how many audits does the Department actually expect to conduct if this program is fully funded?

Answer. The FMCSA expects to conduct approximately 40,000 new entrant audits per year.

Question. If we cannot expect to conduct an audit of every new entrant, what consideration has been given to phasing in the program or setting up some sort of criteria for prioritizing these new entrants that will be audited?

Answer. The FMCSA has established a new entrant implementation plan that meets the statutory language and ensures that an audit be conducted on every new entrant within 18 months of beginning operation. New entrant audits are scheduled based on the date of the carrier's registration to ensure the 18-month deadline is met.

The FMCSA took aggressive action prior to publication of the Interim Final Rule to ensure the program could begin full implementation in fiscal year 2003. Prior to the implementation of the rule, the agency issued a press release and established New Entrant Program information on its website. FMCSA's National Training Center established an aggressive training schedule to offer opportunities to Federal and State personnel who will conduct the safety audits under the program. In fiscal year 2003, our budget provided 100 percent High Priority MCSAP funds in the amount of $2 million to 34 States to begin implementing the program. The funds may be used to hire additional staff and to train the staff designated to conduct the audits. Forty-six States have signed onto the program. The agency also delivered the FMCSA Field Operations Training Manual to each FMCSA Division Administrator on April 10, 2003, with instructions to provide a copy to their MCSAP counterpart

and to meet and discuss the program with them. FMCSA stands ready to conduct the audits now.

FMCSA believes that it has taken all appropriate actions to fully implement the program. Our goal is to get the most exposure so that we can positively impact safety and make any adjustments prior to full funding in 2004. To phase in the program over time would serve only to delay conducting audits on carriers, thus posing an increased risk to the public. FMCSA believes that the safety benefits of the program are great and that the more carriers it visits, the greater the potential for the Agency to reduce the number of commercial motor vehicle crashes, injuries, and fatalities.

Question. The FMCSA budget proposes $16.2 million for implementation of the New Entrant program and an additional $17 million in MCSAP funding for the same, for a total of $33 million. Since only 46 States have agreed to participate, what is the proposed Federal-State funding split? Specifically, how will the additional MCSAP money be distributed and how will the Federal share be used?

Answer. In January 2003, FMCSA anticipated that 30 percent of the States would participate in the New Entrant program. While 46 States indicate that they will participate, they are participating at differing levels. The $17 million will be distributed to the States based on their level of participation and financial need. Some States have indicated that they will handle all new entrant audits given the appropriate Federal funding, while some have indicated that they will strive to participate to the extent they are able. Legislative authority and personnel ceilings are two issues many States must address prior to full commitment. The current amounts contained in the President's budget reflect anticipated participation of State efforts to conduct new entrant safety audits.

The Federal share will be used to hire 32 Federal positions for the management, oversight, and quality control of the New Entrant audit program, as well as to hire private contractors to conduct the new entrant audits.

Question. FMCSA is responsible for implementation of HAZMAT rules and regulations following implementation of the Patriot Act. To date, what steps have been taken to comply with these requirements?

Answer. On May 5, 2003, TSA published an Interim Final Rule in the Federal Register that implemented the background check provisions of the USA PATRIOT Act. TSA is developing the program to implement that regulation. Also on May 5, FMCSA issued a companion regulation prohibiting States from issuing, renewing, transferring, or upgrading a commercial driver's license (CDL) with a hazardous materials endorsement unless TSA has first conducted a background records check of the applicant and determined that the applicant does not pose a security risk warranting denial of the hazardous materials endorsement.

Question. Are Household Goods operators required to submit to any specific certification process through FMCSA or other regulatory agency?

Answer. All household goods applicants are required to certify that they are fit, willing and able to provide the specialized service necessary to transport household goods. This assessment of fitness includes the applicant's general familiarity with the Federal Motor Carrier Commercial Regulations for household goods transportation.

In addition, all applicants must certify that they will offer a dispute settlement or arbitration program to resolve loss and damage disputes on collect-on-delivery shipments. Applicants must ensure willingness to acquire the protective equipment and trained operators necessary to perform household goods movement. In its decision letter granting the carrier authority to operate in interstate commerce, FMCSA advises applicants that an arbitration program is required.

Question. How many Hazardous Materials incidents occur each year?

Answer. DOT collects hazardous materials incident data in two different ways. FMCSA compiles data on trucks carrying hazardous materials involved in crashes in the Motor Carrier Management Information System (MCMIS) through reports of police officers responding to the crash. RSPA requires carriers to report unintentional releases of hazardous materials in transportation, which is defined as an "incident." RSPA uses these data to extract "serious" incidents, which include releases resulting in the closure of a major transportation artery, a fatality or injury, the evacuation of 25 or more people, and other major impacts to the transportation system.

HAZARDOUS MATERIAL TRUCK CRASHES AND RELEASES, PAST 5 YEARS REPORTED TO FMCSA

Year	Crashes	Crash w/ Release
1998	2,977	589
1999	3,527	500
2000	2,271	380
2001	1,891	297
2002	1,577	202

Source: MCMIS.

HAZARDOUS MATERIALS HIGHWAY INCIDENTS, PAST 5 YEARS REPORTED TO RSPA

Year	Incidents	Serious Incidents [1]
1998	13,110	356
1999	15,008	456
2000	15,129	463
2001	15,825	487
2002	13,514	[2] 453

Source: Hazardous Materials Information System, RSPA.

[1] Serious Incident Defined by RSPA in 2002.
[2] Estimate—Data are incomplete.

Question. How do NHTSA and FMCSA coordinate with regard to the "Share the Road" education program, and how do you believe that program can be made more effective?

Answer. In fiscal year 2003, Congress earmarked $500,000 to be transferred from the National Highway Traffic Safety Administration (NHTSA) to the Federal Motor Carrier Safety Administration (FMCSA) for the Share the Road program. Once FMCSA provides NHTSA with a spending plan for the funds, the monies will be transferred. FMCSA partners with NHTSA on a steering team on the Share the Road Coalition, and communicates regularly to discuss issues as they arise throughout the year.

To improve the effectiveness of Share the Road, the FMCSA has broadened the program's scope to include all highway users and has identified specific target audiences that offer the highest opportunity for safety improvement. Education and outreach materials are being developed and tested to evaluate effectiveness. Future plans to increase the effectiveness of the Share the Road program include distributing those projects considered most effective throughout the country via FMCSA field staff and State and industry partners, and by making them available to community safety advocates concerned with truck safety issues. In response to recent GAO recommendations, the Agency plans to develop a Share the Road program planning document and conduct comprehensive program reviews to identify opportunities for improvement.

Question. The new entrant program appears to be the primary new initiative in the Motor Carrier budget. The budget proposes $33 million for implementation of this program.

(a) Ms. Sandberg, it is my understanding that there are approximately 50,000 new entrants every year. How many audits does the Motor Carrier Administration expect to conduct at this level of funding?

(b) If we cannot expect to conduct an audit of every new entrant, what consideration have you given to phasing-in the program or to establishing some sort of criteria for prioritizing those new entrants that will be audited?

Answer. (a) The FMCSA expects to conduct approximately 40,000 new entrant audits per year.

(b) The FMCSA has established a new entrant implementation plan that meets the intent of the statutory language and will ensure that an audit is conducted on every new entrant within 18 months of beginning operation. New entrant audits are scheduled based on the date of the carrier's registration to ensure the 18-month deadline is met.

The FMCSA took aggressive action prior to publication of the Interim Final Rule to ensure the program could begin full implementation in fiscal year 2003. Prior to the implementation of the rule, the Agency issued a press release and established New Entrant Program information on its website. FMCSA's National Training Center established an aggressive training schedule to offer opportunities to Federal and State personnel who will conduct the safety audits under the program. In fiscal year

2003, FMCSA's budget provided 100 percent High Priority MCSAP funds in the amount of $2 million to 34 States to begin implementing the program. The funds may be used to hire additional staff and to train the staff designated to conduct the audits. Forty-six States have signed onto the program. The agency also delivered the FMCSA Field Operations Training Manual to each FMCSA Division Administrator on April 10, 2003, with instructions to provide a copy to their MCSAP counterpart and to meet and discuss the program with them. FMCSA stands ready to conduct the audits now.

FMCSA believes that it has taken all appropriate actions to implement the program. Its goal is to get the most exposure for the program to impact positively on safety and make any adjustments prior to full funding in 2004. To phase the program in over time would only serve to delay conducting audits on carriers, thus posing an increased risk to the public. We believe that the safety benefits of the program are great and that the more carriers we visit, the greater the potential to reduce the number of commercial motor vehicle crashes, injuries, and fatalities.

Question. Ms. Sandberg, what is the status of the Large Truck Crash Causation Study, and when will you be sending a progress report to Congress?

Answer. Collection of field data on injury and fatal crashes involving large trucks for the Large Truck Crash Causation Study will continue until the end of 2003. As of May 2003, investigations had begun on 868 large truck crashes (with a goal of investigating 1000 total crashes). Coding and quality control on all cases should be completed by the middle of 2004. The full study database should be released to the public by the end of 2004. Both FMCSA and NHTSA will be conducting multiple analyses.

FMCSA will forward a letter report to Congress on the progress of the study and the adjustments made to the study as a result of recommendations from the Transportation Research Board later this summer. In addition, FMCSA plans to issue a report in the fall of this year with preliminary information on the data collected for the study.

Question. An important part of the implementation of the New Entrant program relies on the cooperation of the States to conduct safety audits. However, at this time only 46 States have agreed to participate in the program.

Ms. Sandberg, how will the program be implemented in the remaining 4 States and how does FMCSA propose to fund it?

Answer. FMCSA will be responsible for implementing the New Entrant program where States cannot fully participate or choose not to participate. Currently, FMCSA Safety Investigators are conducting safety audits in these four States and others where there is a need. In fiscal year 2004, FMCSA is requesting $16 million to support a Federal program to hire contractors to conduct new entrant audits. The FMCSA anticipates that private entities will be conducting the audits on the new entrant carriers in these four States and other States where 100 percent State participation is not available. In addition to the Federal program, there is also $17 million requested for grants to States to conduct audits.

Question. Ms. Sandberg, Motor Carriers recently issued a new Hours of Service rule. While this rule increases by 1 hour the number of hours a driver may be on the road, it also increases by 2 hours the number of required off-duty hours.

Could you explain how you believe this new rule is going to make our highways safer?

Answer. The new science-based rule makes significant strides in providing commercial drivers a 24-hour work/rest schedule in line with the body's circadian rhythm. The longer off-duty time allows drivers to have more regular schedules and increases the potential for quality sleep. This approach is consistent with fatigue and sleep-related studies considered in development of the rule that indicate the amount and quality of sleep a person receives has a strong influence on alertness. The final rule helps to eliminate some of the worst aspects of daily rotating schedules and the compression of weekly on-duty time into a short portion of the workweek. This reduces the workday from 15 to 14 hours, replaces 8 off-duty hours with 10 off-duty hours, and, in particular, will not allow work breaks to extend the 14 hours on-duty time.

Question. Ms. Sandberg, your statement mentions the HAZMAT permitting program as required by Congress. It is not clear how much of the HAZMAT permitting process has been turned over to the Transportation Security Administration at the Department of Homeland Security and how much authority remains with the Motor Carrier Administration.

I have been told that virtually all of that process has been turned over to TSA while you are expected to support the contract to conduct the background investigations. Ms. Sandberg, can you clarify this for me?

Answer. FMCSA has not turned over any aspect of the HAZMAT permitting process to TSA. This requirement comes out of the Hazardous Materials Transportation Uniform Safety Act of 1990 and is separate from the background check requirements of the USA PATRIOT Act.

FMCSA has coordinated with TSA in developing the proposal for the permit program, however, FMCSA will oversee the permit application process and FMCSA field staff will conduct investigations of companies applying for permits to determine fitness. In fact, TSA is transferring funding for implementing a hazardous materials permit program to FMCSA. Currently, FMCSA has submitted a Supplemental Notice of Proposed Rulemaking (SNPRM) to establish a safety permit program and require motor carriers transporting these materials to obtain a safety permit prior to transporting these hazardous materials. The Office of Management and Budget (OMB) is currently reviewing the SNPRM for Hazardous Materials Safety Permits.

Question. The March 2001, General Accounting Office report to Congress concluded that FMCSA oversight of the household goods moving industry and enforcement of the consumer protection regulations has been minimal since 1996. As a result of this vacuum, rogue movers have proliferated and are literally holding consumers' possessions as ransom for addition payment.

(a) Ms. Sandberg, what is your plan to address this problem?

(b) How is the budget increase for household goods enforcement planning to be used specifically for enforcement and investigation?

Answer. (a) FMCSA has taken a proactive approach by developing a comprehensive Household Goods (HHG) Outreach and Enforcement Program to focus on addressing consumer complaints and enforcing regulations on non-compliant carriers.

A HHG Program Manager has been hired to administer and implement the agency's overall HHG Enforcement Program, as well as coordinate regulatory strike force activities.

FMCSA has enhanced its enforcement program by developing enforcement criteria to identify the most egregious HHG violators and to conduct enforcement strike forces on targeted carriers. HHG carriers/brokers identified for investigation under this process have demonstrated a continuous pattern of noncompliance with our commercial regulations.

(b) The budget request supports a study on the moving industry dispute settlement programs for resolving loss and damage claims, and provide funding to hire seven additional commercial investigators to conduct HHG investigations on the most egregious violators of the commercial regulations.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

Question. Ms. Sandberg, your 2004 budget includes $9 million for the agency's regulatory development program. This funding will be used to establish a medical review board and a national medical examiner registry in an effort to upgrade the quality of commercial driver medical examinations nationally.

As you know, the FAA has its own program to ensure that pilots are medically qualified. What input, if any, have you had from the FAA in developing this program?

Answer. FMCSA is conducting a planning analysis to identify a feasible set of strategies to be used to develop and maintain a national registry of medical examiners and a program to certify all medical examiners that perform commercial driver physical examinations. It will review the procedures that the FAA and other Federal agencies use to certify medical examiners and investigate different approaches for establishing a national database of medical examiners.

Question. When precisely can we expect this registry to be fully implemented?

Answer. Estimation of a precise implementation date for the registry of medical examiners is complicated by uncertainties in designing a new program that is not yet defined in a Notice of Proposed Rulemaking (NPRM). Until the agency has completed its planning analysis for the national registry and published a final rule, an estimation of a full implementation date would be speculative.

Question. NHTSA's 2004 budget includes the first $10 million installment of your $60 million proposal to update the 30-year-old Tri-Level Study on motor vehicle crash causation. The motor vehicle crash causation study is expected to commence at the completion of the truck crash causation study that has been funded through the Federal Motor Carrier Safety Administration but conducted by NHTSA over the last 3 years. The 2003 Conference Report directed NHTSA to have the CDC's National Center for Injury Prevention and Control evaluate the adequacy of the crash causation research design.

Ms. Sandberg, the Transportation Research Board has provided your agency with a series of recommendations on the crash causation study. Which, if any, of TRB's recommendations have you decided not to implement?

Answer. FMCSA hired the Transportation Research Board to consult on the design and implementation of the Large Truck Crash Causation Study. The TRB panel, consisting of experts from varying fields, met five times over the past 3 years. A panel subcommittee met an additional two times to address several specific issues. The TRB panel made many suggestions, but made only a few formal recommendations for the sample design, the data collection forms and data coding protocol. Numerous changes were incorporated into the LTCCS as a result of the TRB suggestions. Of the formal recommendations, two were not implemented:

—"Exclude two-axle straight trucks from the study to focus exclusively on larger straight trucks and combination vehicles" (November 15, 2000, letter to FMCSA). Since FMCSA regulates these vehicles, we need crash causation data on crashes involving these vehicles.

—"Study should collect more data on vehicle components, vehicle dynamics, brake condition, measurement of skid marks, roadway geometry, and objective estimates of pre-crash speed" (December 4, 2001, letter to FMCSA). Collection of some information on many of these elements is already part of the study. However, collection of more in-depth data would require complete reconstructions of each crash and vehicle, which was not possible given the study resources, design, and timeline.

Question. Ms. Sandberg and Dr. Runge, Americans all across the country rely on your two agencies to establish strong safety regulations to ensure that our trucks and cars are safe and that their drivers operate their vehicles in a safe and sober manner.

What are your top three priorities for safety rules in the coming year that you think will achieve the most for highway safety?

Answer. For FMCSA, the top three safety rules that will achieve the most for highway safety are:

—Implementing the new driver hours-of-service rule to help minimize the number of crashes due to large truck driver fatigue.

—Implementing the new entrant interim final rule to ensure that new motor carriers are in compliance with safety regulations at the onset of their operations.

—Developing a notice of proposed rulemaking that would merge the requirement for driver medical certification with that of obtaining a commercial driver's license (CDL). The 1999 Louisiana bus crash might have been avoided had such a requirement been in place.

Question. Ms. Sandberg, your testimony refers to a revised process for the development of motor carrier safety regulations that is designed to improve both the quality and timeliness of your agency's rulemakings.

Why should we be convinced that these changes would result in greater motor carrier safety? How much time will you be saving in the rulemaking process—are we talking months or years?

Answer. FMCSA's new Rulemaking Order, which was signed in January 2003, established for the first time a clearly defined process by which FMCSA can develop its safety regulations. While it is difficult to predict specific time saved, I anticipate that it will have a positive impact on both the quality and timeliness of our rulemakings, as well as commercial motor vehicle (CMV) safety. In the legislation that established the FMCSA, Congress placed special emphasis on the importance of timely rulemaking as an important way to achieve reductions in the number and severity of CMV crashes.

Question. This new process is designed to build consensus with senior managers earlier in the rule's development. Does this new process also include any sort of negotiated rulemaking process—similar to what the FRA uses with its Rail Safety Advisory Committee? Under what scenarios might you choose to use a negotiated rulemaking process where both industry and safety groups engage in the rule's development?

Answer. The FMCSA has no standing advisory committee similar to FRA's Rail Safety Advisory Committee, which was formally established under the Federal Advisory Committee Act. However, FMCSA's new rulemaking process provides for negotiated rulemaking. The Agency would use, and has used, this approach when there are complex issues and there is sharp disagreement among the regulated parties that cannot otherwise be resolved through the standard notice and comment approach to rulemaking. An example where the Agency has used this approach is the recently published regulation on driver hours-of-service.

Question. Ms. Sandberg, just over a year ago, the Inspector General released a report on your agency's oversight of the Commercial Driver's License (CDL) pro-

gram. The principal findings of the IG's report were as follows: first, CDL fraud is a significant problem; second, that FMCSA needs to strengthen its oversight of State CDL programs; and third, the FMCSA should use sanctions when necessary to enforce compliance with CDL requirements.

(a) What specific steps has your agency taken to reduce CDL fraud and to strengthen your oversight of the State CDL programs?

(b) Given what you know about the effectiveness of sanctions from your experience as Deputy Administrator of NHTSA, has your agency withheld any highway funds from States that have failed to correct significant CDL problems?

Answer. (a) Through a cooperative agreement with the American Association of Motor Vehicle Administrators, FMCSA is using an $8 million fiscal year 2002 supplemental appropriation to develop a 14-task effort to better detect and prevent fraudulent activities within the State CDL programs. These tasks include activities such as fraudulent document recognition training for State licensing agency staff, uniform identification practices and documents, the development of best practices for State and third party test examiners, and the conducting of a CDL Fraud Symposium in November 2002, where States shared information on efforts to detect and prevent fraud.

FMCSA has strengthened and enhanced the CDL compliance and oversight program. A 3-year cycle of this enhanced CDL compliance process has just been completed where written administrative procedures and laws are reviewed and a complete "hands on" operational review is conducted to make sure that written procedures are being followed. Starting in 2002, a legal sufficiency review is being conducted on State CDL laws, statutes, and administrative procedures.

(b) No. To date, FMCSA has not withheld any Federal-aid highway funds from any State in order to get significant CDL compliance problems and deficiencies corrected. While FMCSA has initiated the process to withhold funds in several States, these States were able to correct the deficiencies before the funds were withheld. The withholding of funds has been used as a last resort. The Agency has been successful in getting States to develop reasonable action plans and schedules to correct deficiencies. Continued monitoring of these action plans has been instrumental in correcting deficiencies within the agreed time period.

Question. Ms. Sandberg, when Secretary Mineta appeared before this subcommittee on May 8th, I asked him whether the Department intended to appeal the Ninth Circuit's decision regarding the U.S.-Mexico commercial vehicle border crossings. He stated that the administration was weighing its options as to whether the decision should be appealed to the Supreme Court or alternatively, whether the Department should prepare the required environmental impact statement.

Which option has the administration decided to pursue?

Answer. FMCSA does not view seeking Supreme Court review of the Ninth Circuit decision and preparing an environmental impact statement (EIS) as mutually exclusive options. Although the administration has not yet determined whether to file a petition for review with the Supreme Court, FMCSA has solicited bids from contractors for EIS preparation and expects to select a contractor within the next 30 days. Therefore, the Agency is taking the necessary steps to prepare an EIS regardless of whether the administration seeks further legal review of the Ninth Circuit decision.

Question. Despite the delay in opening the border, this subcommittee has funded every penny you have requested to build up the inspection force and your oversight capacity at the border. As a result, you currently have 43 percent of all of your Motor Carrier Field Safety Enforcement personnel located at the U.S.-Mexican Border.

(a) Given the anticipated delay in the opening of the border because of this court case, do you believe it still makes sense in terms of improving truck safety nationwide to have 43 percent of all of your truck safety enforcement personnel at the Mexico border?

(b) Would you like this Committee to consider a temporary statutory waiver that would allow you to move these safety enforcement personnel throughout the United States?

Answer. (a) Federal staffing at the Southern Border is necessary to conduct inspections, safety audits, and compliance reviews on U.S. and Mexican carriers. With 80,000 distinct vehicles making over 4.3 million crossings a year, there is a need for a significant Federal presence at border crossings. Although Border States have an enforcement presence at crossings, the extended hours crossings are open, coupled with large crossing volumes, require a Federal presence. In addition, FMCSA is responsible for conducting safety audits and compliance reviews for a large commercial zone population of carriers. Once the border is open, the added burden of conducting reviews on long-haul carriers will be placed on the Federal staff.

(b) The ability to efficiently and effectively deploy staff can be accomplished under authorities FMCSA currently has available. Therefore, a statutory waiver is not necessary.

Question. Ms. Sandberg, the Motor Carrier Safety Improvement Act required that your agency conduct safety reviews for each new entrant trucking firm within the first 18 months after the trucking company begins operations. These new entrants, which total anywhere from 40,000 to 50,000 a year, pose a significant commercial motor vehicle safety risk. Your testimony indicates that 46 States have agreed to either partially or fully conduct new entrant safety audits. Your 2004 budget requests $16.2 million along with $17 million in Motor Carrier Safety Assistance Program for the joint Federal and State efforts.

(a) Which States have not agreed to conduct new entrant safety audits and why haven't they agreed to do so?

(b) How, if at all, will these new entrant audits differ from the safety audits that you conduct on trucking companies with existing operating authority?

Answer. (a) Delaware, the District of Columbia, Oregon, and Wyoming have indicated they will not participate in the new entrant program, due primarily to their inability to staff the program at the State level.

(b) A new entrant safety audit is a requirement for all new motor carriers applying for a U.S. DOT number after January 1, 2003. The purpose of the safety audit is to provide educational and technical assistance to the new entrant and gather safety data needed to make an assessment of the new entrant safety performance and the adequacy of its safety management controls. The motor carrier contact is required to be conducted within the first 18 months of operations. It is non-enforcement oriented and will result in a pass/fail outcome based upon the motor carrier's overall safety management controls. If the carrier fails the safety audit, it must take corrective actions or it will not be granted permanent operating authority.

A compliance review is an on-site investigation of the motor carrier's compliance with the Federal motor carrier safety and hazardous materials regulations and is usually conducted on motor carriers that are determined to be higher risk. Higher risk can be derived from data gathered regarding on-road performance, including inspections and crashes, as well as prior compliance reviews, complaints, and special projects. Unlike safety audits, motor carriers are not required to undergo a compliance review as a condition of authority but are always subject to a compliance review, even during the initial 18 months of operation. Compliance reviews result in a rating of satisfactory, conditional, or unsatisfactory, based upon the violations discovered during the investigation and the data gathered from on-road activity. If a carrier is rated unsatisfactory, it must have the rating upgraded in order to avoid an operations out-of-service declaration within 60 days of the compliance review for private and for-hire carriers, and within 45 days for transporters of passengers and placarded hazardous materials. The compliance review is a compliance monitoring and enforcement event. The motor carrier and drivers are subject to fines and other penalties for serious noncompliance with Federal safety and hazardous material violations.

Question. The Inspector General's follow-up audit on the implementation of the safety requirements at the U.S.-Mexico border includes a recommendation to use safety auditors and investigators for the new entrant program while the border opening is delayed due to the Ninth Circuit Court decision.

Do you intend to use these auditors and investigators to conduct new entrant safety audits?

Answer. FMCSA is assessing the recommendations contained in the Inspector General's report on implementation of safety requirements at the U.S.-Mexico border and will respond formally to those recommendations in the very near future. One of the issues we must consider in using border auditors and investigators for new entrant audits is that we maintain an appropriate level of enforcement staff at the border to ensure commercial zone safety.

QUESTIONS SUBMITTED TO MOTHERS AGAINST DRUNK DRIVING

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

Question. Mr. Hurley and Ms. Hamilton, have you analyzed the funding levels proposed in the current budget and in the SAFETEA proposal?

Answer. The Department of Transportation's fiscal year 2004 budget request and "SAFETEA" reauthorization proposal are woefully inadequate in terms of addressing the rising levels of alcohol-related traffic deaths in America.

NHTSA Fiscal Year 2004 Budget.—NHTSA's funding request appears to have increased monies for behavioral funding, however, this is not the case. The fiscal year 2004 request is significantly less than the fiscal year 2003 request. The fiscal year 2004 request includes $222 million of TEA–21 resources for the Sections 157 and 163 grant programs formerly appropriated in the Federal Highway Administration budget. NHTSA has always administered these funds and is now requesting receipt of this funding directly. This apparent increase is really no increase at all.

The fiscal year 2004 request for behavioral funding is $516,309,000, however when Section 157 and 163 monies are subtracted, the amount is reduced to $294,309,000. The fiscal year 2004 request is a quarter of a million less than the fiscal year 2003 request. Additionally, only a percentage of this funding is guaranteed for behavioral safety since States are able to use this funding for roadway safety/highway construction projects.

The levels of funding specifically for impaired driving countermeasures are reduced in the fiscal year 2004 request. The fiscal year 2004 request provides a $50 million impaired driving grant program to a limited number of "problem" States to demonstrate the effectiveness of a comprehensive approach to reducing impaired driving and for identifying causes of weakness in a State's impaired driving control system. This funding level is $100 million less than funds available to States in fiscal year 2003 for impaired driving improvements.

Additionally, the NHTSA Impaired Driving Division budget request is significantly lower than fiscal year 2002 enacted levels ($10.9 million in fiscal year 2004 request compared with $13.5 million fiscal year 2002 enacted).

SAFETEA Proposal.—The administration's "SAFETEA" proposal significantly decreases funding for alcohol-impaired programs (−67 percent). SAFETEA proposes an impaired driving program totaling only $50 million, far less than current funding levels. In fiscal year 2003, TEA–21 authorized $150 million for alcohol-impaired driving countermeasures (impaired driving grants and .08 BAC incentives) and contained requirements for States to enact repeat offender and open container laws. If States failed to pass these alcohol-impaired driving laws then a percentage of their Federal construction funds were transferred. Not only does "SAFETEA" slash impaired driving funding to $50 million, it fails to include incentives to States to enact effective alcohol-impaired driving countermeasures.

While the administration, the Department of Transportation and NHTSA claim reducing alcohol-related traffic fatalities is a top priority, their fiscal year 2004 budget request and "SAFETEA" proposal fails to provide a coherent plan to address the carnage caused by alcohol-impaired driving on America's roadways.

Question. Ms. Hamilton, do you have any thoughts about Dr. Runge's discussion of NHTSA's plans and would you propose to approach the problem differently?

Answer. MADD believes that Dr. Runge and NHTSA have a strong understanding of what is needed to drive down the number of people killed and injured in alcohol-related crashes. However, their fiscal year 2004 budget proposal and administration's SAFETEA plan fails to provide adequate funding, fails to apply effective data and science driven countermeasures, and fails to provide leadership to seriously address the increasing amount of death and injury due to alcohol-related traffic crashes.

MADD believes that progress will occur when adequate funding is provided for traffic safety programs and when a commitment is made to put proven impaired driving countermeasures, such as law enforcement mobilizations, into place. More accountability is needed at the national, regional and State levels to ensure that Federal funds are being used in a strategic and coordinated effort. Additionally, States should be encouraged to enact priority traffic safety laws, such as primary seat belt enforcement, and laws targeting higher-risk drivers (high BAC and repeat offenders).

Question. Ms. Hamilton, this year NHTSA is running paid media in concert with the impaired driving mobilizations. I am interested in knowing if MADD was involved at all in the development of these ads and how effective you believe they will be in getting the message out?

Answer. MADD would like to thank Senator Shelby and Senator Murray for their leadership in this area and for providing funds for these life-saving efforts. MADD strongly supports the expansion of well-publicized law enforcement campaigns to curb drunk driving and increase seat belt use. These law enforcement activities should utilize frequent and highly visible sobriety checkpoints and/or saturation patrols. Research and field applications have shown these law enforcement activities to be among the most effective tools used to deter impaired driving. The CDC found that sobriety checkpoints can reduce impaired driving crashes by 18 to 24 percent. Checkpoints are especially effective when coupled with media campaigns that raise the visibility and awareness of alcohol-impaired driving enforcement efforts in the

community with the objective of deterring impaired driving before it happens. Senate Bill 1139, introduced by Senator Mike DeWine and Senator Frank Lautenberg, provides funding for increased enforcement efforts across the country and if enacted will enhance the work of this committee and result in lives saved and injuries prevented.

MADD is pleased with the quality and content of the advertising developed for this campaign. The first deployment of this campaign will occur from June 20 to July 13, 2003. MADD believes that raising public awareness through a coordinated national media campaign coupled with high visibility law enforcement (sobriety checkpoints and/or saturation patrols) will be successful. Based on the success of the Click-it-or-Ticket campaign and several demonstration sobriety checkpoint programs these combined efforts have the greatest potential to save lives. However, it is vital that DOT/NHTSA commit 100 percent to promote this program, and they can demonstrate this commitment by ensuring that national wire services cover the kick off press event, by aggressively reaching out to diverse news outlets, by working closely with law enforcement and traffic safety partners, and by evaluating results.

MADD was included in weekly NHTSA meetings that commenced approximately 4 weeks before the mobilization kickoff. MADD had occasional contact with NHTSA during the campaign's development did not participate in the development of the national ad. We would welcome more regular opportunities to work with NHTSA to ensure that these campaigns are as successful as possible.

Question. The NHTSA budget proposes a new initiative to award discretionary grants to States to demonstrate the effectiveness of a comprehensive approach to reducing impaired driving. Ms. Hamilton and Mr. Hurley, I am interested in your thoughts about this new discretionary grant program and how effective you both believe that it will be.

Answer. Sanctions are clearly the more effective approach to encourage States to adopt proven highway safety laws. While incentive programs have had some success, it is clear that—particularly with alcohol-related traffic laws—penalties have shown greater results than incentives. DOT estimates that the 21 Minimum Drinking Age (MDA) law has saved thousands of lives since the national standard was put in place in 1984. A national zero tolerance standard for youth, adopted by Congress is 1995, was also successful in getting States to enact better laws for underage drivers. Clearly the national .08 BAC standard, enacted in 2000, has been much more effective than the TEA–21 incentive program. Under the incentive program, only two States passed .08 BAC laws. Since the national .08 standard was enacted, 22 States have passed this important law.

In addition, DOT's proposed grant program is flawed because it is only made available to States with the worst alcohol-related incidents, leaving the rest of the Nation with no access to these funds. And, the pot of money is not nearly as substantial as it should be to effect needed change.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

Question. This will be the first year that national media will be used for the drunk driving mobilization efforts in July and December. Ms. Hamilton, what does MADD hope that we will accomplish through these national ads and what kind of contact has your organization had with NHTSA during the development of this media effort?

Answer. MADD would like to thank Senator Shelby and Senator Murray for their leadership in this area and for providing funds for these life-saving efforts. MADD strongly supports the expansion of well-publicized law enforcement campaigns to curb drunk driving and increase seat belt use. These law enforcement activities should utilize frequent and highly visible sobriety checkpoints and/or saturation patrols. Research and field applications have shown these law enforcement activities to be among the most effective tools used to deter impaired driving. The CDC found that sobriety checkpoints can reduce impaired driving crashes by 18 to 24 percent. Checkpoints are especially effective when coupled with media campaigns that raise the visibility and awareness of alcohol-impaired driving enforcement efforts in the community with the objective of deterring impaired driving before it happens. Senate Bill 1139, introduced by Senator Mike DeWine and Senator Frank Lautenberg, provides funding for increased enforcement efforts across the country and if enacted will enhance the work of this committee and result in lives saved and injuries prevented.

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national media campaign coupled with high visibility law enforcement (sobriety checkpoints and/or saturation patrols) will be successful. Based on the success of the Click-it-or-Ticket campaign and several demonstration sobriety checkpoint programs these combined efforts have the greatest potential to save lives. However, it is vital that DOT/NHTSA commit 100 percent to promote this program, and they can demonstrate this commitment by ensuring that national wire services cover the kick off press event, by aggressively reaching out to diverse news outlets, by working closely with law enforcement and traffic safety partners, and by evaluating results.

MADD was included in weekly NHTSA meetings that commenced approximately 4 weeks before the mobilization kickoff. MADD had occasional contact with NHTSA during the campaign's development but did not participate in the development of the national ad. We would welcome more regular opportunities to work with NHTSA to ensure that these campaigns are as successful as possible.

Question. Ms. Hamilton, how would you assess the funding levels in NHTSA's budget that are directed toward reducing drunk driving?

Answer. NHTSA's fiscal year 2004 budget request is woefully inadequate in terms of addressing the rising levels of alcohol-related traffic deaths in America. NHTSA's testimony before the Committee gives the false impression that they have increased monies for behavioral funding in their fiscal year 2004 budget request. However, a detailed review of their proposal shows that this is not the case.

The fiscal year 2004 request proposes $516,309,000 for behavioral funding, however when Section 157 and 163 monies are subtracted the amount is reduced to $294,309,000. The request includes $222 million of TEA–21 resources for the Sections 157 and 163 grant programs formerly appropriated in the Federal Highway Administration budget, which NHTSA has always administered and is now requesting receipt of this funding directly. This apparent increase is really no increase at all.

The fiscal year 2004 request is actually $250,000 less than the fiscal year 2003 request. Additionally, only a percentage of funding guaranteed for behavioral safety since States are able to shift this funding to roadway safety/highway construction projects. The levels of funding for impaired driving countermeasure programs administered by NHTSA are reduced in the fiscal year 2004 request. The NHTSA Impaired Driving Division budget request is significantly lower than fiscal year 2002 enacted levels ($10.9 million in fiscal year 2004 request compared with $13.5 million fiscal year 2002 enacted).

NHTSA's State & Community Highway Safety Program drastically reduces funds available to States for impaired driving initiatives. The fiscal year 2004 request provides a $50 million impaired driving grant program to a limited number of "problem" States to demonstrate the effectiveness of a comprehensive approach to reducing impaired driving and for identifying causes of weakness in a State's impaired driving control system. This funding level is $100 million less than funds available to States in fiscal year 2003 for impaired driving improvements.

Question. Ms. Hamilton and Mr. Hurley, how would you assess NHTSA's oversight of State highway safety plans and what specific changes would you suggest to improve their accountability?

Answer. In May 2003, the General Accounting Office released a report that determined NHTSA's "performance based" approach to oversight of State and Community Highway Safety Program expenditures by the States has not yielded measurable safety benefits. GAO states that:

> ". . . NHTSA's oversight of highway safety programs is less effective than it could be, both in ensuring the efficient and proper use of Federal funds and in helping the States achieve their highway safety goals."

Last year, members of this committee noted the disturbing increase in alcohol-related fatalities and questioned NHTSA's pronouncements that it would intensify its efforts to combat impaired driving. MADD shares the concerns raised by the GAO and Congress regarding the lack of accountability for traffic safety programs under TEA–21.

MADD asks Congress to hold the National Highway Traffic Safety Administration, the agency's regional offices, and the States more accountable for the expenditure of Federal highway safety funds. Our goal is not to make their jobs more difficult. It is to recognize that political pressures and "flavor of the month" traffic safety issues can influence how dollars are spent. DOT claims that its primary goal is to reverse the current trend, but clearly it is time for Congress to create a more consistent process that ensures the efficient and proper use of Federal funds to help the Nation achieve its highway safety goals.

Some suggested changes include:

—Establish three levels of accountability: (1) NHTSA must be held accountable—i.e., how does NHTSA spend its research and evaluation funds, its demonstration project funds, and plan/create a strategy for use of other expenditures from headquarters; (2) NHTSA Regional Offices must be held accountable—i.e., how do the Regional Offices work to assist the States in reaching their goals; (3) State highway safety offices must be held accountable, i.e., what kind of programs are States spending resources on—are they research based and do they reflect the needs in that particular State.

—Establish a memorandum of understanding between the Regional Offices and the State highway safety offices to clearly lay out the role of the regions and the role of the States.

—Regional Offices (RO's) should be more involved in the planning process with the States. RO's should assist the States with: problem identification, development of a data-driven State highway safety plan, setting States' goals, and in the selection of proven countermeasures/programs that will work to meet these goals. RO's need training and expertise to assist the States.

—State highway safety offices must create a highway safety plan that reflects the needs in their States based on the data (i.e., if alcohol-related deaths are high in a particular State, then that State's highway safety plan should adequately reflect the need to reduce alcohol-impaired driving with research-based, proven solutions.)

—A more systematic approach should be used—as shown by the GAO—to ensure that NHTSA and the RO's use tools (i.e., Improvement Plans and High-Risk designation) to improve State performance.

—NHTSA and the RO's should provide the States with "best practices" training and documents. NHTSA's publications and website should be improved to reflect years of research in terms of what works and what does not work. A catalogue of research and resources should be available to the RO's and to the States.

—NHTSA must do a better job to ensure that proven, effective countermeasures are being implemented. Decades of research is being ignored.

Question. Ms. Hamilton, as I mentioned, the Checkpoint Strikeforce project used public awareness, saturation patrols and sobriety checkpoints. Which of these three strategies do you believe is the most effective in deterring drunk driving?

Answer. Sobriety checkpoints and saturation patrols coupled with a public information and enforcement campaign have proven to be highly effective in deterring impaired drivers. Research conducted both in the United States and abroad indicates that the use of sobriety checkpoints has been associated with substantial reductions in alcohol-related crashes. In addition, checkpoints can be instrumental in the enforcement of other traffic safety laws such as zero tolerance for youth and graduated licensing. The use of sobriety checkpoints is permitted in 41 States and the District of Columbia; in other States the use of saturation patrols has been proven to be a successful strategy. The research seems to indicate that sobriety checkpoints, when done effectively, are the best enforcement tool because they deter impaired driving and have a broader reach than other enforcement methods.

As an example of the kinds of reductions that may be achieved with a large and sustained program, the State of Tennessee conducted an intensive sobriety checkpoint effort combined with public awareness from April 1994 to March 1995. Nearly 900 checkpoints were conducted and more than 140,000 drivers were checked for alcohol impairment with nearly 800 DUI arrests. Analysis indicated a 20 percent reduction over the number of impaired driving fatal crashes that would have occurred with no intervention. It was estimated that there was a reduction of 9 impaired driving fatal crashes per month due to the influence of the checkpoint program, amounting to more than 100 lives saved over the intervention period. A check of five comparison States showed non-significant increases in impaired-driving-fatal crashes over the same period.

Question. Overrepresentation of repeat offenders is a public health problem. Is NHTSA collaborating with other agencies (DHHS) to address this problem? Any thoughts?

Answer. MADD agrees that the crime of drunk driving involving "higher-risk" drivers is a major public health problem. Higher-risk drivers often are repeat offenders—people who repeatedly drive after drinking, especially with high blood alcohol content (BAC). These drivers are particularly resistant to changing their behavior. Most U.S. drivers convicted of driving while intoxicated have a .15 percent BAC or higher. A driver at .15 BAC is over 300 times more likely to be involved in a fatal crash. While an estimated 85 percent of drivers in alcohol-related fatal crashes don't have prior drunk driving convictions, those who do pose a substantially greater risk of causing an alcohol-related crash.

MADD believes that NHTSA should be working more actively with Federal agencies—health, justice and education—to address this serious problem. NHTSA should not have to be prompted by Congress to utilize the best research, disciplines and expertise to combat drunk driving. Recent evaluations of State efforts—including vehicle impoundment and forfeiture, license plate impoundment and tagging, and alcohol ignition interlock devices—demonstrate that a combination of proven measures help deter higher-risk offenders. These measures, combined with other effective tactics including license suspension and alcohol assessment/treatment programs, provide a growing array of tools for managing higher-risk drivers. Embracing this research, MADD has developed a practical program for all 50 States. MADD's Higher Risk Driver Program calls for:

—Restricting vehicle operation by these offenders by suspending their licenses for substantial periods, impounding or immobilizing their vehicles and requiring alcohol ignition interlock devices on their vehicles to prevent them from starting if the offenders have been drinking.

—Requiring these offenders to make restitution to the community and drunk driving crash victims through fines and mandatory incarceration and financial restitution to crash victims.

—Promoting recovery programs for offenders with alcohol abuse problems through mandatory alcohol assessment and treatment, intensive probation and attendance at victim impact panels.

Although most of the remedies in MADD's plan are not new, they typically have been implemented on a piecemeal basis, producing a system full of loopholes. Senate Bill 1141 incorporates all of these solutions. This comprehensive approach if enacted would reduce crashes caused by these high-risk drivers.

QUESTIONS SUBMITTED TO THE NATIONAL SAFETY COUNCIL

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

HIGHWAY SAFETY INITIATIVES

Question. Dr. Runge's opening statement says that NHTSA has "pledged to solve the highway safety issues confronting this Nation." However, other than consolidating some grant programs and a new accounting of other grant programs, I see no new, innovative programs included in this budget or in the reauthorization proposal that would convince me that NHTSA is on the way to solving the highway safety issues confronting this Nation.

Mr. Hurley, from your perspective, do you think that the SAFETEA proposal will be successful in reducing highway fatalities? If not, what, in your view, could be done to improve the proposal to allow us to experience the greatest benefits?

Answer. I know that the administration's intent is clearly to save lives, as demonstrated by their focus on primary belt laws and significant incentives to States that enact such laws. We support the intent of this provision. However, SAFETEA does not provide additional specific funding for high visibility enforcement of belt and alcohol laws, as well as targeted funds for programs that support those enforcement initiatives. These funds need to be added to the proposal.

HIGHWAY SAFETY GRANT FUNDING LEVELS

Question. I am concerned that much of this "increase" in funding for highway safety is merely the shifting of funds from Highways to NHTSA. I have expressed this to the Secretary and still believe that we need more information to conduct a proper analysis.

Mr. Hurley and Ms. Hamilton, have you analyzed the funding levels proposed in the current budget and in the SAFE–TEA proposal?

Answer. The proposed $50 million in the administration budget for a 13-State demonstration program should be placed in Section 403 and supplemented by $150 million along the lines proposed by the DeWine-Lautenberg bill, S. 1139. This would provide adequate funding for the fundamentally important enforcement mobilizations for safety belts and alcohol.

SAFETY BELTS

Question. With respect to seat belt usage, Dr. Runge has said, "we have a model that works. For every 1 percent increase in belt use, we get $800 million in economic costs saved, 2.8 million more people buckling up, 276 lives saved, and reduce the severity of 6,400 moderate to critical injuries."

Mr. Hurley, how prudent is it to eliminate funding for "Click It or Ticket" campaigns?

Given that it is the centerpiece of the Air Bag & Seat Belt Safety Campaign, I am interested in hearing how you will move forward absent these federally driven mobilizations and how effective you believe the campaign will be?

Answer. The funding for national paid advertising to support the "Click It or Ticket" and "You Drink and Drive. You Lose." Campaigns is a direct result of the leadership of this subcommittee. We strongly support continued funding of these initiatives because they are proven to work. Since the Air Bag & Seat Belt Safety Campaign Mobilizations began in May 1997, belt use nationally has increased from 61 percent to 75 percent. As Dr. Runge has estimated, that means 39.2 million more people buckling up and 3,864 lives saved each year. Until May of 2002, the Mobilizations primarily relied on earned media coverage by the news media to reach those who continue to violate the belt and child restraint laws. In large part due to the success of these Mobilizations, most people who listen to the news are now buckled. It should be stressed that the 75 percent use rate, while representing remarkable progress, is a daytime measurement. The 25 percent who still have not been reached by previous Mobilizations are inherently high risk. They are literally twice as likely to be in fatal crashes, which often occur late at night. The best proven way to reach this highest risk group, particularly young males which includes many teenagers and drunk drivers, is to target paid advertisements. These advertisements are focused on enforcement and targeted to the broadcast media they watch, which does not often coincide with the evening news. The funds provided by this subcommittee enabled NHTSA to do exactly that, in partnership with the States and the Air Bag & Seat Belt Campaign. Eliminating these critical funds would not only end perhaps the most proven effective initiative NHTSA has ever undertaken, but could well put in jeopardy the hard won gains that have already been achieved. While the Campaign and law enforcement nationwide would continue to make best efforts at these goals using earned media strategies, extensive research indicates that further progress would be extremely difficult to achieve.

IMPAIRED DRIVING

Question. The NHTSA budget proposes a new initiative to award discretionary grants to States to demonstrate the effectiveness of a comprehensive approach to reducing impaired driving.

Ms. Hamilton and Mr. Hurley, I am interested in your thoughts about this new discretionary grant program and how effective you both believe that it will be.

Answer. NHTSA's initiative is likely to be effective in the 13 States that are included, but by definition, it is not likely to have much, if any, effect on the other States and jurisdictions. This is exactly the kind of program NHTSA should conduct as part of its Section 403 activities, but simply does not credibly address the national impaired driving problem. After 20 years of progress, impaired driving fatalities has increased in each of the last 3 years. This is an unmistakable trend requiring urgent national strategies such as those set forth in the DeWine-Lautenberg bill, S. 1139.

CHILD SAFETY SEATS

Question. For the past several years, the Committee has provided funding for child safety seat campaigns. These campaigns have been very successful at increasing the proper use of child safety seats while we developed the second generation of child safety seats which are now accompanied by LATCH systems in all new passenger vehicles to allow for easier installation and safer car seats.

One of the reasons that this campaign has been so successful is due to the broad base of support coming from State and local public safety community, community activists, and private industry. Without this coalition of support it is difficult to imagine that the campaign would have had the effect of continued decreases in child fatalities.

Mr. Hurley, what is the Safety Council's view of how to build upon the positive results we are seeing in child occupant protection as well as how programs like this can be targeted in other areas to safe lives on our roads?

Answer. Child passenger safety is a remarkable public health success story. Car seat use, the vaccine for the leading risk kids face, was 2 percent when Tennessee enacted the first mandatory use law in 1977. Now, it is nearly universal for infants, excellent for toddlers, and still lagging in booster seat use. Leadership by this subcommittee, the National Transportation Safety Board, and many other public and private organizations has made this possible. Correct use is one key part of this issue. Kids don't set the level of risk they face on the highway. Adults do that for

them, hence the special obligation we all have to get it right. In less than 5 years, the number of Certified Child Passenger Technicians has gone from a mere handful, to more than 30,000 today. There are very few places in the United States where correct use assistance is unavailable.

Having said that, it is essential to focus on two issues that sometimes get overlooked. Beginning with the air bag crisis of mid-1990's, major efforts were undertaken to get kids properly restrained in the rear seat, where data indicated they are 35 percent better protected, with or without a front passenger air bag. With the advent of advanced air bag systems beginning in September 2003, there is a very real concern that some of the hard won gains may be lost to the implied but false message that is OK to put kids back in the front seat. It will take all of our collective efforts to re-imprint on a new generation of parents that proper restraint in the back seat, where possible, is still the best advice. Second, there has been a 20 percent reduction in child passenger fatalities in the last 5 years. While correct use is essential, it is critical to point out that most child passenger fatalities come not from incorrect use, but rather non-use. The clear majority of child passenger fatalities are completely unrestrained, far more often with unbelted drivers. And the leading risk children face from drunk drivers is as passengers of the drunk driver themselves. There is simply no excuse for these findings. The greatest proportion of the 20 percent reduction in child passenger fatalities has come from high visibility zero tolerance enforcement of seat belt, car seat, and drunk driving laws. Through the leadership of this subcommittee, we are very hopeful that funding will be provided to continue these lifesaving efforts.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

NHTSA'S INCENTIVE PROGRAM AND PRIMARY SEAT BELT LAWS

Question. When the Federal Government has tried to get the States to enact meaningful safety laws, it has taken two approaches. In some instances, like the Minimum Drinking Age Act and the 0.08 law, we have withheld highway construction funds from States that don't pass the law. In other instances, we have provided incentive payments to get States to make safety improvements. The record is clear, when we sanction highway construction funds, all the States eventually comply. When we provide incentive payments, the record is quite mixed. NHTSA's own data show that seat belt use increases as much as 15 percent in States that have primary seat belt laws on the books. Currently, 18 States and the District of Columbia have primary seat belt laws in effect, including my own State of Washington. Yet, the 2004 budget request includes $100 million for a new primary seat belt incentive grant program. This program is designed to encourage the remaining 32 States to pass a primary seat belt law.

Mr. Hurley, how confident are you that States will pass a primary seat belt law as a result of this grant program?

Answer. We are very hopeful at the Air Bag & Seat Belt Safety Campaign that the $100 million proposed by the administration will help, but not guarantee the passage of more primary belt laws. The fiscal situation in most States has increased their interest in incentives such as the one being proposed. In Illinois, where Campaign support was successful in helping Illinois to pass a primary law, the prospect of significant Federal incentive funds was very helpful, but not the primary factor for passage. In Florida, and Massachusetts, the funds increased the priority of the issue, but were not in themselves sufficient to overcome opposition to primary belt legislation. While we fully support the proposal, the National Safety Council also supports highway trust fund sanctions in the final year of the upcoming reauthorization of the highway program.

MOTORCYCLE FATALITY INCREASES

Question. Motorcycle deaths have gone up every year since 1997 and the deaths of older cyclists have been rising for an even longer period. The early estimates for 2002 indicate that the overall number of motorcycle fatalities increased by 3 percent over 2001. And while the number of fatalities for younger riders decreased, for riders over the age of 50, there was an astounding 24 percent jump in the number of motorcyclists killed.

Mr. Hurley, where do you think NHTSA should concentrate its efforts to improve motorcycle safety?

Answer. The three areas where NHTSA should concentrate its efforts are: (1) defining through evaluation the contribution of repeal of helmet laws to the increased fatalities by State and nationally, (2) defining through peer reviewed evaluation the

extraordinary taxpayer subsidies to injured motorcyclists, such as the Harborview study of 10 years ago that found the costs of caring for injured motorcyclists at 64 percent paid by the taxpayers, and (3) defining through evaluation and reducing through enforcement the frequency of alcohol impaired motorcycle fatalities and injuries.

NHTSA'S PAID ADVERTISING PROGRAM

Question. Over the last few years, this subcommittee provided funding for paid media to support the highly successful "Click It or Ticket" program. In fact, the national ads for this program have been running this month during the seat belt mobilization campaign. This year, we expanded the program to include national media for the drunk driving mobilizations that will occur in July and December.

Dr. Runge and Mr. Hurley, what kind of feedback have you been getting about the "Click It or Ticket" ads?

Answer. The feedback on the advertising has been overwhelmingly positive. The Air Bag & Seat Belt Safety Campaign conducts both pre- and post-public opinion surveys before and after each Mobilization. There is now tracking data spanning the past 7 years.

Unaided recall of "Click It or Ticket" among all Americans jumped from 6 percent in the pre-test to 28 percent after the Mobilization. (Unaided recall means respondents could say with no prompting that the seat belt enforcement effort they had heard of was "Click It or Ticket" in an open end question.) Among the target audience of men 18–34, unaided recall of "Click It or Ticket" moved 30 percentage points from the pre-survey of 12 percent to the post-survey of 42 percent.

More importantly, recall of the ad is linked to higher recall of key campaign success measures such as perceived likelihood of getting a ticket for not wearing a seat belt and the perception that police are more aggressively enforcing seat belt laws. For the first time, there was a statistically significant increase in the percentage of men 18–34 who said their seat belt use had increased in the past 6 months. This age group is one of the hardest to reach with this type of public health message, according to researchers.

We also found clear evidence that cumulative advertising over repeated Mobilizations increases the overall effectiveness of the Mobilizations and the impact on key campaign success measures. These measures were all higher in States where paid advertising has run for consecutive years compared to States where paid advertising ran only in May 2003.

It's clear from this data that the ad campaign was effective in reaching and influencing our target audience.

NHTSA'S OVERSIGHT OF STATE SAFETY PROGRAMS

Question. The second word in the administration's SAFETEA proposal stands for "accountable." Yet, the recent report released by the General Accounting Office draws the conclusion that NHTSA has been inconsistent in holding the States accountable for their highway safety programs. The GAO reported that NHTSA's use of management reviews varied from region to region and that the regional offices have made limited and inconsistent use of improvement plans. While some States may do a good job at meeting their safety objectives, it is clear that others may benefit from greater input and guidance from NHTSA.

Ms. Hamilton and Mr. Hurley, how would you assess NHTSA's oversight of State highway safety plans and what specific changes would you suggest to improve their accountability?

Answer. The recent GAO report lays out very well the critical need for effective oversight by NHTSA of federally funded State programs. It simply was a mistake for NHTSA to unilaterally give up State plan approval. For the best performing States, the plan approval process should be minimal, with the emphasis on how NHTSA can best assist the achievement of excellence. For the middle tier States, the plan approval should make sure that scarce funding is only spent on those things proven to work. For the bottom performing States, there should be extensive review of the State programs, beginning with the data. Where States are unwilling or unable to meet reasonable objectives, there should be consideration of what other delivery mechanisms can best meet critical needs.

COORDINATED GOVERNMENTAL EFFORT TO FIGHT DRUNK DRIVING

Question. Roughly one-third of all drivers arrested or convicted for DUIs or DWIs were repeat offenders. These individuals are over-represented in fatal crashes and less likely to be influenced by education or legal sanctions. Given that these hardcore drinkers are probably the toughest individuals to reach, it seems that there

ought to be a coordinated governmental effort to reach them. Last year, we directed NHTSA to work with the Attorney General's office to identify the best strategies to reduce plea bargaining and to make sure that impaired driving convictions are applied in a consistent manner. Beyond that, I think it is important that we look at the public health aspects of this problem to make sure that people are getting the treatment that they need. I know that NHTSA spoke to the National Institute on Alcohol Abuse and Alcoholism in February about how the two agencies might work together on this very challenging problem.

Mr. Hurley and Ms. Hamilton, do you have any thoughts you would like to add?

Answer. Perhaps the most critical piece missing in the current effort to reduce drunk driving is now being implemented through the leadership of this subcommittee. The advent of national paid advertising to support coordinated enforcement will likely have substantial results. In North Carolina's "Booze It and Lose It" Campaign in 1995, arrests of intoxicated motorists at nighttime checkpoints were cut by more than half, to .87 percent. This remains one of the lowest levels ever achieved in this country. The National Safety Council also fully supports MADD's Hard Core Drunk Driver Initiative.

BLUE RIBBON COMMISSION ON HIGHWAY SAFETY

Question. The administration's SAFETEA proposal includes a total of $7 million over 6 years for a National Blue Ribbon Commission on Highway Safety. The purpose of this safety commission is to study the Nation's highway safety needs and to make recommendations on how to reduce highway fatalities. The final report of the Commission would be delivered as late as February 1, 2009.

I'd like the entire panel to answer this question. Given what we know about the benefits of seat belts, tough drunk driving laws, and strong vehicle safety standards, why do we need 6 years and $7 million to study a problem to which we already know the solutions?

Isn't this Commission just an excuse to put off meaningful action on the safety remedies that we already know work?

Answer. The National Safety Council believes that most national commissions have not delivered on their promise, requiring far more work and yielding few tangible results. One clear exception was President Reagan's Drunk Driving Commission which consolidated what was known and proven to work, providing a blue print for progress for the next 20 years. As Sen. Murray indicated, commissions are often a convenient way of postponing critical decisions, rather that enabling real progress to occur.

Much of what is necessary for reducing fatal and serious injuries on the highway is known in the peer review literature. What is lacking is often the political will to bring about progress. Commissions are a weak lever on political will. Before allowing such an initiative to go forward, thorough discussion and debate should take place on the Commission's precise leadership, membership, and scope. The Commission should also be strictly focused on only those efforts that have been proven to work.

CONCLUSION OF HEARINGS

Senator CAMPBELL. So I appreciate you appearing here, and the subcommittee is recessed. Thank you.

[Whereupon, at 11:58 a.m., Thursday, May 22, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004

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

NONDEPARTMENTAL WITNESSES

[CLERK'S NOTE.—The following testimonies were received by the Subcommittee on Transportation, Treasury and General Government, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2004 budget request.

The subcommittee requested that public witnesses provide written testimony because, given the Senate schedule and the number of subcommittee hearings with Department witnesses, there was not enough time to schedule hearings for nondepartmental witnesses.]

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

The National Association of Railroad Passengers is a non-partisan organization funded by dues and contributions from approximately 16,000 individual members. We have worked since 1967 to support improvement and expansion of passenger rail, particularly intercity passenger rail.

We strongly support Amtrak's request for $1.812 billion in fiscal 2004. We recognize the constraints placed on your ability to find funding for all transportation needs while forced to operate in an environment dominated by guaranteed spending programs. Nevertheless, we believe the committee has an obligation to develop a policy that puts more balance in the nation's transportation system. Minor (or even major) reductions in Amtrak's route structure would not yield any meaningful savings for a couple of years but would drain energy—at Amtrak, on Capitol Hill, and in the executive branch—away from the productive efforts David Gunn has initiated to "reform" Amtrak from within.

One cannot overstate the importance of his efforts to get Amtrak to a "state of good repair" for the first time ever. This effort—combined with capital improvements such as recent track work on the Chicago-St. Louis line and signal improvements on part of the Chicago-Detroit line—could produce very impressive ridership, even before there are any results from the much-needed higher speed rail program that we expect the authorizing committees to approve outside the regular appropriations process.

We appreciate that the Bush Administration's request for $900 million is 73 percent higher than its $521 million request for fiscal year 2003, but this would be a 14 percent cut from what Amtrak received in fiscal year 2003, and is only half of what Amtrak says it needs in fiscal year 2004. It has been said that $900 million nonetheless represents an increase over "average" funding levels of the past ten years—but Amtrak's delicate financial situation today is a direct result of inadequate funding through much of that period, and Amtrak's 2004 request of $1.812 billion is meant to start to make up for those past deficiencies. Looked at another way, $900 million is 40 percent below the inflation-adjusted average for 1982–1984.

More recently, between fiscal year 1997 and 2002, Amtrak averaged $1.1 billion a year in federal funding, with much of that coming through the Taxpayer Relief Act of 1997 (TRA), which provided Amtrak with $2.2 billion outside of the appropriations process.

PUBLIC WANTS MORE TRAVEL CHOICES, NOT FEWER

Although public support for passenger rail was well established before September 11, 2001, as reflected in polls discussed near the end of this statement, the 9/11 catastrophe focused and energized public interest in having more transportation choices, not fewer, and thus in retaining and improving our national passenger rail network.

Because of the combined impacts of the "airport hassle" factor and fear of flying, people who formerly flew to avoid four-hour ground trips now accept ground trips of about eight hours in order to avoid flying. Ironically, the majority of those trips are by car even though plane travel remains far safer than driving. Where good train service is offered in such markets, business is thriving even in the face of a weak travel and tourism industry. The public—by its purchase of tickets—has shown that it will ride conventional-speed services in large numbers in many markets. Such trains need not come anywhere near the speed of a TGV; they need only be reasonably fast and reasonably frequent to be attractive to many travelers. This is not to deny the importance of continuing to work towards world-class high speed rail, particularly in longer corridors.

During the first seven months of Fiscal 2003 (October–April), the following services posted travel increases in the face of extraordinary weakness in the travel and tourism markets. The percentages shown are increases in passenger-miles compared with the year-earlier period. (The passenger-mile—one passenger carried one mile—is the standard measure of intercity travel.)

—Chicago-Grand Rapids, +30.7 percent.
—New York-Pittsburgh *Pennsylvanian*, +21.1 percent.[1]
—Boston-Portland *Downeaster* service, +12.5 percent.
—*Pacific Surfliner* (primarily San Diego-Los Angeles-Santa Barbara), +10.6 percent.
—Chicago-New Orleans *City of New Orleans*, +9.7 percent.
—San Joaquin Valley Service, +7.6 percent.
—New York-Charlotte *Carolinian*, +7.2 percent.
—Chicago-Carbondale *Illini*, +7.1 percent.
—Chicago-Quincy *Illinois Zephyr*, +6.7 percent.
—Sacramento Area-Bay Area-San Jose, +6.5 percent.
—Chicago-Seattle/Portland *Empire Builder*, +5.9 percent.
—Chicago-St. Louis, +5.8 percent.

Reflecting the relationship between an aging population and interest in alternatives to driving, the American Association of Retired Persons in its new "Public Policies 2003" states: "Congress should support nationwide passenger rail service that is integrated and coordinated with regional, state and local passenger rail [and should] establish a dependable funding mechanism that insures continuing passenger rail service."

ANALYZING ROUTE FINANCIAL PERFORMANCE

DOT Inspector General Kenneth Mead, in February 27, 2002, testimony before a House appropriations subcommittee, called operating grants needed for long-distance trains (what we call national network trains) "chump change" compared with "the annual capital subsidy required to continue operating" Northeast Corridor trains. He said national network operating losses are only about 30 percent of NEC capital requirements.

We offer the following comments about measurements:

First, the passenger mile—one passenger traveling one mile—is the standard measure of intercity travel. Trip lengths vary widely and use of the passenger-mile reflects that. Thus, subsidy per passenger-mile is a more meaningful way to measure the relative efficiency of Amtrak's routes. To illustrate how results can differ, the fiscal year 2001 data in the Amtrak Reform Council final report showed that the Southwest Chief had the fifth best operating ratio but the fifth worst subsidy per passenger. (Operating ratio—costs divided by revenues—is another good way to measure economic performance.)

[1] Primarily the result of restructuring the train to run at "passenger-friendly" rather than "freight-friendly" times.

Second, the absolute numbers that have been widely quoted, though they exclude depreciation, are based on fully allocated costs (including, for example, a share of the Amtrak CEO's expenses) and thus exceed savings that might be realized by discontinuing a specific route.

Third, the *Sunset Ltd.* in particular has been hampered by exceedingly poor on-time performance, much of which is related to heavy track work on a largely single-track railroad as Union Pacific has worked to eliminate deferred maintenance on former Southern Pacific lines. There is hope for improvement. Union Pacific Chairman and CEO Dick Davidson, Railway Age magazine's "Railroader of the Year," is quoted in their January issue saying, "We do want to be a good partner with Amtrak, and we're doing our best to get our railroad upgraded on the Amtrak routes and work with them to improve performance."

Finally, our Association strongly believes that the existing network is a skeletal foundation, from which the system should grow, and that all the routes that "should" be discontinued—and some that should not have been—have already been discontinued. Thus, the only purpose for ranking routes would be to identify where special actions might be needed to improve performance, not to identify routes for discontinuance.

We question the relevance of the planning process used to restructure the Northeast rail freight network in the 1970s. That network was dense and arguably overbuilt, so that it was easy to take out many route miles without harming major markets. The Amtrak network by contrast is skeletal. The ability to take out individual routes without collapsing the system is limited because of the interrelationships among the routes in terms of shared revenues (connecting passengers) and shared costs (common facilities).

EXAMPLES OF IMPROVED EFFICIENCY AT "GUNN'S AMTRAK"

Gunn and his key people have impressive knowledge specific to railroading and to budget discipline, which appears to be paying off already.

One change visible to passengers is the now-consistent, dining-car requirement that sleeping-car passengers sign their names and room numbers. Meals are included in the sleeping-car charge, but not in coach fares. Reinstitution of the signature process—and an audit (comparing dining car checks with passenger manifests)—aims to determine more accurately food/beverage revenues and costs and to help eliminate abuse (e.g., coach passengers getting free meals).

Amtrak is fixing, scrapping or selling equipment that has been out of use, realizing that there is a cost to the indefinite storage of such equipment. Elderly, costly-to-maintain coaches have been kept in service (especially on the New York-Philadelphia "Clockers") while modern equipment that needed only minor repairs was sidelined; Amtrak is undertaking those minor repairs.

Amtrak is making good use of sizable inventories left over from previous projects cut short by funding shortages. For example, Amtrak has found orange upholstery to use when overhauling coaches with ratty old upholstery of the same color. The end result may not be the color one would have chosen for the new century, but it will be clean and new—and did not require any new purchase.

Amtrak is covering a lot of old carpeting with plastic, which is easier to clean and doesn't hold dirt, odor, or splashed coffee.

A new frequency—the 10th Acela Express on the New York-Boston run—was added January 27 without increasing crew costs.

Amtrak's organizational structure has been flattened by elimination of the Eastern and Western general manager positions, so that the seven divisional general superintendents now report directly to the vice president of operations.

Amtrak announced January 24 that it would close its Chicago call center, the smallest of its three centers, at the end of December. Even if the number of agents added at empty desks in Riverside and Philadelphia equals the number of agent positions eliminated in Chicago, Amtrak expects to save $3 million a year in management, facility and technology costs. Any net reduction of agents—such as might be possible because of the continuing migration of business to the internet—would increase the savings.

APPENDIX I.—POLLS INDICATE PUBLIC SUPPORT FOR PASSENGER RAIL

Polls over the years have consistently shown public support for faster, more frequent, and reliable passenger trains, including two national polls last summer. A poll conducted by CNN/Gallup/USA Today near the height of Amtrak's June, 2002, cash crisis (June 21–23) found that 70 percent of the public support continued Federal funding for Amtrak. Similarly, The Washington Post found that 71 percent of

Americans support continued or increased federal funding for Amtrak (August 5, 2002, article reporting on July 26–30 poll).

An October 27, 1997, nationwide Gallup Poll sponsored by CNN and USA Today asked whether "the federal government should continue to provide funding for the cost of running Amtrak, in order to ensure that the U.S. has a national train service, or the federal government should stop funding Amtrak, even if that means the train service could go out of business if it doesn't operate profitably on their own." Favoring continued funding were 69 percent of respondents, with 26 percent against (and 6 percent other responses). State-specific polls also have been positive.

Wisconsin

A poll by Chamberlain Research Consultants of Madison, released by the Wisconsin Association of Railroad Passengers in June, 2002, indicated that

—77 percent of Wisconsin residents "support a nationwide system of passenger trains with increased routes, frequencies, and shorter travel time."

—76.6 percent said they would use the trains if the planned nine-state Midwest Regional Rail network becomes available to them.

—54.3 percent responded positively to this question: "If federal funding is available for improving intercity passenger rail services, Wisconsin may try to attract these rail improvement funds by pledging to pay for a portion of the project with state money as we do now with highway and airport projects. Is this something you favor, oppose, or neither favor nor oppose as a way to raise money to develop passenger rail services in Wisconsin?"

The survey, which was conducted over a week-and-a-half ending in mid-February, took place as the future of Amtrak and the need for a nationwide rail passenger service was being debated by Congress, and as Wisconsin state government wrestled with its most serious financial crisis ever. More information is available at http://www.wisarp.org.

Ohio

The Ohio State University Center for Survey Research (OSU–CSR) released a poll ("Tracking Ohio") on March 8, 2001, which found that 80 percent of Ohioans want the state to develop passenger rail service. The following question produced a 74 percent positive response: "If Ohio had a modern, convenient and efficient passenger rail network, do you think it would improve the quality of life in Ohio or would it have no effect?" About two-thirds (65 percent) of respondents said state money should be used to attract federal passenger-rail funding to Ohio, if such federal funding were available. More than half (53 percent) said the best way to relieve road traffic congestion is to "improve all forms of transportation including mass transit and high-speed rail." The statewide poll was conducted by telephone January 2–31, 2001, as part of the OSU–CSR's monthly Buckeye State Poll. The margin of sampling error was no more than +/−4.3 percent.

New York

In 1998, the Marist College Institute for Public Opinion (Poughkeepsie) released results of a poll it conducted of New York State registered voters regarding state investment in intercity rail passenger service (trips longer than 75 miles one way). Findings: 82 percent believed that having modernized intercity passenger train service is at least as important as having good highways and airports (of this figure, 12 percent felt rail service was even more important); 87 percent favored an increase in government spending for intercity passenger train service. The poll was based on approximately 600 responses with a margin of error of no more than +/−4 percent. It was commissioned by the Empire State Passengers Association and the Empire Corridor Rail Task Force.

APPENDIX II.—BENEFITS OF AMTRAK AND PASSENGER TRAINS

In crowded corridors, passenger trains represent vital people-moving capacity and help relieve air and road congestion. This benefit will grow over time as travel demand continues to grow while airport and highway construction face more intense local opposition and ever-tighter limits on funding and sheer availability of land.

Amtrak is far safer than auto travel.

During inclement weather, Amtrak is safer and usually more reliable than airplanes and buses. Amtrak was the only thing going in the Northeast in the recent President's Day storm.

In most cities, Amtrak helps mass transit, downtown areas and transit-dependent people by serving—and increasing the visibility and economic viability of—transit-accessible downtown locations. Amtrak feeds connecting passengers to transit. Amtrak shares costs with transit at joint-use terminals and on joint-use tracks. Positive

impacts have been observed even in small cities with minimal Amtrak service. Mayor John Robert Smith of Meridian, Miss., on Amtrak's New York-Atlanta-New Orleans run (one train per day in each direction), says property values have tripled in recent years around the railroad station, site of a relatively new intermodal terminal.

By contrast, new airports intensify energy-inefficient suburban sprawl and stimulate auto-dependent development. This leads to the social costs of getting transit-dependent people to work, or the need to address the consequences of their not working.

Amtrak is important to those who cannot fly due to temporary or permanent medical problems, and to those for whom physical and financial considerations rule out driving long distances, for example, seniors and students. (The editor of Frequent Flier, forced by doctor's orders to take the train to Florida, wrote a favorable column about the trip.) Indeed, some of those medical problems have come about as a result of flying.

Amtrak serves many communities where alternative transportation does not exist, is not affordable or only serves different destinations. Trains can make intermediate stops at smaller cities at minimum cost in energy and time. This is apparent in corridors—where benefits go to such cities as Jefferson City, Lancaster, Trenton, Kalamazoo, Wilmington, Bloomington/Normal and Tacoma. It also means, for example, that the *Empire Builder* can stop at eight small cities in Washington (plus Seattle and Spokane), 12 in Montana and seven in North Dakota without compromising the train's appeal to those riding between Chicago or Minneapolis and Seattle or Portland. Similarly, the *California Zephyr* serves five Colorado points (plus Denver) and five points each in Iowa and Nebraska. Also, Amtrak serves 14 North Carolina points.

Here is an example of long-distance travel that I encountered on the *Southwest Chief*: a mother and her 14-month-old child rode from Garden City, Kansas, to Barstow, California. The family was moving to California; the husband was driving the U-Haul; the wife and child were on the train "so the move would not be so traumatic" for the child. They did not consider the plane because they felt it would be too cramped for the child. Also, airfare out of Garden City was prohibitive.

Amtrak is part carrier (like United and Greyhound) and part infrastructure. Thus Amtrak provides important passenger-moving capacity, unlike airlines and bus companies. In much of the Northeast Corridor and a few other places, Amtrak is the rail equivalent of the air traffic control system, airport authorities and airlines. (Among the "other places": the Chicago terminal, part of the Chicago-Detroit line and the track between Albany, New York, and the Massachusetts state line.) Elsewhere, Amtrak is the only carrier with legal access to freight railroads' tracks—a quid pro quo for relieving the railroads of their passenger-train obligations in 1971.

Amtrak's national network trains are transportation "melting pots." Intercity travelers by all modes had an average annual income of $70,000. The comparable figure for travelers on Amtrak's national network trains is $51,000. [This is 1999 data inflated to 2002 and thus probably good for 2003 as well.] However, the majority of passengers on these trains ride coach. Surveys available to us six years ago indicated that, for 30 percent of coach passengers traveling over 12 hours, average income was less than $20,000 (for 11 percent, it is less than $10,000). Obviously, most standard- and deluxe-room sleeping car passengers have considerably higher incomes and pay much higher fares. Nonetheless, anyone who characterizes these trains as land versions of cruise ships should try walking the coaches, especially at night.

Trains, especially on longer trips, offer a form of social contact almost lost in this country today—the opportunity to meet and relax with total strangers that one may or may not ever see again.

Amtrak over much of its network enables one to enjoy gorgeous scenery in total comfort. Some examples: the Connecticut and California coastlines, the Hudson River in New York, the Colorado Rockies, the mountains of Vermont and northern New Mexico, Glacier Park in Montana and West Virginia's New River Gorge.

Amtrak uses only 79 percent of the energy airlines use to move a passenger a mile, and only 22 percent of the energy general aviation uses (to do the same). This statement is based on the following 2000 data from the Oak Ridge National Laboratory's annual Transportation Energy Data Book (Edition 22, published September 2002) and available on-line: Amtrak—2,902 British thermal units per passenger-mile; Airlines—3,666; General aviation—12,975. Just two years earlier, in 1998, Amtrak was at 2,441. Amtrak is much less polluting than airplanes. (Energy efficiency is a good proxy for air pollution.)

Thanks to a growing array of connecting buses available with train travel in a single ticket transaction, Amtrak puts people on intercity buses who would not oth-

erwise have considered using them. "Thruway" is Amtrak's copyrighted name for connecting buses that can be booked and ticketed through Amtrak's reservation system. Thruways first developed in a big way in California, where the state underwrites an impressive network of dedicated, feeder buses. Elsewhere, depending on the situation, Amtrak or the private bus companies themselves bears the financial risks for many Thruway runs themselves.

APPENDIX III.—SUBSIDIES

Virtually all federal spending on highways is generated from user fees. However,

—Federal policy helps encourage states and local governments to spend primarily on highways and aviation, where federal funds cover 50–80 percent of project costs, and not on railroads, where federal funding generally is zero.

—A total of $34 billion in 2001 highway spending came from non-user sources in all levels of government (while $10 billion in highway user payments went to "nonhighway purposes" (Table HF–10, Highway Statistics 2001).

—A mode-specific trust fund system insures massive continued investment in the modes that are already dominant, regardless of whether they are the best solution for tomorrow's transportation problems, and regardless of the needs of the users paying those taxes. A large proportion of them are soon to be senior citizens who will place greater value on non-automobile travel choices.

—User fees clearly do not cover environmental and other external costs associated with highways and aviation.

The proportion of general funds covering FAA Operations grew by about $2 billion from fiscal year 2002 to fiscal year 2003 and now represents about half of FAA Operations costs. As to airport construction is done through public rather than private finance. The savings associated with financing an airport project with tax exempt, government-backed bonds rather than with commercial loans sought directly by the airlines is substantial. The various sources available to fund airports, like the mode-specific trust fund system, fall into the category of reinforcing the dominance of modes that are already dominant whether or not they offer the best solution for today's transportation problems.

PREPARED STATEMENT OF THE PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS (PETA)

Chairman Shelby, Ranking Member Murray, and Members of the Subcommittee: People for the Ethical Treatment of Animals (PETA) is the world's largest animal rights organization, with more than 750,000 members and supporters. We greatly appreciate this opportunity to submit testimony regarding the fiscal year 2004 appropriations for the Department of Transportation (DOT). Our testimony will focus on chemical tests allowed or required by the DOT to be conducted on animals.

As you may know, the DOT requires hazardous materials to be categorized and labeled for shipping. Traditionally, a chemical's dermal corrosive potential has been estimated by applying the substance to the shaved, abraded skin of animals. Fortunately, there are non-animal test methods that are just as effective. Human skin equivalent tests such as EpiDerm™ and EpiSkin™ have been scientifically validated and accepted in Canada, the European Union, and by the Organization for Economic Cooperation and Development (OECD) (of which the U.S. is a key member) as total replacements for animal-based skin corrosion studies. Another non-animal method, Corrositex™, has been approved by the U.S. Interagency Coordinating Committee on the Validation of Alternative Methods. However, the DOT continues to allow the use of animals in many skin corrosion studies, despite the availability of data from validated, non-animal tests.

In 2000, PETA discovered that the DOT was using rabbits for corrosivity tests for which, according to the agency's own guidelines, Corrositex™ could have been used instead. In 2001, at PETA's urging, the DOT's Office of Hazardous Materials Enforcement added language to its operation procedures requiring that DOT staff arranging for testing of materials "inform the prospective laboratory that you want testing to be conducted using the Corrositex™ testing protocol, when testing using animals is not required. Advise the laboratory that testing using animals is to be conducted only when absolutely necessary."

We were glad to see that change in policy. However, Corrositex™ is not considered sufficient by the DOT to test all of the hazardous materials for which the agency requires corrosivity tests. According to the DOT's policy, Corrositex™ can only replace animal tests for organic and inorganic acids and bases as well as acid derivatives. PETA would like the agency to require the use of EpiDerm™ and EpiSkin™ so that all of the hazardous materials could be tested for corrosivity with

non-animal methods. The cruel rabbit tests for corrosivity are no longer necessary in any situation.

Secondly, to our knowledge, there is no DOT policy of enforcement to ensure that only non-animal methods are used. Therefore, we are requesting that the subcommittee include report language ensuring that no funds for the DOT (including salaries or expenses of personnel) may be used for the purpose of assessing data from an animal-based test method when a non-animal test for the desired endpoint has been validated and/or accepted by the OECD or its member countries.

ANIMAL TESTS CAUSE IMMENSE SUFFERING

Traditionally, the degree to which corrosive materials are hazardous has been measured by the very crude and cruel method of shaving rabbits' backs and applying the test substance to the animals' abraded skin for a period of hours. As one can imagine, when highly corrosive substances are applied to the backs of these animals who are not given any anesthetics or analgesics, the pain is excruciating.

THE RELIABILITY AND RELEVANCE OF ANIMAL TESTS TO HUMAN BEINGS IS QUESTIONABLE

The assessment of damage to the rabbits' skin is highly subjective and variable, which limits the reproducibility of the animal test (which, unlike non-animal tests, has never been scientifically validated). One study, which compared the results of rabbit tests with real-world human exposure information for 65 chemicals, found that the animal test was wrong nearly half (45 percent) of the time in its prediction of a chemical's skin damaging potential (Food & Chemical Toxicology, Vol. 40, pp. 573–92, 2002).

VALIDATED METHODS EXIST WHICH DO NOT HARM ANIMALS

Fortunately, non-animal test methods, such as EpiDerm™, EpiSkin™, and Corrositex™, have been found to accurately predict chemical corrosivity without harming animals. In fact, although the DOT continues to accept data from animal tests, the agency specifically allows an exemption from animal testing for organic and inorganic acids and bases as well as acid derivatives if Corrositex™ tests are used instead. The DOT has the power to allow a similar exemption for EpiDerm™ and EpiSkin™ so that no animal tests would be required for any of DOT's skin corrosivity data needs.

EpiDerm™ and EpiSkin™ are comprised of human-derived skin cells, which have been cultured to form a multi-layered model of human skin. The Corrositex™ testing system consists of a glass vial filled with a chemical detection fluid capped by a membrane, which is designed to mimic the effect of corrosives on living skin. As soon as the corrosive sample destroys this membrane, the fluid below changes color or texture. Users simply record the time it takes for the sample to break through the membrane. Then, depending on their needs, they can assign the proper U.N. Packing Group classification for DOT compliance, or use the data to substantiate marketing claims.

NON-ANIMAL TEST METHODS SAVE TIME

Unlike animal testing that can take two to four weeks, Corrositex™ testing can provide a Packing Group determination in as little as three minutes and no longer than four hours.

THE DOT CONTINUES TO ALLOW THE USE OF ANIMALS

From materials obtained through the Freedom of Information Act, PETA learned that the DOT itself has used rabbits to test the corrosivity of products whose labeling accuracy was questioned by a competitor.

Listed below are some of the products that the DOT has tested on animals.

Name of Product	Results
Spoke Wheel Cleaner	Full-thickness skin destruction.
Whitewall Cleaner	Full-thickness skin destruction.
Savage Acid	Full-thickness skin destruction.
Goodbye Graffiti	Full-thickness skin destruction.
Heavy Duty Spoke Wheel Cleaner	Full-thickness skin destruction.
Amazing Rust Stain Remover	Full-thickness skin destruction.
Oxalic Acid	Tissue necrosis.

SUMMARY

The skin corrosivity of all the products listed above could—and should—have been measured using Corrositex™, EpiDerm™, or EpiSkin™. There simply is no excuse for causing this kind of suffering to animals when three fully validated non-animal tests are available.

We therefore hereby request, on behalf of all Americans who care about the suffering of animals in toxicity tests, that you please include language in the report accompanying the fiscal year 2004 Transportation, Treasury and General Government Appropriations bill stating that no funds for the DOT (including salaries or expenses of personnel) may be used for the purpose of assessing data from an animal-based test method when a non-animal test for the desired endpoint has been validated and/or accepted by the OECD or its member countries.

Thank you for your consideration of our request.

PREPARED STATEMENT OF THE COALITION OF NORTHEASTERN GOVERNORS

Dear Mr. Chairman: As the Subcommittee begins the fiscal year 2004 transportation appropriations process, the Coalition of Northeastern Governors (CONEG) is pleased to share with the Subcommittee testimony on the fiscal year 2004 Transportation and Treasury Appropriations bill. The CONEG Governors commend the Subcommittee for its past support of funding for the nation's highway, transit, and rail systems. Although we recognize the extensive demands being made upon federal resources in the coming year, we urge the Subcommittee to continue the important federal partnership role that is vital to strengthening the multi-modal transportation system. This system is a critical underpinning to the productivity of the Nation's economy and the security and well-being of its communities.

First, the Governors urge the Subcommittee to fund the combined highway, transit and safety programs at levels that will continue the progress made over the last several years to improve the condition and safety of the Nation's highways, bridges and transit systems. In both urban and rural areas, these infrastructure improvements are not only necessary for moving people, but are also critical for improving the projected substantial growth of freight movements along the Nation's surface transportation system. The U.S. Department of Transportation's 2002 Conditions and Performance Report to Congress documented the improvements in the physical condition of the nation's highway, bridge and transit infrastructure as a result of the federal-state investments made under the Transportation Equity Act for the 21st Century (TEA–21). It also found that a combined federal highway and transit program of $53 billion annually is needed simply to maintain our Nation's highways and transit systems in the current conditions, and a program level of $74.8 billion is needed to actually improve our Nation's highways and transit systems.

Within the Transit program, the Governors strongly urge the Subcommittee to address the solvency of the mass transit account while maintaining the basic program structure. Further, the Governors urge the Subcommittee to continue the traditional 80/20 federal/state match for the New Start Program and the Bus and Bus Facilities Discretionary Grant Program. These programs have been instrumental in ensuring that needed funds are invested to improve and extend transit services in both our urban and rural communities.

Second, the Governors strongly urge the Subcommittee to provide at least $1.8 billion in fiscal year 2004 for intercity passenger rail. Intercity passenger rail is an vital part of the Nation's transportation system, particularly in the Northeast and Mid-Atlantic region, where it provides essential mobility, enhances capacity of other modes, and provides much needed redundancy to the Nation's transportation system. This funding level is critically needed to maintain services and begin a program of essential investments in equipment and infrastructure to bring the system back to a state of good repair for reliable service. The United States Department of Transportation Inspector General has noted that over $1 billion in capital funds is needed annually just to sustain the current intercity passenger rail system, regardless of who operates that system. The states are already major investors in the current intercity passenger rail system, with the Northeast and Mid-Atlantic states already investing over $4 billion in intercity passenger rail operations and infrastructure since 1991. A funding level of $1.8 billion in fiscal year 2004 will help provide a period of stability for intercity passenger and commuter rail operations while the Congress, Administration and states work cooperatively to determine the future of intercity passenger rail and Amtrak in the Nation's transportation system.

Third, the Governors urge the Subcommittee to continue funding for investments in Intelligent Transportation Systems (ITS). It is vital that the Nation's transportation system maintain and enhance the capabilities made possible by investments

in ITS. The densely populated Atlantic Coast region relies heavily on ITS to improve operations every day on both highways and transit. The Northeast's rural areas and communities also benefit significantly from ITS investments. The region's ITS systems, including those provided by TRANSCOM and the I–95 Corridor Coalition, have demonstrated their critical role, both in the emergency management and recovery phases, when security demands put added pressure on the region's transportation networks.

Fourth, safety on the Nation's highways, transit and rail systems remains a priority of the Governors. The safety of the aging rail tunnels along the Northeast Corridor is a particular concern, and we urge the Subcommittee to fund life safety improvements for the Baltimore and New York tunnels. The Governors also support maximum funding for the Railway-Highway Crossing Hazard Elimination Program. As part of the federal-state partnership to correct hazardous conditions on the Nation's highways, investments in highway-rail crossings can reduce injuries and death from accidents even as they allow higher train speeds and increased reliability.

Fifth, the Governors urge the Subcommittee to provide sufficient funding for border crossing and gateway infrastructure projects, particularly those transportation projects that are required to meet new federal security requirements.

Sixth, the Governors also support the President's funding request of $20 million for the Surface Transportation Board.

Finally, the Governors support continued federal investment in transportation research and development programs, particularly the Federal Railroad's Next Generation High Speed Rail program. This program enhances safety and helps stimulate the development of new technologies, which will benefit improved intercity rail service across the Nation.

The CONEG Governors thank you, Ranking Member Murray and the entire Subcommittee for the opportunity to share these priorities and appreciate your consideration of these requests.

PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC RESEARCH

On behalf of the University Corporation for Atmospheric Research (UCAR) and the university community involved in weather and climate research and related education, training and support activities, I submit this written testimony for the record of the Senate Committee on Appropriations, Subcommittee on Transportation.

UCAR is a consortium of 66 universities that manages and operates the National Center for Atmospheric Research (NCAR) and additional research, education, training, and research applications programs in the atmospheric and related sciences. The UCAR mission is to support, enhance, and extend the research and education capabilities of the university community, nationally and internationally; to understand the behavior of the atmosphere and related systems and the global environment; and to foster the transfer of knowledge and technology for the betterment of life on earth. In addition to its member universities, UCAR has formal relationships with approximately 100 additional undergraduate and graduate schools including several historically black and minority-serving institutions, and 40 international universities and laboratories. UCAR is supported by the National Science Foundation (NSF) and other federal agencies including the Federal Aviation Administration (FAA).

The fiscal year 2004 budget request for the FAA should support the Administration's and the country's commitment to a safe, efficient, and modern aviation system. Weather research contributes to this commitment. In testimony before the House Committee on Transportation and Infrastructure last month, Charles Keegan, Associate Administrator for Research and Acquisitions for the FAA, stated, "weather continues to be a major safety factor for all types of aircraft. A recent estimate by the FAA identified weather as being responsible for 70 percent of flight delays and approximately 40 percent of accidents. To mitigate the effects of weather, the FAA's Aviation Weather Research Program conducts applied research in partnership with a broad spectrum of the weather research and user communities with a goal of transitioning advanced weather detection technologies into operational use." Leveraging the work of the research community, the FAA has made tremendous strides in understanding and mitigating severe weather on aviation. Current research on turbulence, thunderstorm forecasting, oceanic weather, icing, and other areas will result in even more savings, in lives and dollars.

Regarding the fiscal year 2004 request for the FAA, I would like to comment on accounts related to aviation weather research that fund the collaborative work of researchers in universities and federal laboratories. These accounts are relatively small in dollar amounts, but the work is potentially life saving for our Nation's pilots and passengers.

FACILITIES AND EQUIPMENT

C. Overall Aviation Safety Improvement

1C01 Advanced Technology Development Prototyping

Within Advanced Technology Development Prototyping of the Facilities and Equipment section of budget, please add $5.5 million to continue the development and implementation of a terrain-induced windshear alert system. This project would be done in the Juneau, Alaska, area because of the complex terrain surrounding the airport. The technology developed could lead to a National Terrain-Induced Windshear and Turbulence Alerting System that would be installed in airports nation-wide to help prevent crashes like the one that occurred in 1991 on approach to the Colorado Springs Airport. Work would include verifying the prototype alert system and transferring the technology to FAA systems developers. I urge the Committee to provide $2.98 billion for Facilities and Equipment in fiscal year 2004 (the same level as last year and a 2 percent increase over the President's request), which will fund a number of worthy programs, including the development and implementation of a terrain-induced, windshear alert system.

RESEARCH, ENGINEERING AND DEVELOPMENT (RE&D)

Those of us involved in aviation weather research are deeply concerned about the fiscal year 2004 request for the FAA Research, Engineering and Development (RE&D) budget. The total request for this budget is $100 million, $48 million less than the final fiscal year 2003 appropriated amount and almost half the amount appropriated in fiscal year 2002. The Administration's inadequate budget request will reduce research in aviation weather by approximately one-third (over 30 percent), and will result in the termination of a number of critical and potentially life-saving projects. I urge the Committee to fund the FAA RE&D at $148 million in fiscal year 2004.

A12. Improve Efficiency of Air Traffic Control System

Eliminated from the RE&D line in the fiscal year 2004 budget request is line A 12. Improve Efficiency of Air Traffic Control System. While it is true that airline delays are far less frequent due to the decrease in commercial airline traffic attributable to the economic slowdown and terrorist activities, the R&D that is now being described as relevant only to efficiency clearly has as much to do with safety issues as with delays. Research in the areas of severe convective weather, visibility hazards, wake turbulence, and oceanic weather would be eliminated under the current plan. In order to make this appropriation, I ask that the Committee not transfer funds from line A11. Improve Aviation Safety (see below). Moving money from one line to the other will result simply in the same cuts to important aviation safety R&D work. I urge the Committee to restore line A12 and fund Weather Research Efficiency, at the very least, at the fiscal year 2003 appropriated level of $12.1 million.

A11. Improve Aviation Safety

Within line A11. Improve Aviation Safety, the Weather Research Safety program funds many R&D projects including a focus on turbulence. Over half of all turbulence-related injuries are caused by turbulence in the vicinity of thunderstorms, leading to $22 million fatalities, injuries and aircraft damages annually. Current research is focused on forecasting the location and duration of thunderstorms, work that will be reduced or terminated if this budget is cut. The request for Weather Research Safety is down $1 million from the fiscal year 2003 approved bill. Within line A11, Improve Aviation Safety, I urge the Committee to provide Weather Research Safety, at the very least, the fiscal year 2003 appropriated level of $21.9 million.

On behalf of UCAR, as well as all U.S. citizens who take to the skies, I want to thank the Committee for the important work you do for this country's scientific research, training, and technology transfer. We understand and appreciate that the Nation is undergoing significant budget pressures at this time, but a strong nation in the future depends on the investments we make in Research and Development today. We appreciate your attention to the recommendations of our community concerning the fiscal year 2004 FAA budget and we appreciate your concern for safety

within the Nation's aviation systems, particularly during this extraordinary time in our Nation's history.

PREPARED STATEMENT OF THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

APTA is a nonprofit international association of over 1,500 public and private member organizations including transit systems and commuter rail operators; planning, design, construction and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. Over 90 percent of persons using public transportation in the United States and Canada are served by APTA members.

INTRODUCTION

Mr. Chairman and members of the subcommittee, on behalf of the American Public Transportation Association (APTA), I thank you for this opportunity to address the need for federal investment in public transportation programs under the Transportation, Treasury and Independent Agencies Appropriations bill for fiscal year 2004.

ABOUT APTA

APTA's 1,500 public and private member organizations serve the public by providing safe, efficient, and economical public transportation service, and by working to ensure that those services and products support national economic, energy, environmental, and community goals.

APTA member organizations include public transit systems and commuter railroads; design, construction and finance firms; product and service providers; academic institutions; and State associations and departments of transportation. More than 90 percent of the people who use public transportation in the United States and Canada are served by APTA member systems.

OVERVIEW

Mr. Chairman, throughout the United States, public transportation is undergoing a renaissance. Steady increases in transit investment have dramatically improved and expanded public transportation services, attracting record numbers of riders on state-of-the-art systems in metropolitan, small urban and rural areas.

In a recent five-year period alone, public transportation use has increased by 22 percent—growing faster than vehicle miles and airline passenger miles traveled over the same period. In 2001, Americans used public transportation 9.5 billion times—the highest ridership level in 40 years.

Communities across the country are rehabilitating and expanding public transportation systems and constructing new ones. More than 550 local public transportation operators currently provide services in 319 urbanized areas; 1,260 organizations provide public transportation in rural areas; and 3,660 organizations provide services to the aging population and disabled individuals.

Through improved mobility, safety, security, economic opportunity and environmental quality, public transportation benefits every segment of American society—individuals, families, businesses, industries and communities—and supports important national goals and policies.

At the same time, the growing problem of traffic congestion continues to choke America's roadways and constrain community and business development. Polls consistently show that most Americans view congestion as a serious problem that continues to grow every year. In April of 2003, APTA and the American Automobile Association (AAA) released the results of a poll that showed 95 percent of Americans said traffic congestion, including commutes to and from work, has grown worse over the last three years. The poll also showed 92 percent of Americans said it was either very important (71 percent) or somewhat important (21 percent) for their community to have both good roads and viable alternatives to driving.

FISCAL YEAR 2004 GOALS

Annual Federal appropriations for the Federal transit program have increased significantly in each of the last 6 years under the Transportation Equity Act for the 21st Century (TEA–21). Federal funding increased from just under $4.4 billion in fiscal year 1997 to $7.2 billion in fiscal year 2003, a 65 percent increase.

The stable and predictable growth in the Federal investment in TEA–21 led to impressive results for transit. While service was expanded and improved, and rider-

ship reached its highest level in 40 years, public demand for additional capital investment, new transit services, and improvements to existing systems continued to grow. This demand for additional service and capital projects comes at a time when many existing assets are nearing the end of their useful lives and need to be improved or replaced. Indeed, a 2002 American Association of State Highway and Transportation Officials report estimates that $44 billion is needed annually to meet current transit capital needs for new projects and improvements to existing systems.

APTA's recommendations for TEA–21 reauthorization have been made available to committee members and staff and they contain detailed funding and programmatic recommendations for the next 6 years. Most critically, APTA's proposal urges Congress to continue to grow the Federal investment in public transportation to address critical national transportation needs, and to fund the Federal transit program at no less than $8.1 billion in fiscal year 2004.

We recognize that the Fiscal Year 2004 Budget Resolution assumes $7.3 billion in funding for public transportation in fiscal year 2004. However, a provision in the resolution granted authority to increase funding beyond that amount if Mass Transit Account (MTA) revenues exceed expected levels. Revenues accruing to the MTA could be increased in a number of ways. These would include providing interest on the balance of the MTA, particularly if outlays from the account were scored as they are from the highway account; or if user fees were adjusted to account for inflation. Therefore, we urge the committee to make every effort to set transit funding in excess of the level assumed in the Fiscal Year 2004 Budget Resolution, in order to better address transit capital investment needs.

FEDERAL INVESTMENT IN PUBLIC TRANSPORTATION

The results of TEA–21 have been profound—more Americans have access to efficient, safe, and modern transit options than ever before. Federal investment in public transportation produces tangible assets in our communities that citizens can see and use. These assets include light rail lines, buses for commuting, and transit stations that attract economic development because of convenient access to transportation options.

Investment in transit makes sense because it is in demand. Nationwide, many systems are bursting at the seams, with the highest ridership in 40 years and a huge backlog of capital improvements identified. In growing communities where transit has not been a priority in the past, citizens are demanding new services and capital projects. Public transportation supports a solid and growing economy by providing access to labor, decreasing time lost to congestion, and freeing highway and road space for the movement of goods and people. Public transportation represents an efficient use of scarce financial resources, because it helps to mitigate congestion in densely populated areas and provides a mobility option to millions of Americans. Public transportation represents an environmentally responsible transportation option because it uses less fuel and emits far less pollution per passenger than the automobile. A recent report by economists Robert Shapiro and Kevin Hassett demonstrates that if Americans used public transportation for only 10 percent of their daily travel needs, the United States could significantly reduce its dependence on foreign oil.

INCREASED DEMAND

Growing demand nationwide for transit services shows the effectiveness of federal investment. In a recent 5 year period, transit ridership grew 22 percent, greater than the growth rate of highways and domestic air travel during the same time frame. In that same time period Chicago's MTA system saw ridership increase from 419 million trips to 450 million; in Dallas, ridership on the DART system rose from 52 million to 60 million; and in LaCrosse, Wisconsin, from 713,000 to 819,000.

Support for increased transit service remains high. In February 2003, Wirthlin Worldwide Public Opinion Poll showed 81 percent of Americans support the use of public funds for the expansion and improvement of public transportation; 56 percent say the need to reduce traffic congestion has become more important over the last 5 years. The poll also stated 57 percent agree their community needs more public transportation options, including 64 percent of urban residents, 59 percent of suburban residents, 51 percent of rural residents, and 55 percent of small-town residents.

This poll demonstrates that support for public transportation has increased dramatically not only in our biggest cities, but in smaller urban communities and rural areas as well, where 40 percent of America's rural residents have no access to public transportation, and another 28 percent have substandard access. It is estimated that rural America has 30 million non-drivers, including senior citizens, the disabled and low-income families who need transportation options. According to a survey of

APTA members, bus trips in areas with populations less than 100,000 increased from 323 million to 426 million in a recent 5 year span.

Another focus of the support for transit service is in the area of security. During the September 11th attacks, hundreds of thousands of citizens in New York and Washington were able to evacuate those cities quickly and safely because of transit. As long as security threats endanger our cities, transit serves an invaluable role as a method of evacuation that will help get people out of harm's way.

ECONOMIC IMPORTANCE

Investment in public transportation plays a key role in stimulating local economies and the national economy as a whole. Investment in transit infrastructure creates jobs. Transit-oriented development around transit stations stimulates construction, new business and housing which increases land value and property taxes. Transit service provides employers with access to workers and workers with a way to get to jobs.

Investment in transit creates jobs and significant economic growth outside of the communities in which the systems are located. Optima Bus Corporation (formerly Chance Coach), located in Wichita, Kansas, built a 125,000 square foot assembly plant in 2000 and doubled its workforce. Optima builds buses and trolleys to be used in systems around the country. The same is true for North American Bus Industries in Anniston, Alabama; Neoplan USA bus company in Lamar, CO; and MCI Buses in Pembina, ND. These and many other companies supply goods and services to the transit industry, employ workers and generate economic activity in their communities with TEA–21 resources.

Public transportation's role in stimulating local economies is profound. According to a Cambridge Systematics Inc. study, for every $10 spent on transit capital projects, $30 in business sales is generated. Every $10 invested in transit operations results in $32 in business sales. Each $1 billion in federal transportation invested creates 47,500 jobs. As States and local governments struggle to find revenues, public transportation has provided a strong return on investment. In Dallas the taxable value of properties located near its DART system increased 25 percent faster than elsewhere in the metro area. In this area, the state of Virginia will reap $2.1 billion in tax revenues as a result of transit investment over the next 7 years.

Another benefit of public transportation to a healthy economy is providing job access and reliability for an expanding labor pool. In cities large and small, businesses and other service providers are choosing to locate or relocate in areas convenient to public transportation. Transit systems are working with local businesses to provide transit passes and tax benefits to both employees and employers. Transit continues to provide a reliable, convenient option for employees who wish to avoid crowded highways or who cannot afford to travel by car.

Indeed, public transportation plays a very specialized role in this aspect of economic growth and stability. With the help of public agencies in local communities, transit helps low income workers who cannot afford other options stay productively employed and off of welfare. A project in New Jersey provides passes and tickets to welfare recipients for work-related travel. In Myrtle Beach, South Carolina, the Pee Dee RTA coordinates with the county department of social services to run a 24 hour commuter service linking rural residents with jobs in the city. The Albuquerque transit department provides reduced rate transit service for low income workers.

Further, savings as a result of transit are significant. Atlanta's MARTA system saved an estimated $2.2 billion over a 14-year period by providing motorists a public transportation alternative. A study by the Texas Transportation Institute concludes that a single year's increase in automobile traffic requires 27 miles of freeway and 37 miles of principal streets in each city in America just to keep up. This is significant when considering urban rail systems can provide more capacity in a 100 foot right-of-way than a 6 lane freeway, which requires three times as much space.

ENVIRONMENTAL FACTORS

Public transportation represents an effective way to improve air quality without imposing new government mandates. According to a report released last summer by economists Dr. Robert Shapiro of the Brookings Institution and Dr. Kevin Hassett of the American Enterprise Institute, public transportation generates 95 percent less carbon monoxide, 92 percent less volatile organic compounds, and about half as much carbon dioxide and other pollutants per passenger mile than individuals in private automobiles. The study also shows that public transportation already saves more than 855 million gallons of gasoline and 45 million barrels of oil a year. This is equivalent to the energy used to heat, cool, and operate one quarter of all Amer-

ican homes annually, or half the energy used to manufacture every computer and piece of electronic equipment in America every year.

The study also found that if one in ten Americans used public transportation regularly, U.S. reliance on foreign oil could be cut by more than 40 percent. This is nearly equivalent to the amount of oil imported from Saudi Arabia annually. It reported that even small increases in transit use would help most of the 16 major cities that currently fail to meet EPA standards for carbon monoxide emissions; and that transit is twice as fuel efficient as private vehicles for each passenger mile traveled.

PRESIDENT'S BUDGET PROPOSAL

In February, the President's fiscal year 2004 budget proposal was released. It calls for a 6 percent increase in funding for the Department of Transportation, but no increase in overall investment for public transportation. Prior to unveiling his budget, the President identified his priorities for the Nation in the annual State of the Union Address. These included revitalizing the Nation's economy, reducing dependence on foreign sources of energy, helping the environment by investing in hydrogen powered vehicles and applying the compassion of America to solve disadvantaged American's problems.

Public transportation assists in reaching each of these goals. Regarding the economy, 47,500 jobs are created by every $1 billion invested in the public transportation infrastructure. $30 million in private business sales are generated for every $10 million invested in transit. Transit provides efficient access to labor and mitigates congestion so that goods may travel more freely.

With regard to reducing dependence on foreign sources of energy, public transportation reduces by millions of barrels the amount of oil that would otherwise be imported every year. In terms of the environment, public transportation produces less pollution per rider than the automobile. It reduces the amount of volatile organic compounds and nitrogen oxides that contribute to smog and illnesses related to polluted air such as asthma.

Public transportation is a compassionate way to address the mobility needs of millions of Americans. It provides transportation options to the disabled and those who are unable to drive. It provides an inexpensive way for lower-income workers to commute to work, allowing them to save money for their families that would otherwise be spent on driving expenses. It provides a safe way for the elderly to visit the doctor or go to the grocery store.

APTA questions the Administration's proposal to restructure a Federal transit program that has worked so well in recent years. APTA's recommendations for the reauthorization of the Federal transit program build on the success of the current program without eliminating any of the major elements of that program. We do not believe that bus replacement and facility needs can be addressed by folding the discretionary bus program into the formula and fixed guideway programs. We support retention of a distinct fixed guideway modernization program that helps improve the efficiency of systems that often operate at capacity and serve large numbers of citizens in communities that depend on public transportation.

Further, APTA opposes the Administration's proposal to reduce the Federal share of new fixed guideway transit projects from 80 percent to 50 percent because we believe it would bias decisions on transportation investments that are made at the local level. APTA believes that such decisions should be based on project merit and local transportation needs, and not on the basis of the Federal share of transportation project costs. Communities that want to build rail and other fixed guideway projects already make a substantial commitment of local resources for project construction under existing law. Further, to receive Federal funding for such projects, the community must demonstrate to the Federal Transit Administration that it has the local resources to operate and maintain the system once it is built. The full funding grant agreement (FFGA) process protects against the funding of projects that fail to provide good benefits to the community or do not have adequate local funding for long-term operations. Good rail and other fixed guideway systems can provide enormous benefits to a community, including a wide array of economic benefits, and they should be considered with other transportation investments in the local transportation planning process on a level playing field.

We strongly believe that growth of the Federal investment in public transportation can help advance many of the Nation's goals, and that freezing Federal funding for transit will erode purchasing power and increase the backlog of unmet transit capital needs. We urge the committee to fund the Federal transit program in fiscal year 2004 at no less than $8.1 billion.

CONCLUSION

Public transportation can play a key role in meeting the goals of the Administration and Congress in providing economic development, energy dependence, transportation options for Americans who cannot afford to drive or are not able to, and preserving the environment. To do so it requires a commitment on the part of the Federal government in the form of increased predictable investment.

Mr. Chairman, we look forward to working with the Committee as it advances legislation to invest in national transportation infrastructure needs.

PREPARED STATEMENT OF THE CALIFORNIA INDUSTRY AND GOVERNMENT CENTRAL CALIFORNIA OZONE STUDY (CCOS) COALITION

Mr. Chairman and Members of the Subcommittee: On behalf of the California Industry and Government Central California Ozone Study (CCOS) Coalition, we are pleased to submit this statement for the record in support of our fiscal year 2004 funding request of $500,000 from the Department of Transportation (DOT) for CCOS as part of a Federal match for the $9.1 million already contributed by California State and local agencies and the private sector.

Most of central California does not attain federal health-based standards for ozone and particulate matter. The San Joaquin Valley is developing new State Implementation Plans (SIPs) for the federal ozone and particulate matter standards in the 2002 to 2004 timeframe. The San Francisco Bay Area has committed to update their ozone SIP in 2004 based on new technical data. In addition, none of these areas attain the new federal 8-hour ozone standard. SIPs for the 8-hour standard will be due in the 2007 timeframe—and must include an evaluation of the impact of transported air pollution on downwind areas such as the Mountain Counties. Photochemical air quality modeling will be necessary to prepare SIPs that are approvable by the U.S. Environmental Protection Agency.

The Central California Ozone Study (CCOS) is designed to enable central California to meet Clean Air Act requirements for ozone State Implementation Plans (SIPs) as well as advance fundamental science for use nationwide. The CCOS field measurement program was conducted during the summer of 2000 in conjunction with the California Regional $PM_{10}/PM_{2.5}$ Air Quality Study (CRPAQS), a major study of the origin, nature, and extent of excessive levels of fine particles in central California. CCOS includes an ozone field study, a deposition study, data analysis, modeling performance evaluations, and a retrospective look at previous SIP modeling. The CCOS study area extends over central and most of northern California. The goal of the CCOS is to better understand the nature of the ozone problem across the region, providing a strong scientific foundation for preparing the next round of State and Federal attainment plans. The study includes six main components:

—Developed the design of the field study,
—Conducted an intensive field monitoring study from June 1 to September 30, 2000,
—Developing an emission inventory to support modeling,
—Developing and evaluating a photochemical model for the region,
—Designing and conducting a deposition field study, and
—Evaluating emission control strategies for upcoming ozone attainment plans.

The CCOS is directed by Policy and Technical Committees consisting of representatives from Federal, State and local governments, as well as private industry. These committees, which managed the San Joaquin Valley Ozone Study and are currently managing the California Regional Particulate Air Quality Study, are landmark examples of collaborative environmental management. The proven methods and established teamwork provide a solid foundation for CCOS. The sponsors of CCOS, representing state, local government and industry, have contributed approximately $9.1 million for the field study. The Federal government has contributed $3,730,000 to support some data analysis and modeling. In addition, CCOS sponsors are providing $2 million of in-kind support. The Policy Committee is seeking Federal co-funding of an additional $6.25 million to complete the remaining data analysis and modeling and for a future deposition study. California is an ideal natural laboratory for studies that address these issues, given the scale and diversity of the various ground surfaces in the region (crops, woodlands, forests, urban and suburban areas).

There is a national need to address national data gaps and California should not bear the entire cost of addressing these gaps. National data gaps include issues relating to the integration of particulate matter and ozone control strategies. The CCOS field study took place concurrently with the California Regional Particulate Matter Study—previously jointly funded through Federal, State, local and private

sector funds. Thus, the CCOS was timed to enable leveraging the efforts of the particulate matter study. Some equipment and personnel served dual functions to reduce the net cost. From a technical standpoint, carrying out both studies concurrently was a unique opportunity to address the integration of particulate matter and ozone control efforts. CCOS was also cost-effective since it builds on other successful efforts including the 1990 San Joaquin Valley Ozone Study. Federal assistance is needed to effectively address these issues.

For fiscal year 2004, our Coalition is seeking funding of $500,000 from DOT through highway research funds. DOT is a key stakeholder because Federal law requires that transportation plans be in conformity with SIPs. The motor vehicle emission budgets established in SIPs must be met and be consistent with the emissions in transportation plans. Billions of dollars in Federal transportation funds are at risk if conformity is not demonstrated for new transportation plans. As a result, transportation and air agencies must be collaborative partners on SIPs and transportation plans. SIPs and transportation plans are linked because motor vehicle emissions are a dominant element of SIPs in California as well as nationwide. Determining the emission and air quality impacts of motor vehicles is a major part of the CCOS effort. In addition, the deposition of motor vehicle emissions and the resulting ozone is a nationwide issue.

Thank you very much for your consideration of our request.

PREPARED STATEMENT OF THE AMERICAN PASSENGER RAIL COALITION

Chairman Shelby and Members of the Subcommittee on Transportation, Treasury and General Government, thank you for the opportunity to present testimony on fiscal year 2004 appropriations for Amtrak and for rail safety, research and development programs under the Federal Railroad Administration (FRA). My name is Harriet Parcells and I am the Executive Director of the American Passenger Rail Coalition (APRC), a national association of railroad equipment suppliers and rail businesses.

The American Passenger Rail Coalition (APRC) urges the Subcommittee to appropriate $1.812 billion for Amtrak in fiscal year 2004. This is the level of funding Amtrak has stated is needed to operate the existing national passenger rail system and to make crucial capital investments. Under the leadership of Amtrak President David Gunn and the Amtrak Board of Directors, Amtrak has been taking critical actions to stabilize and improve the national passenger rail network, reduce operating costs and bring a new candor and openness to Amtrak's accounting and operations. A strong Federal appropriation in fiscal year 2004 is essential to Amtrak's ability to continue these successful actions and bring the national passenger rail system into a good state of repair.

A modern, reliable and efficient national passenger rail system is in the mobility, economic and national security interests of the country. In busy metropolitan corridors, intercity passenger rail offers a safe, cost-effective alternative to congested highways and airports. For citizens of rural communities, Amtrak trains provide dependable and affordable mobility that is frequently the only convenient, all-weather intercity public transportation available. Government investments in intercity passenger rail enhance national security as was demonstrated in the days and weeks following the terrorist attacks of September 11, 2001. Investments in rail also yield significant economic and environmental benefits for cities, States and the Nation. Public opinion polls consistently show that Americans across all regions of the country, income and education levels, strongly support Federal government investment in the national Amtrak system.

AMTRAK TRAINS ARE AN ATTRACTIVE TRAVEL CHOICE FOR MANY

Ridership on Amtrak trains rose steadily for 5 years, from fiscal year 1997–fiscal year 2001, and reached 23.5 million riders in fiscal year 2001. Over the past 18 months, a weak economy, security concerns by the public since the September 11th attacks and the war in Iraq and other factors, have adversely impacted travel on air, rail and other modes and the travel sector of the economy overall. The fact that Amtrak ridership dipped only slightly in fiscal year 2002 from the prior year's ridership is a good indication of the public's support and comfort with travel by rail. In the first 5 months of fiscal year 2003 (October 2002–February 2003), travelers have continued to select rail travel for many trips. Amtrak ridership has dipped 1.5 percent nationwide compared to fiscal year 2002. In the West, Amtrak ridership has increased 4.3 percent compared to one year ago, with western corridor trains showing strong gains of 8 percent. California's strong commitment to and investments in improved passenger rail service over many years are paying off as growing num-

bers of people leave their cars behind and take the train to their destination. Ridership on Amtrak's *Surfliner* service that operates between San Diego and Los Angeles is up 21 percent in the first 5 months of fiscal year 2003, compared to one year ago. Ridership on the state's Capitol Corridor and San Joaquin trains is also up, 8 percent and 5.5 percent, respectively. In March 2003, total Amtrak ridership was up 2.3 percent over March 2002. Ridership gains have been helped by some travel promotions Amtrak has run—as have the airlines—to attract travelers who are feeling the pinch of a weaker economy and anxieties about the possibility of future terrorist acts. Thus, Amtrak passenger revenues for the first 5 months of fiscal year 2003 are 12 percent below revenues one year earlier.

AMTRAK'S NEW LEADERSHIP FOCUSED ON STABILIZING THE RAIL NETWORK

Amtrak President David Gunn and the Amtrak Board of Directors have been taking actions over the past year to stabilize Amtrak's finances, bring the passenger railroad into a good state of repair, reduce operating costs and bring greater transparency to Amtrak's finances. Under Mr. Gunn's leadership, Amtrak's management structure has been streamlined to reduce costs and be more efficient. Amtrak has largely exited the express freight business, which was losing money rather than generating revenues for the railroad. Amtrak has embarked upon a program to repair wrecked rolling stock that has been out of service. Nearly 10 percent of Amtrak's equipment was in need of wreck repair last year. As of the end of April 2003, 22 railcars will have been repaired to go back into service on routes around the country.

CAPITAL FUNDING NEEDED TO ADDRESS CRITICAL INVESTMENT

Insufficient capital funding and Amtrak's focus in recent years on achieving operating self-sufficiency, as mandated by Congress, resulted in deferral of investment in important capital projects. Amtrak's fiscal year 2004 request of $1.812 billion includes $1.04 billion to address critical capital needs. These needs include infrastructure investments on the Northeast Corridor that are crucial to operation of the high-speed Acela Express service and investments to continue to repair and return to service rolling stock that has been sidelined. The remaining $768 million is needed for operation of the national Amtrak system. Amtrak is pursuing a sound course and APRC urges Congress to provide this critical funding to enable Amtrak to make needed investments in the year ahead.

FEDERAL INVESTMENTS IN TRANSPORTATION SUPPORT ECONOMIC DEVELOPMENT

Federal investments in transportation infrastructure are vital to the economic productivity of states and the nation. Every billion dollars invested in transportation infrastructure projects generates approximately 42,000 jobs. These investments ripple through the economy, amplifying the economic benefits of the investment. Investments in intercity passenger rail will create new jobs, spur economic development and enhance the economic competitiveness of regions that invest in improved passenger rail service.

The U.S. government has underinvested in passenger rail for years. The U.S. government invests only 1 percent of total transportation spending on intercity passenger rail each year. Other industrialized nations, with whom the United States competes in the global market, by contrast, invest over 20 percent of total transportation capital spending in rail. It is time to reverse this pattern of underinvestment. The returns to the Nation will be substantial.

RAIL BENEFITS RURAL AMERICA AS WELL AS METROPOLITAN CORRIDORS

The need for intercity passenger rail service in congested metropolitan corridors is clear to most policy makers. What appears to be less appreciated is the value intercity passenger rail service provides to small cities and communities across the country. Yet, intercity passenger rail service is vital to the economic health of hundreds of America's small cities and rural communities and the mobility of their citizens. Airlines have reduced or abandoned air service to many small cities, making the role of intercity passenger rail even more important to the mobility of citizens in these communities. Residents of Tuscaloosa and Anniston, AL, of Marshall and Gainesville, Texas, of Rugby, Minot and Devils Lake, ND and hundreds of other communities from coast to coast value and depend upon the passenger trains that connect their communities to the rest of the Nation.

RAIL CONTRIBUTES TO OTHER NATIONAL GOALS

Travel by passenger trains is energy-efficient, consuming about 38 percent less energy (BTU's) per passenger-mile than travel by commercial airline. Transportation is the only sector of the U.S. economy that consumes more oil today than it did 20 years ago. U.S. dependence on imported oil has been rising and since 1997, exceeds 50 percent of our daily petroleum use. Last year, the United States spent $90 billion for imported oil. Investments in improved passenger rail service are a sensible way to reduce the vulnerability created by the nation's heavy and costly dependence on imported oil. Lower energy consumption translates into benefits to air quality. Investments in passenger rail help reduce harmful air pollutants and contribute to state and community efforts to achieve healthy air quality.

In conclusion, APRC urges the Subcommittee to fully fund Amtrak's request for $1.812 billion in fiscal year 2004 to enable Amtrak to continue down the path it is pursuing to improve the reliability and quality of passenger rail service nationwide. APRC also supports strong funding of rail safety and research and development programs under the Federal Railroad Administration.

Thank you Chairman Shelby and Members of the Subcommittee for the opportunity to provide this testimony on behalf of our rail business association.

PREPARED STATEMENT OF THE RAILWAY SUPPLY INSTITUTE, INC.

On behalf of the Railway Supply Institute (RSI), I offer the following comments on Amtrak's fiscal year 2004 appropriation request.

RSI is a trade association that represents the domestic railway supply industry. Our members provide goods and services to the Nation's freight and passenger railroads as well as to rail rapid transit systems. We are a $20 billion a year industry employing some 150,000 people nationwide.

RSI supports Amtrak's request of $1.8 billion for fiscal year 2004 to operate the current nationwide route structure and begin the process of stabilizing our nation's intercity railroad passenger system. In addition to allowing Amtrak to continue to operate its network of intercity passenger trains, that amount will allow the railroad to begin the task of rebuilding wrecked equipment so it can be put back into revenue service as well as beginning the process of rebuilding the Northeast Corridor infrastructure. RSI members will provide a significant portion of material needs for the capital projects outlined in the Amtrak request. This will provide a much-needed boost to an industry that has suffered through the recent economic downturn.

As the Department of Transportation's Inspector General has stated time and again, the real problem with Amtrak is not management efficiency or the cost of the route system but the burden of funding its infrastructure. Until Congress develops a way to address these infrastructure costs, cutting trains or attempting to extract management efficiencies will not achieve the desired results. RSI believes David Gunn has demonstrated the ability to manage Amtrak effectively. He has eliminated waste, reduced management levels, cut costs, brought fiscal responsibility to the railroad and improved Amtrak's credibility.

Amtrak's workable five-year capital investment plan is what Amtrak needs to become a good, solid, reliable passenger railroad. The railroad's strategic plan will bring Amtrak's capital assets up to a state of "good repair" and maintain current rail operations. To support the strategic plan, Amtrak proposes, and RSI supports, that annual federal funding range from $1.8 million in fiscal year 2004 to under $1.5 billion in fiscal year 2008 for the combined capital investment and operating needs.

RSI does recognize the constraints of the appropriations process. In response to this, we have developed a proposal that would create a Rail Finance and Development Corporation (RFDC). RFDC is designed, in part, to supplement federal appropriations for Amtrak by supporting the significant infrastructure costs that Amtrak must address in the Northeast Corridor and other parts of the system. This supplemental funding source could significantly reduce the burden of the Appropriations Committee and allow it to use its limited resources to maintain basic service levels for rail passenger service. RFDC would be a private, non-profit, federally chartered corporation similar to Fannie Mae, that would issue up to $50 billion in tax-credit bonds over a six-year period for rail related infrastructure investments. Eligible investments would include higher speed intercity rail; rail access to ports intermodal terminals and airports; increased freight rail capacity; short line infrastructure needs; and rail line relocation. We have enclosed a white paper describing the RFDC proposal and I ask that this statement and the White Paper be included in the record.

Until RFDC, or some other supplemental funding mechanism, becomes policy, we urge the Senate Transportation Appropriations Subcommittee to provide the resources Amtrak needs to survive.

RSI looks forward to working with the Senate to create a long-term stable source of funding for Amtrak and our nations freight railroad system.

PREPARED STATEMENT OF THE AIR TRAFFIC CONTROL ASSOCIATION, INC.

The Air Traffic Control Association, Inc. ("ATCA"), located in Arlington, Virginia, USA is a professional association of forty-seven years' standing dedicated to advancement in the science and profession of air traffic control and aviation safety. Its membership is worldwide in scope, and represents all aspects of the air traffic control discipline, from air traffic control specialists and airway facilities technicians who operate and maintain the air traffic control system, to those individuals and companies who develop, manufacture and provide the technology, equipment, and services which support the system, to the citizens, government agencies, and airlines who use the system.

INTRODUCTION: THE CHANGED AVIATION MARKETPLACE

Immediately after September 11, 2001, most aviation experts predicted that the market effects of the terrorist attacks on air transportation would be short lived, and that conditions prevailing before those events—economic prosperity, increasing demand, congestion and delay—would recur within 18 months or so. Although temporary depression in air transportation demand was anticipated, the aviation community admittedly did not foresee the lingering, intensifying economic doldrums, global political instability and war to come. Certainly few, if any prognosticators envisioned air traffic would be so persistently and profoundly depressed that major airlines and related aviation enterprises would today be struggling for their very existence.

Now, with the war against terrorism continuing and military action in Iraq just winding down, and health concerns heightened, the aviation community is becoming reconciled to the reality that sluggish air transportation market conditions likely will prevail for some time. Airlines, airports and policy makers are adjusting perspectives, plans, programs, and expectations to suit new financial and operational realities.

First among these realities is the stressed, and in some cases desperate financial condition of commercial aviation. Income is down across the board. Fewer passengers are traveling at lower fares, meaning less ticket revenue for airlines and concession income for airports. Fewer flights and smaller capacity aircraft mean reduced tax and user fee income for government and private air traffic service providers. And with airlines, airports and air traffic service providers in difficulty, aviation suppliers including travel agents, aircraft manufacturers, aviation technology companies and airport construction firms are also suffering.

To make matters worse, aviation costs have not diminished proportionately, but rather have remained constant or, like fuel prices, have increased. Airlines, air traffic service providers, and airports still must make payments on aircraft and other capital equipment, pay rent, employee wages and benefits, and meet other contractual obligations. Moreover, as a result of the terrorist attacks, airlines, airports, air traffic service providers, and government organizations must absorb significant additional costs of intensified and additional security measures. Since September 11, 2001, the airline industry alone reports having suffered a loss of $18 billion; they expect 2003 losses to exceed $10 billion.

Consequently, virtually all aircraft operators are economizing in every way possible, reducing or rationalizing services, deferring capital expenditures, renegotiating labor agreements, freezing hiring, laying off workers, and selling or mothballing aircraft. Many organizations, including major airlines, are regrouping, reforming, reorganizing, realigning, or disappearing entirely through merger or bankruptcy. Airlines are adjusting schedules, equipage, and even route structures in an effort to match service to demand. Some carriers are switching to smaller capacity aircraft and maintaining or increasing frequency. Others are abandoning hubs in favor of more point-to-point service. Many high-end and business travelers are abandoning commercial service altogether, instead electing to use corporate and fractional ownership aircraft or substituting telecommunications alternatives to travel.

Air traffic service providers are doing all they can to economize in their own operations while continuing to provide equal or better service, and making system enhancements that will improve operating safety and efficiency. But after years of belt

tightening and resource deprivation, there is precious little room in most air traffic service organizations for significant additional efficiencies. A significant point to recognize is that even though the benefits of ATM system and interfacing aircraft enhancements will outweigh the costs in the long run, they do not come for free, and there simply is precious little cash available—either in ATS provider or aircraft operator coffers—to invest today.

There is another aspect of the U.S. air transportation system that current events should amplify—that the U.S. National Airspace System, in contrast to many other national systems, is a "common" civil-military system. Its infrastructure and air traffic controllers support our National Defense and Homeland Security aircraft as well. This is but another reason that the ATM system must be sustained and upgraded to meet the challenge of a new era.

AVIATION SAFETY AND SECURITY IS A FEDERAL RESPONSIBILITY

Aviation—a critical segment of the Nation's GNP and, even more important, enabler of U.S. tourism, commerce and industry—clearly is on the ropes. Now is not the time to retrench and watch the Nation's air transportation system—jewel of U.S. ingenuity and free enterprise—disintegrate. Rather, the Federal government must do all it can to preserve and strengthen U.S. aviation, especially in these difficult times. To that end, the Air Traffic Control Association urges the following.

First, it was necessary and appropriate for the Federal Government to provide financial relief to the Nation's airlines, to help them weather the aftermaths of the 9/11 attacks and market impacts of the War on Terrorism and military action in Afghanistan and Iraq. Although aviation was the vehicle, the 9/11 attacks were directed against the United States as a whole. Protecting the Nation against future terrorism is the Federal Government's responsibility, and the costs—be they for National Defense or Homeland Security purposes—should be borne by all Americans. Nevertheless, airline passengers, aircraft operators, and airports are shouldering the lion's share of the costs of air transportation system security—from direct fees for security, to aircraft and terminal modifications, to Airport and Airway Trust Fund expenditures for security infrastructure improvements. And this at a time when the entire aviation community is suffering disproportionately compared with other segments of the economy from the negative market and financial consequences of public fear and wartime disruptions to travel and tourism.

Because airport and airline security is an ongoing National and Homeland Defense function, security fees should be discontinued permanently, and the costs of TSA screening activities, related equipment and construction instead paid for with appropriations derived from the general fund. To use trust fund dollars for this purpose unfairly assesses passengers and shippers for the costs of safety and security measures that benefit everyone. Protecting aircraft from hostile attack and takeover such as we experienced in 2001 benefits the aircraft operator, the passengers and crew and, no less importantly, people and property on the ground that could be impacted. Moreover, using the trust fund in this way mortgages U.S. aviation's future by depleting the fund without corresponding replenishment. The Association looks forward to the announced plan of the Transportation Security Administration to establish a program whereby TSA would issue Letters of Intent (LOI) to reimburse 75 percent–90 percent of the costs of federally mandated security upgrades, to be paid with appropriated funds.

FAA OPERATIONS APPROPRIATION SHOULD BE "RE-BASELINED"

The Federal Government must rededicate itself to the mission of modernizing and improving airport and airway infrastructure and technology. Modernization will enable air carriers and other aircraft operators to operate efficiently as well as safely and securely during these difficult times, sustain the National Defense and Homeland Security mission, and prepare a robust, capable air transportation system for the future.

The Administration is demonstrating its commitment to U.S. aviation by proposing to continue the FAA funding profile established by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21). That landmark legislation boosted Federal spending limits for air transportation infrastructure improvement, and established budgetary mechanisms to assure that appropriations matched authorized levels. The Administration is seeking $7.5 billion per year in fiscal year 2004 for FAA Operations, increasing over the authorization period at least at the rate of inflation. For FAA Facilities and Equipment, the Administration proposes $2.9 billion in fiscal year 2004, gradually increasing to $3.1 billion in fiscal year 2007. And the Administration proposes to continue the current funding level of $3.4 billion per year for Airport Grants. $100 million per year would be available

for FAA Research, Engineering and Development. The Association believes that this request understates the real needs of the FAA. Although it represents the Administration's judgment of the proper apportionment of financial resources, we believe it does so at the sacrifice of activities and programs that should not be further deferred.

The Air Traffic Control Association agrees with the Administration that continued robust funding for air transportation operations and National Airspace System improvements is a national imperative. Public reliance on air transportation is strong and increasing, and recent history shows that the occasional market dips coincident with military action or economic recession tend to be temporary. When conditions improve, the air transport market recovers rapidly. Immediately prior to the 9/11 terrorist attacks, aviation was experiencing unprecedented growth, with overcrowding and congestion clogging many major facilities. Current projections are that aviation markets will recover to pre-9/11 conditions—including congestion and delay—sometime in 2005–2006. Even with a brief hiatus in demand, the aviation community will be hard pressed to progress sufficiently on needed capacity improvements in time to avoid a repeat of the near gridlock conditions prevailing during the summer of 2001. Now is not the time to hesitate about moving on with modernization.

For the following reasons, therefore, the Air Traffic Control Association urges the Congress to take a more proactive approach to funding operations and modernization of the National Airspace System than the Administration proposes. First, the Administration's fiscal year 2004 funding proposal (3.2 percent increase, less than the rate of inflation) understates the real resource requirements of FAA's Operations functions. FAA's air traffic services, airway maintenance, and regulation and certifications organizations already are debilitated by years of funding deprivation. Because 95 percent of FAA's Operations budget is dedicated to personnel and related costs, years of rate-of-inflation increases have barely covered the costs of mandatory pay increases for on-board staff and plant maintenance and have not addressed the backfill overtime costs associated with training controllers to deal with new situations and systems. Almost no money has been available for projects and activities necessary to prepare for future needs. FAA has barely begun the process of hiring and training significant numbers of air traffic controller and airway facilities technician candidates to replace the "bubble" of employees eligible and expected to retire. (The Administration is requesting $14 million to hire 300 controller candidates in fiscal year 2004, but because training a controller takes years and many "wash out" of the process, there are some who estimate that 1,000 per year is a more realistic hiring goal.) Schedules for installation, check out, and training of workers on new equipment and technologies are stretching out, delaying benefits until the new items can be put into service. Less than maximum effort can be devoted to development and certification of new technologies. Efforts to devise capacity, efficiency, and safety enhancing air traffic procedures and operating techniques are under resourced. And these chronic shortages are being exacerbated by diversion of resources to satisfy post-9/11 security activities and requirements. Before FAA can begin to survive on rate-of-inflation increases in its operations and maintenance funding the financial base on which these increases are calculated must be increased substantially. ATCA therefore urges Congress to authorize and appropriate Operations funding in fiscal year 2004 at least 15 percent over and above the Administration's $7.5 billion estimate, or $9 billion.

PROTECT AIR TRAFFIC SYSTEM MODERNIZATION!

The Administration's $2.9 billion per year request for FAA Facilities and Equipment authorization and appropriation falls far short of what is required to sustain a really robust modernization and improvement effort. This amount is $100 million less than the amount enacted in fiscal year 2002, and 2 percent less than the fiscal year 2003 requested amount. But needs for F&E dollars have increased significantly in since then. FAA must first of all sustain existing capability, which is becoming ever more costly. Although much has been replaced, a significant portion of equipment and software in use today is operating well beyond its intended service life and is therefore increasingly trouble prone and costly to repair or replace. Moreover, in the aftermath of 9/11, significantly more of this legacy equipment will remain in service and must be maintained indefinitely, for example, primary radars and geographically dispersed navigation aids and communications systems have renewed value and need to be retained. Other items, many intended to meet joint security and defense needs of FAA, DOD, and Homeland Defense, are being added to FAA's shopping cart. And F&E dollars also pay for the modernization of the Nation's air traffic control system. Most of these projects are well underway, requiring large cap-

ital outlays. Disruptions due to budget adjustments are very costly, both in terms of money and foregone operating benefits. And the F&E account also supports implementation of FAA's Operational Evolution Plan (OEP), a 10 year rolling blueprint for applying advanced technologies and other improvements to garner near term safety, capacity and efficiency benefits. The most recent iteration of the OEP covering fiscal years 2004–2013 is estimated to cost $12.4 billion over the ten years—up $1 billion over the fiscal years 2001–2010 version.

In 1998, the FAA estimated that modernization costs alone reflected in Version 3.0 of the NAS Architecture would be approximately $3 billion per year. Add to this the annual costs of sustaining and refurbishing equipment in use—much of which is now permanently off the decommissioning list, new National Defense and Homeland Security requirements, and the expanding price of the OEP, and it becomes clear that the real necessary level of FAA funding for F&E in fiscal year 2004 and the foreseeable future is more in the order of $4 billion per year. This is the amount the Association urges Congress to authorize and appropriate.

In addition, the Association urges the Administration and Congress to assure that dollars appropriated for NAS improvements are not diverted to other purposes. To be specific, because NAS improvement projects are multi-year endeavors requiring multi-year budgeting and financial management, annual rescission of unexpended funds wreaks havoc with overall planning. Often, the "unexpended funds" are associated with worthwhile projects and activities already in motion, and do not represent overlooked or obsolete requirements. It would be helpful if this practice were avoided. Or, alternatively, Congress might consider instituting a mechanism that increases the bottom line appropriation that compensates for earmarks rather than, as presently occurs, broader based activities or programs being decreased. Second, FAA prioritizes projects and activities with the objective of achieving the best result for the entire air transportation system. Although legislators understandably are concerned about aviation issues in their home districts, resisting the temptation to earmark F&E funds for specific local projects would greatly benefit the entire system. Third, other aviation priorities such as the Essential Air Service Program should be funded through the regular budget process, not through diversion of FAA F&E dollars intended for NAS modernization. Each year hundreds of millions of FAA F&E dollars redirected through these budget procedures—dollars that otherwise would have been applied to improving the safety, capacity and efficiency of the NAS.

THE PROBLEM OF ASYNCHRONOUS IMPROVEMENTS

The promise of air traffic system modernization will not be realized, regardless of the sufficiency of funding, without corresponding upgrade of aircraft technologies that interface with the ATC system. At a recent Air Traffic Control Association symposium, one speaker estimated that the cost of equipping each commercial aircraft to take advantage of new ATC technologies and procedures is approximately $465,000. Avionics for business and general aviation aircraft are correspondingly expensive. Much of this equipage expense will be offset by the value to the aircraft operator of efficiencies and flexibility derived from the new systems (e.g. fuel and time savings from more direct routings, less holding, reduced delays, more operationally efficient altitudes.) FAA as the air traffic service provider also will derive safety, efficiency and capacity benefits from implementation of modern systems, for example reduced separation between aircraft thereby increasing airspace capacity, or preventing collisions and improving traffic flow on the airport surface.

But no one will enjoy the maximum payback from modernization unless ATC improvements and aircraft upgrades take place contemporaneously, and all aircraft in given airspace are comparably equipped. If new ATC system implementation lags behind aircraft equipage, operators will have made an investment with no immediate payback. If the ATC system is equipped without corresponding aircraft capability, neither the users nor FAA will derive full benefits. And if ATC improvements are made but only some aircraft are equipped for the new environment, airspace must be segregated to allow those who are equipped to derive benefits while still permitting those not so capable to continue operating and the underlying infrastructure must support both.

Universal aircraft equipage can be achieved in three ways. First, aircraft operators may be encouraged to equip voluntarily if the operating benefits are sufficient to outweigh the cost. Second, disincentives may be imposed on operators that fail to equip. For example, they may be foreclosed entirely from some environments, subjected to less optimal operating conditions (e.g. sub-optimal routings, non-preferred altitude), or charged higher fees or taxes. A third alternative is for the Government to mandate minimum equipage for everyone.

The first option—voluntary compliance—benefits everyone. But there are situations in which the cost/benefit ratio of a given improvement is positive for the entire system, yet negative for a specific aircraft or fleet. In that case, a rational operator may well choose not to invest. And cash poor operators—and today many of the Nation's largest air carriers are in this category—may simply be unable to invest in improved aircraft systems regardless of the potential compensating benefits. Using the second option—operating restrictions—to coerce compliance is not a good choice because such mechanisms work by degrading the operating environment for those less advantaged, increasing their costs and as a result perpetuating the disparity. Moreover, selective restrictions tend to disadvantage those who are least able to afford it, e.g. smaller commercial operators providing service to remote and underserved localities, and general aviation.

The third option, Government mandate, is the only 100 percent effective approach. But in the current economic environment, with the equivalent of one-third the U.S. commercial airline fleet in mothballs and one quarter of commercial airline capacity operating in bankruptcy, a mandate to equip with expensive new avionics could precipitate or accelerate liquidation of major aviation companies. For reasons stated previously in connection with aid to financially distressed airlines, the Air Traffic Control Association urges the Administration and Congress to consider making updated aircraft avionics an integral part of federally funded NAS modernization projects. This approach assures that necessary technologies will reliably be deployed congruent with corresponding new FAA systems. And in this way, safety and operating efficiency of the National air transportation system will be maximized without risking widespread collapse of the aviation industry. We also would ask that Members of transportation authorizing and appropriations committees collaborate with their colleagues to enact legislation that would enable corresponding equipage of military, homeland security and government aircraft.

AIRPORTS FUNDING NEEDS A BOOST

The Administration proposes to continue into the future the current AIR–21 annual amount of $3.4 billion for Airport Grants. This level of support should be increased.

The Airports Council International—North America estimates that the actual average annual cost of airport capital development for the years 2003–2006 has grown to $15 billion. Although Federal AIP is not intended to pay all the capital costs of airport improvements, since 2000 when AIR–21 was enacted, and especially since the events of 9/11, airport need for federal funding has increased significantly. On the one hand, because airport revenues are largely tied to traffic levels, income is down drastically since the terrorist attacks and initiation of military action in Afghanistan and Iraq. On the other hand, costs are way up. Approximately two-thirds of airport capital spending is for new runways and other facilities to accommodate future growth. Most of this work already is underway, and contract requirements including schedules of expenditures are firm. The other one third is used to preserve existing infrastructure and maintain compliance with standards—also non-discretionary expenditure. Neither of these categories of expenses fluctuates downward with traffic counts. Meanwhile, airports are facing significant new security costs such as terminal modifications to accommodate large baggage screening machines, stepped up grounds and terminal security including more personnel, and enhanced access system technology. And, we foresee that increasing reliance on point-to-point versus connecting passenger service will accelerate the need for improvements at airports heretofore not anticipating significant growth. If Federal funding is continued only at the AIR–21 level, the national system of airports will continue to fall behind the power curve. To support recovery of the air transport industry, the Federal Government must significantly increase—not merely continue—its contribution toward expansion and improvement of the Nation's airports.

AVIATION RESEARCH MUST BE REINVIGORATED

Fourth, and perhaps most important for the future of U.S. aviation, the level of effort of FAA RE&D must be increased four- to five-fold—that is, $400 to $500 million per year.

The Administration proposes a funding amount of $100 million for this function. This is $25 million less than the fiscal year 2003 enacted amount, and one half the amount approved in fiscal year 2002. This funding trend reflects an alarming deterioration in commitment of the Federal Government to maintaining the United States on the global forefront of aviation and aeronautical science and industry. The Administration's fiscal year 2004 proposal is paltry by any standard, and if approved as requested will sound the death knell for any notion of an independent

FAA R&D capability related to air traffic control. (ATC efficiency research is "zeroed out" in the fiscal year 2004 proposal.) In today's "bottom line" business environment, and especially with the economy in recession, private industry cannot be counted on to fill the void.

If the United States is going to continue being the world leader in aviation and aerospace technology, it is long past time to renew the Nation's financial commitment to the government-sponsored research programs needed to make that happen. This means multiplying by four or five times the amount of money now going each year to FAA RE&D. It also means generously supporting all manner of research being conducted by NASA as well. Although NASA's activities cannot substitute for a vigorous, well-funded FAA RE&D capability, in some areas of research it offers expertise and research resources that increasingly complement those of FAA and support FAA's mission and objectives. However, the breadth of appropriate FAA RE&D goes well beyond NASA and DOD's interests, and should not be dismissed.

DEVELOPING A VISION OF THE FUTURE AIR TRANSPORTATION SYSTEM

Important for the future will be a Government-wide, interagency activity to coordinate aviation and aerospace requirements both existing and for the future, define research needs and applications for the next generation air traffic management system, and assemble a unified budget report covering all aviation system funding needs. Government-wide planning will allow various organizations to share knowledge and facilities, avoid duplication of effort, and leverage resources through joint and cooperative activities. The Department of Transportation should lead the coordination activity, with the Departments of Defense, Commerce, and Homeland Security, and FAA and NASA participating. As part of this effort, FAA should undertake to define the next generation air traffic management plan for the United States, with involvement of all private sector aviation stakeholders, members of the public, and government agencies with relevant missions.

Senate bill S. 788, the "Second Century of Flight Act", sponsored by Senators Hollings, Brownback, Rockefeller, Inouye, Cantwell and Kerry provides an excellent framework for just such a Government-wide collaboration to enable the United States to maintain its leadership in aeronautics and aviation. The bill would establish and fund in DOT an "Office of Aerospace and Aviation Liaison" to lead the interagency coordination activity, and create in the FAA a "National Air Traffic Management System Development Office" responsible for developing a next generation air traffic system plan for the United States in collaboration with other organizations having an aviation mission. S. 788 also would authorize for FAA RE&D expenditures $289 million in fiscal year 2004, $304 million in fiscal year 2005, and $317 million in fiscal year 2006. These amounts are less than ATCA advocates, but a good start nonetheless. The Air Traffic Control Association supports the principles stated in S. 788, and urges Congress to enact the legislation.

CONCLUSION

Terrorism, war, and economic uncertainty have exacted a significant toll on air transportation enterprises around the world, especially in the United States where air carrier aircraft were hijacked to be the instruments of attack. Among sectors of the Nation's economy, aviation has paid more than its share of the price of those sad events. The lasting financial and market impacts are presenting a serious challenge for the United States in maintaining a leadership role in air transportation and aerospace technology, working together with other nations to achieve a safe, secure, efficient, capable, seamless global air transportation system. With the full support of the Administration and Congress, however, the United States can retain rather than relinquish its stature in the world aviation community, and continue to apply the fruits of its efforts in partnership with other nations toward the betterment of air transportation around the world.

To that end, the Air Traffic Control Association urges Congress to assure a robust and reliable funding stream for operations, maintenance, and modernization of the National Airspace System, and to initiate under the leadership of the Department of Transportation and fully fund a government-wide Federal aviation and aerospace research and development capability to support the air traffic management system envisioned for the future. Together we must prepare for the future, rather than react to the past.

MATERIAL SUBMITTED SUBSEQUENT TO CONCLUSION OF HEARINGS

[CLERK'S NOTE.—The following statement was not presented by the publication date of Nondepartmental Statements, but was submitted to the subcommittee for inclusion in the record:]

PREPARED STATEMENT OF GERARD J. REIS, PRESIDENT, STRATEGIC TECHNOLOGY ENTERPRISES, INC.

The committee has long recognized and maintained that cabin air quality is an important safety issue for passengers and aircrew, and has pursued actions to support research, development, and implementation of measures that would advance the capability to mitigate against the threats posed by biological and chemical contaminants. The committee's interest in these issues is well placed, not only because of the potential risks and dangers that passengers and aircrew may face during routine flight operations, but also because of the safety issues that may occur as consequences of terrorist activity. Particularly in light of the SARS outbreak, the entire issue of cabin air quality, contamination, and decontamination has now taken on an added dimension of significance and urgency.

The recent outbreak of SARS highlights the dangers that passengers and aircrew may encounter from both intentional and unintentional release of biological and chemical contaminants, particularly in an aviation or in-flight environment. Although SARS may be a relatively simple virus within the context of biological contaminants, its presence and cross-border transmission alerts us to the potential dangers that might accompany biological and chemical contamination of aircraft and aviation assets.

In addition to the immediate dangers posed to passengers and aircrew, we must consider the potential impacts that intentional release of biological and chemical contaminants would have on the air transportation network and the airline industry. A contaminated or suspect-contaminated aircraft, filled with passengers, would present significant challenges for the Federal Government and the various airport authorities, and disruptions to the network. Further, there is not at present a system, procedure, or capability to process contaminated passengers and aircrew, nor is there a system, procedure, or capability to decontaminate an aircraft and return it to service. The committee understands these challenges and has actively pursued the development of capabilities and systems to overcome the challenges and ensure the safety of passengers and aircrew.

The Flight-100—Century of Aviation Flight Reauthorization Act as submitted (H.R. 2115) directs the Administrator of the Federal Aviation Administration (in Sec. 425) to perform, at a minimum, only three of the activities called for in the report of the National Research Council (NRC) entitled "The Airliner Cabin Environment and the Health of Passengers and Crew." The three activities specified in the submission would involve study and analysis, which, albeit important, would not prepare us to respond quickly and effectively to an intentional or unintentional release of biological and chemical contaminants. Nor would the provisions of the submitted draft legislation develop a system, procedure, or capability to process contaminated passengers and aircrew, or decontaminate an aircraft and return it to service.

These are all serious deficiencies in the draft legislation. However, the safety of passengers and aircrew, and the need to decontaminate passengers, aircrew, and aircraft, were extensively discussed in the NRC report and in the FAA's subsequent response to the NRC recommendations. For example, the Airliner Cabin Environment Report Response Team of the FAA developed a series of recommended actions to implement the recommendations in the NRC report. These recommended actions were submitted to the FAA Administrator by the Associate Administrator for Regulation and Certification.

A Chemical/Biological Threat Mitigation Proposal was developed within FAA as a safety initiative that would address two compelling recommendations of the NRC report. These two NRC recommendations, which are ignored in the draft legislation, support a requirement to develop immediately a system, procedure, and capability to process contaminated passengers and aircrew, and to decontaminate aircraft.

Technologies and capabilities are needed now to address cabin air quality and chemical/biological threat mitigation, especially for decontaminating exposed passengers and crew and returning contaminated aircraft to service with minimum disruption to the air traffic network. The Chemical/Biological Threat Mitigation Proposal reflects this urgency. The strong recommendation was made for funding this activity at $4.74 million in fiscal year 2004 and $6.36 million in fiscal year 2005. However, despite the FAA's public announcement[1] that Flight-100 provides a substantial investment in safety research, Chemical/Biological Threat Mitigation is not funded in the draft legislation. The committee should consider authorizing these funds specifically for this safety program, in addition to the funds requested by the Administration.

Given the quickly-changing and serious nature of terrorist threat conditions, the deficiencies in capabilities that have been illustrated in the SARS outbreak and in various preparedness exercises, and considering the set of dangers inherent in routine operations and encompassed in the subject of cabin air quality, there appears to be more than a compelling, urgent need to fund Chemical/Biological Threat Mitigation.

As envisioned by FAA AVR, the technology and systems needed to perform decontamination are potentially common to cabin air quality functions. By funding Chemical/Biological Threat Mitigation, the committee would advance both cabin air quality and decontamination. In any case, a genuine safety need exists to put in place capabilities that would address decontamination of passengers, crew, and aircraft. We cannot afford to wait for an incident to begin development of these capabilities.

The impressive, demonstrated efficacy of Vaporized Hydrogen Peroxide (VHP) in patented technologies developed by STERIS Corporation presents the aviation community with a proven-effective approach for mitigating both chemical and biological threats, as well as potentially significant applications in cabin air quality for routine operations. STERIS's proprietary technologies have been universally recognized as the standard in the pharmaceutical and health care industries for the past 10 years as highly effective and economical systems for decontaminating and sterilizing both environments and equipment. In addition, VHP technology can perform prophylaxis decontamination without damaging the surfaces where the technology is employed or items on those surfaces, including sophisticated electronic components. Further, VHP has already demonstrated in two high profile anthrax contamination incidents that its potential for application in biological decontamination situations is highly significant.

Published reports of this technology's efficacy are available and three are attached. These include "Vapor Phase Hydrogen Peroxide Decontamination of Food Contact Surfaces,"[2] "Room Decontamination with Hydrogen Peroxide Vapor" and "Room Decontamination with Vaporized Hydrogen Peroxide (VHP®) for Environmental Control of Mouse Parvovirus." These reports and other literature in the public domain illustrate the potential for near-immediate aviation safety applications.

The demonstrated performance of VHP®, particularly in challenging, complex contamination situations, affords our Nation in general and the aviation community in particular a well-developed technology that can be applied to aircraft safety issues quickly and efficiently within the program described in the Chemical/Biological Threat Mitigation Proposal.

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[1] DOT 22–03, "Flight-100 FAA Authorization Proposal Charts New Century of Safer, More Efficient Aviation." Office of Public Affairs, U.S. Department of Transportation, March 25, 2003.

[2] McDonnell, Gerald, George Grignal and Kathy Antloga. Dairy, Food and Environmental Sanitation, November 2002, pp. 868–873.

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