

**SAFE AND FLEXIBLE TRANSPORTATION
EFFICIENCY ACT OF 2003**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION**

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

MAY 21, 2003

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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SAFE AND FLEXIBLE TRANSPORTATION EFFICIENCY ACT OF 2003

WEDNESDAY, MAY 21, 2003

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

The Committee met, pursuant to notice, at 2:35 p.m. in room SR-253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Good afternoon. Today, we will hear the Administration's proposal for reauthorizing the Transportation Equity Act for the 21st Century, known as TEA-21, to welcome our witness, Transportation Secretary, Norman Mineta.

Few pieces of legislation receive as much attention and interest on the part of every Member of Congress as the highway bill, because highway and transit spending has far-reaching implications for mobility, safety, and jobs. Every Member has a stake in trying to ensure that his or her State gets its fair share of available funds.

One of our priorities, or certainly mine, is to achieve a more equitable distribution of funds for donor States like mine under TEA-21. Through Fiscal Year 2001, Arizona has received back only 87 percent of its share of total contributions to the Highway Trust Fund, less than even the 90.5 percent minimum guaranteed for the Core Highway program. This is due, in part, to the ever-increasing practice of Congressional earmarking, whereby appropriators direct funds to the States and localities they choose instead of allowing the awarding of so-called discretionary funds to be based on the merits of a particular project.

Members may be interested to know that, according to the Department of Transportation Inspector General, Congress appropriated \$18 billion in discretionary funding for highway transit and aviation discretionary programs during Fiscal Years 1998 to 2002. Of that amount, approximately \$11 billion—of the \$18 billion, \$11 billion was earmarked. Interestingly, the Administration's reauthorization proposal would discontinue several discretionary programs.

I can certainly understand your written statement's sentiments, Secretary Mineta, that, quote, Congressional earmarking has frustrated the intent of most of these discretionary programs, making it harder for States and localities to think strategically about their

own transportation systems, unquote. The process is broken, and we need to fix it.

The many issues pertaining to reauthorization of the highway transit and safety programs cross the jurisdictional lines of several Senate Committees, including Environment and Public Works, Banking, Finance, and Commerce.

The Commerce Committee's primary role is the critical area of surface transportation safety, including vehicle and driver behavior programs under the National Highway Traffic Safety Administration and commercial motor vehicle and driver safety programs under the Federal Motor Carrier Safety Administration, both of whom are represented today in Dr. Runge and Ms. Sandberg.

Clearly, we need to reexamine and strengthen our safety programs. NHTSA's preliminary report for 2002 estimates that the number of fatalities, 42,850—the number of fatalities, 42,850—increased to its highest level since 1990. Forty-two percent of all fatalities were alcohol-related, and 25 percent of all fatalities involved a rollover crash. Sixty percent of vehicle occupants killed in crashes were not wearing a seatbelt. It's worth repeating. Sixty percent of vehicle occupants killed in crashes were not wearing a seatbelt. However, one bright spot last year was a 3.5 percent decline in the number of fatalities in accidents involving large trucks, to 4,902 fatalities.

The Commerce Committee will move quickly in the coming weeks to consider and report legislation to reauthorize both these agency programs and, if a consensus can be reached, the Hazardous Materials Transportation Program, which is partially addressed in the Administration's proposal. It is our goal to move out of Committee next month the reauthorization titles under our jurisdiction and to be fully prepared for floor action during the Senate's debate on the comprehensive reauthorization legislation this summer.

Thank you. Senator Hollings?

**STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator HOLLINGS. Well, thank you, Mr. Chairman. And we welcome Secretary Mineta and the witnesses. I only wish you and I both had more influence.

[Laughter.]

Senator HOLLINGS. Where you get 87 percent return, I'm only getting 86 percent return.

Otherwise, with respect to our so-called \$726 billion or \$550 billion, whatever, tax cut, the revenues that we have now that could create, as they say, some 190,000 jobs. The Administration estimates that for every billion dollars in highway construction, for example, it creates 47,000 jobs. So you and I had the opportunity to really put some money to the needs of the country with respect to not only highways, bridges, safety, and, more particularly, rail. But we have a chance to create millions and millions of jobs. Instead, we're going the other direction.

It's only to be noted that President Lincoln put on a dividend tax in order to pay for the war. We take the dividend tax off to make sure we don't pay for it.

Thank you.

[Laughter.]

The CHAIRMAN. Thank you for that history reminder, Senator Hollings.

Senator HOLLINGS. The party of Lincoln.

[Laughter.]

The CHAIRMAN. Thank you.

Senator Brownback, of bleeding Kansas.

[Laughter.]

**STATEMENT OF HON. SAM BROWNBACK,
U.S. SENATOR FROM KANSAS**

Senator BROWNBACK. You know, I thought we won that war. Mr. Chairman, thank you very much. I want to submit my full statement into the record. I appreciate very much the Secretary being here today.

The programs that we're going to be discussing, I think, are vitally important and are a central function of government, and I'm hopeful that we can do some of the things, like what the Chairman is talking about, focusing more in on the formula and less on the distractions on the side where people are pulling funds away from the central functions that we're trying to get done with TEA-21.

I think overall, TEA-21 has been an excellent bill; it always could use some improvements, but I think we're going in some of the right directions. I'm hopeful we can continue in some of these positive directions.

One that we'll be watching, as well, that hasn't come up yet, but I'm sure will, the ethanol tax credits. There are different States that benefit in different ways on those. Certainly my State's one of those, in that this is, I think, a good policy and a good program that's helped to get an alternative energy source moving forward, which we're going to be considering soon, an energy bill, that one of the key aspects of it is, how do we get more energy bases moving forward in a broad set of categories, and here's one that we've been working at for some period of time that I hope can continue.

Mr. Chairman, thank you for holding the hearing.

[The prepared statement of Senator Brownback follows:]

PREPARED STATEMENT OF HON. SAM BROWNBACK, U.S. SENATOR FROM KANSAS

As you know, Kansas is a large agricultural state. Encouraging ethanol use throughout the country helps the ethanol producers in my state. In the past, I have supported efforts that encouraged ethanol use. This remains a priority for me and I hope that the Administration will continue to support the use of ethanol and those programs that encourage its use.

Additionally, Kansas has been one of the "donee" states in the Federal Highway System. Throughout the TEA-21 authorization, Kansas received an average of \$1.07 for every one dollar put into the system. I am committed to ensuring that Kansas remain a donee state. As proposals are offered, I will be looking closely to see how Kansas' Highway funding is affected.

On another note, I was pleased to see in your proposal some attention given to the RABA mechanism. As we are all aware, there have been major fluctuations in RABA predictions in the past. Unfortunately, predictability has suffered under this mechanism and states are not able to accurately plan their highway projects. I am pleased to see that your proposal modifies the RABA calculation so that annual funding level adjustments are less dependent on future receipts and more dependent on the levels of actual receipts. It is critical that states are able to more accurately

assess what their funding levels will be, particularly as states all across the Nation are suffering major budget problems.

Again, Mr. Secretary, thank you for being here today. As the Senate continues to move forward on the transportation reauthorization legislation, I will be watching closely those issues of particular importance to Kansas. I appreciate your taking the time to be here today. I look forward to offering a few questions.

The CHAIRMAN. Senator Inouye?

**STATEMENT OF HON. DANIEL K. INOUE,
U.S. SENATOR FROM HAWAII**

Senator INOUE. Thank you very much, Mr. Chairman. And, Mr. Secretary, it's good to see you again, sir.

I'd like to touch upon two of your new six programs proposals in this reauthorization—it's of particular interest to Hawaii—the Freight Transportation Gateways Program and the Intermodal Passenger Facilities Program, your proposal on Freight Gateway to establish a National Highway System set-aside to fund intermodal connections and facilities.

I'd like to commend the Department for proposing this for intermodal freight needs, because it will solve critical bottlenecks in our Nation's transportation system. So I'm very interested in working with the Administration to make certain that the intermodal connections that are so vital to my State would be eligible under this program.

With respect to proposed funding for intermodal passenger facilities, your program is focused on capital grants for intercity bus intermodal facilities and lists several modes of transportation as eligible. I believe, however, that seaports and ship facilities should be included as eligible expenses in an effort to facilitate the flow of passengers at seaports.

And so I look forward to working with you to extend these grants beyond the intercity bus industry and open this funding to facilities and industry that will facilitate intermodal passenger efficiency.

I'm certain you're aware, Mr. Secretary, that the transportation security issues affect the State of Hawaii directly. More than 95 percent of our goods are imported through maritime shipping, and a disruption of this process would cause a significant hardship for Hawaii's residents and visitors. As we saw after 9/11, the economy of Hawaii is especially dependent on the secure transportation network. So I'm pleased to note that the security improvements would be an eligible expense under both the Freight Gateways Program and the Intermodal Passenger Facility Program.

The safety of the traveling public, obviously, is extremely important to this Committee, as well as to the general public. So as we move forward with the reauthorization, you may be assured that we'll be paying particular attention to safety issues. I look forward to working with you, sir.

The CHAIRMAN. Thank you, Senator Inouye.

Welcome, Congressman and Secretary Mineta. We're glad you're here. We know you've had some health problems, and we're very happy to see you're recovered and back in your usual active role.

I also hope, perhaps, maybe after your comments, maybe we could get a comment from Dr. Runge and/or Ms. Sandberg. This issue of the number of fatalities being the highest since the year

1990 is a very disturbing statistic, and maybe we could have a couple of comments on that issue with your associates. It's very disturbing, and alcohol-related, obviously, is important, but, again, the failure of the use of seatbelts is another issue that perhaps we could have some comments about. Thank you. Welcome, Secretary Mineta.

**STATEMENT OF HON. NORMAN Y. MINETA, SECRETARY,
U.S. DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY
DR. JEFFREY W. RUNGE, ADMINISTRATOR,
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION;
AND ANNETTE M. SANDBERG, DEPUTY ADMINISTRATOR,
OFFICE OF THE ADMINISTRATOR,
U.S. DEPARTMENT OF TRANSPORTATION**

Secretary MINETA. Thank you very much, Mr. Chairman.

Chairman McCain, Senator Hollings, and Members of the Committee, thank you very, very much for this opportunity to appear before you today to discuss the Bush Administration's proposal to reauthorize our surface transportation programs.

Before I begin, I'd like to introduce our National Highway Traffic Safety Administrator, Dr. Jeff Runge, and Acting Federal Motor Carrier Administrator Annette Sandberg, both of whom are here to assist me with any details of your questions.

Last week, I sent to Congress the Administration's reauthorization proposal, the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2003, or SAFETEA. This 6-year, \$247 billion proposal is the largest surface and public transportation commitment in American history, larger than ISTEA, larger than TEA-21. But it builds on the successes of the landmark legislation, ISTEA, which I coauthored during my days on the other side of this microphone in the other body, and its successor, TEA-21.

Our reauthorization proposal serves as a true blueprint for investment for the future, supplying the funds and the framework for needed investments to maintain and grow our national transportation system while protecting the environment for future generations of Americans.

In addition, our proposal places a central focus on transportation safety. Although we have made improvements in the rates of fatalities and injuries on our highways, the total numbers remain intolerable, and they are rising. In 2002, nearly 43,000 people lost their lives on our highways and roads, and these are numbers that I simply will not accept. And that is why I have challenged the dedicated men and women of the Department of Transportation to dramatically reduce the number of injuries and fatalities on our Nation's highways, starting right now.

For the past year-and-a-half, this Department, with the critical and timely help of this Committee, has dedicated itself to improving transportation security for all Americans. Faced with the scourge of terrorism, our Department responded by creating unprecedented partnerships with the private sector, Congress, interest groups, and Federal, State, and local agencies. Together, we succeeded in decreasing the dangers of terrorism through new and better technology, more personnel, improved laws, and increased education.

Mr. Chairman, we are going to do the same with car crashes. And this year, we are going to take the same passion, call on similar partnerships, and build the same record of success through enforcement, education, and engineering. Nothing would make a greater difference in reducing injuries and fatalities than to increase the use of safety belts everywhere in America. If safety-belt use were to increase from the present national average of 75 percent to 90 percent, which is an achievable goal, 4,000 lives would be saved each year. We have a moral, as well as an economic, obligation to immediately address the problem of transportation safety.

The total economic impact of all motor vehicle crashes exceeds \$230 billion a year, a staggering figure, and that is why President Bush and I have made saving lives an essential priority for the Department and for the reauthorization of TEA-21.

Our bill would improve safety by creating a new core safety program consolidating and simplifying the safety programs that are administered by NHTSA and providing new incentive bonuses to reward States that achieve demonstrable safety results. SAFETEA also increases funding for important commercial vehicle safety and enforcement programs and strengthens safety auditing of new entrant motor carriers. Enactment of our proposal would be an important step in reducing highway fatalities and injuries and providing greater flexibility to State and local governments.

Mr. Chairman, I also believe that the enactment of SAFETEA would help strengthen the stewardship of Federal resources. The American people and the Congress rightfully hold our Department accountable for ensuring that Federal funds are used in the most efficient and effective manner possible. Our proposal would help ensure that every dollar that is spent yields the maximum benefit in terms of the number of lives saved, reduced congestion, and increased mobility. SAFETEA would establish an oversight program for monitoring the effective and efficient use of Title XXIII authorized funds with a specific focus on financial integrity and project delivery.

Our Nation's transportation system faces significant challenges in other areas, as well, such as congestion, project delivery, freight movement, and intermodal connectivity. SAFETEA would create a safer, simpler, and smarter Federal surface transportation program by addressing transportation problems of national significance, while giving State and local transportation decisionmakers more flexibility to solve transportation problems in their communities.

To accomplish all of these goals, SAFETEA calls for a record Federal investment in surface transportation, spending over \$201 billion on highway and safety programs and nearly \$46 billion on public transportation programs from Fiscal Year 2004 through Fiscal Year 2009. I firmly believe that our proposal provides an excellent framework to tackle the surface transportation challenges that lie ahead.

SAFETEA will help ensure needed repairs to our roads and bridges. It will ensure that new transportation projects are completed on budget and on time. It ensures the continued growth of our Nation's economy without imposing costly new taxes. And, Mr. Chairman, I am proud to say that SAFETEA includes a strong program for protecting and preserving the environment.

Our proposal funds our Nation's transportation infrastructure needs in a fiscally responsible manner. SAFETEA continues the funding guarantees of TEA-21 that linked highway funding with transportation excise-tax receipts, and redirects the 2½ cents per gallon of the general fund's gasohol tax to the Highway Trust Fund. SAFETEA also improves highway infrastructure performance and maintenance by dedicating an additional \$1 billion a year of Highway Trust Fund dollars over and above each year's estimated receipts into the Highway Trust Fund.

Obviously, the total size of the program is, and will continue to be, a matter of debate. That debate should not, however, be permitted to cloud a meaningful and necessary discussion of the many programmatic reforms that are contained in SAFETEA.

Moreover, any proposal that jettisons the important linkage between tax revenues and spending in an effort to achieve higher overall funding puts the landmark victory of guaranteed funding at risk.

My written statement, which has been submitted for the record, contains a much more detailed explanation of the programmatic reforms that are included in our SAFETEA proposal. It is my hope that you will give these proposals serious consideration as the Committee moves to develop its version of this legislation.

I would like to conclude by stressing the fact that the Bush Administration is committed to securing approval of a multi-year reauthorization bill this year, and I look forward to working with all of you and with the Congress to achieve that very important goal.

Again, Mr. Chairman, thank you very much for having us here today, and I look forward to answering your questions.

[The prepared statement of Secretary Mineta follows:]

PREPARED STATEMENT OF NORMAN Y. MINETA, SECRETARY,
U.S. DEPARTMENT OF TRANSPORTATION

Chairman McCain, Senator Hollings, and Members of the Committee, thank you for the opportunity to appear before you today to discuss the Administration's proposal to reauthorize our surface transportation programs—the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, or “SAFETEA.”

Nothing has as great an impact on our economic development, growth patterns, and quality of life as transportation. This is equally true at the national, State, and local levels. A safe and efficient transportation system is critical to keeping people and goods moving and cities and communities prosperous. Reauthorization will supply the funds and the framework for investments needed to maintain and grow our vital transportation infrastructure.

In addition to improving the quality of our lives and enhancing the productivity of our economy, our proposed legislation seeks to place a central focus on transportation safety. Although we have made improvements in the rates of fatalities and injuries on our highways, the total numbers remain intolerable, and they are rising. In 2002, nearly 43,000 people lost their lives on our highways and roads. Families are destroyed and promise is lost.

The economic costs are unacceptable as well. The total annual economic impact of all motor vehicle crashes exceeds \$230 billion, a staggering figure.

For these reasons, the President and I have made saving lives an essential priority for the Department and for the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21). Nothing would make a greater difference in these numbers than to increase the use of safety belts everywhere in America.

If safety belt use were to increase from the national average of 75 percent to 90 percent—an achievable goal—4,000 lives would be saved each year. For every one percentage point increase in safety belt use—that is 2.8 million more people “buckling up”—we would save 250 lives, suffer significantly fewer injuries, and reduce economic costs by hundreds of millions of dollars a year.

We have a moral, as well as an economic, obligation to address immediately the problem of transportation safety. The Bush Administration is committed to reducing highway fatalities, and our bill offers proposals to increase safety belt use and to take those actions that can make the achievement of this goal possible.

Our proposals include creation of a new core funding category dedicated to safety within the Federal-aid highway program. This new category will increase visibility and funding beyond the current safety set-aside provisions. We are also seeking to consolidate and simplify the safety programs administered by the National Highway Traffic Safety Administration (NHTSA). This proposal will enhance the capacity and flexibility of States to use Federal grants and their own funds to improve safety. Incentive bonuses will reward those States that achieve demonstrable safety results. Enactment of this bill would be an important step, we believe, in reducing highway fatalities and injuries, and providing greater flexibility to State and local governments to use these funds consistent with a comprehensive strategic highway safety plan.

Our Nation's transportation system obviously faces significant challenges in other areas as well, such as congestion, timely project delivery, freight efficiency, and intermodal connectivity. Our proposal will create a safer, simpler, and smarter Federal surface transportation program by addressing transportation problems of national significance, while giving State and local transportation decisionmakers more flexibility to solve transportation problems in their communities.

SAFETEA calls for a record Federal investment in surface transportation, spending over \$201 billion on highway and safety programs, and nearly \$46 billion on public transportation programs, from Fiscal Year 2004 through Fiscal Year 2009.

These funding levels would be achieved by: (1) continuing the financial guarantees of TEA-21 that linked highway funding with the receipts generated by transportation excise taxes; (2) redirecting to the Highway Account of the Highway Trust Fund the 2.5 cents per gallon of the gasohol tax currently deposited in the General Fund; and (3) dedicating an additional \$1 billion a year of Highway Trust Fund dollars over and above each year's estimated receipts into the Highway Trust Fund to improve highway infrastructure performance and maintenance.

Thanks in large part to the hard work of many of you and your predecessors, SAFETEA builds on the tremendous successes of the previous two pieces of surface transportation legislation. Both the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), a bill with which I am proud to have played a role, and TEA-21, provided an excellent framework to tackle the surface transportation challenges that lie ahead.

ISTEA set forth a new vision for the implementation of the Nation's surface transportation programs. Among other things, ISTEA gave State and local officials unprecedented flexibility to advance their own goals for transportation capital investment. Instead of directing outcomes from Washington, D.C., the Department shifted more of its focus to giving State and local partners the necessary tools to solve their unique problems while still pursuing important national goals. SAFETEA not only maintains this fundamental ISTEA principle, it goes further by giving states and localities even more discretion in key program areas.

TEA-21's financial reforms have proven equally significant by providing certainty, predictability, and of course, increased funding. TEA-21 paved the way for State and local transportation officials to undertake strategic transportation improvements on a record scale.

TEA-21 achieved this by reforming the treatment of the Highway Trust Fund to ensure that, for the first time, spending from the Highway Trust Fund for infrastructure improvements would be linked to tax revenue. The financial mechanisms of TEA-21—firewalls, Revenue Aligned Budget Authority (RABA), and minimum guarantees—provided greater equity among states in Federal funding and record levels of transportation investment. SAFETEA maintains the core TEA-21 financial structure, while moderating the wide swings in program levels that resulted from the RABA mechanism.

The total size of the program is and will continue to be a matter of debate. As that debate progresses, it should not be permitted to cloud a meaningful and necessary discussion of the many programmatic reforms contained in SAFETEA.

The following are the major programmatic elements of the Administration's proposal to reauthorize the Nation's surface transportation program:

Creating a Safer Transportation System

President Bush and this Administration are committed to fostering the safest, most secure national transportation system possible, even as we seek to enhance mobility, reduce congestion, and expand our economy. These are not incompatible

goals. Indeed, it is essential that the Nation's transportation system be both safe and secure while making our economy both more efficient and productive.

While formulating the Department's reauthorization proposal, the Federal Highway Administration and NHTSA came together on a different approach to addressing the Nation's substantial highway safety problems. Under that approach, States would receive more resources to address their own, unique transportation safety issues; would be strongly encouraged to increase their overall safety belt usage rates; and would be rewarded for performance with increased funds and greater flexibility to spend those funds on either infrastructure safety or behavioral safety programs.

SAFETEA establishes a new core highway safety infrastructure program, in place of the existing Surface Transportation Program safety set-aside. This new program, called the Highway Safety Improvement Program will more than double funding over comparable TEA-21 levels. In addition to increased funding, States would be encouraged and assisted in their efforts to formulate comprehensive safety plans.

In an attempt to make our grant programs more performance-based, we have proposed a major consolidation of NHTSA's Section 402 safety programs. Two important elements of this revised Section 402 are a General Performance Grant and a Safety Belt Performance Grant. The Safety Belt Performance Grant rewards States for passing primary safety belt laws or achieving 90 percent safety belt usage rates in their States. Any State that receives a Safety Belt Performance Grant for the enactment of a primary safety belt law is permitted to use up to 100 percent of those funds for infrastructure investments eligible under the Highway Safety Improvement Program. Also, States can receive additional grants for improving their safety belt use rates. Any State that receives a General Performance Grant for the achievement of various other safety performance measures is permitted to use up to 50 percent of those funds for activities eligible under the new Highway Safety Improvement Program.

Overall, this groundbreaking proposal offers States more flexibility than they have ever had before in how they spend their Federal-aid safety dollars. It would reward them for accomplishing easily measurable goals and encourage them to take the most effective steps to save lives. It is exactly the kind of proposal that is needed to more effectively tackle the tragic problem of highway fatalities.

SAFETEA also provides increased funding for commercial vehicle safety and research programs in order to enhance the quality, stability, continuity, and uniformity of State commercial vehicle safety and enforcement programs. In addition, our proposal expands and improves safety auditing of "new entrant" motor carriers.

Simplifying Programs by Expanding State and Local Flexibility and Improving Project Delivery

The President and I strongly believe that Federal transportation programs must be simpler. This belief is manifested in two types of proposals that appear throughout SAFETEA: (1) those that increase state and local flexibility and (2) those that seek to increase the efficiency of transportation project delivery.

As the successes of ISTEA and TEA-21 have shown, State and local decision-makers have the greatest capability to address State and local transportation problems. SAFETEA continues this principle and expands upon it. The Federal Government should facilitate and enable State and local transportation decisionmakers, but it is also in a position to bring multiple States to the table in addressing regional issues, and to take a proactive lead in areas of national concern.

The President and I believe that we can and must protect our environment while improving the efficiency of transportation project delivery, consistent with the President's Executive Order on Environmental Stewardship and Transportation Infrastructure Project Reviews.

SAFETEA eliminates most discretionary highway grant programs and makes these funds available under the core formula highway grant programs. States and localities have tremendous flexibility and certainty of funding under the core programs. Unfortunately, Congressional earmarking has frustrated the intent of most of these discretionary programs, making it harder for States and localities to think strategically about their own transportation problems.

SAFETEA also establishes a new performance pilot program under which States can manage the bulk of their core formula highway program funds on a performance basis, cutting across the programmatic lines by which the Federal-aid highway program is normally structured. Under the pilot program, States would work with the Department to develop and meet specific performance measures that reflect both State and national interests.

Public transportation programs would undergo a significant restructuring under SAFETEA in an effort to make them more effective and responsive to customer and

grantee needs. Under that restructuring, Federal Transit Administration (FTA) programs would fall under three major areas:

- Urbanized area formula grants, which would include the current formula grants as well as formula Fixed Guideway Modernization funding;
- Major Capital Investments, which would broaden the current New Starts program to include non-fixed guideway corridor improvements, such as Bus Rapid Transit; and
- State-Administered Programs, including the Rural, Elderly and Disabled, Job Access and Reverse Commute, and New Freedom Initiative programs. The Job Access and Reverse Commute and New Freedom Initiative programs would be supported through flexible formula grants to the States.

As with the highway program, the restructuring of FTA programs includes shifting discretionary grant programs to formula programs and merit-based funding programs. Funds from the heavily earmarked bus discretionary program will be shifted to four different areas: (1) the Urbanized area formula program; (2) the Rural formula program; (3) the newly expanded New Starts program; and (4) Performance incentive grants. Consistent with the bill's strong overall customer orientation, SAFETEA also proposes a new performance incentive program that rewards increased transit ridership.

SAFETEA will give communities the flexibility to choose less expensive major transit investment alternatives, while ensuring that all projects meet New Starts financial and project justification criteria. This is accomplished by:

- Expanding the New Starts program to include non-fixed guideway corridor-based transit systems;
- Eliminating the \$25 million New Starts funding threshold, making all projects seeking New Starts funds subject to the evaluation criteria established in law; and
- Simplifying the evaluation process for projects requesting less than \$75 million in New Starts funds.

SAFETEA also would promote independence and opportunity by enhancing programs that serve our most vulnerable populations. For example, SAFETEA—

- Increases relative funding levels for rural formula programs to assist the 40 percent of rural counties that have no public transportation, especially since one-third of residents in all rural communities are transportation disadvantaged;
- Implements the transportation provisions of the President's New Freedom Initiative by creating a stable and reliable source of funding to States for community-based solutions that address the unmet transportation needs of persons with disabilities;
- Makes the Job Access and Reverse Commute program a stable and reliable source of formula funds in every State to help meet the employment-related transportation needs of welfare recipients and other low income individuals. Currently, JARC is a heavily earmarked discretionary grant program;
- Sustains the Elderly and Persons with Disabilities formula program to help meet the needs of these transportation-disadvantaged individuals; and
- Ensures a more coordinated and cost-effective approach to meeting the needs of transit-dependent persons by (1) requiring communities to develop a local prioritized project plan to serve elderly persons with disabilities and low-income individuals, which must be honored by States as they make decisions about sub-allocating State-administered funds; and (2) making mobility management an eligible expense.

We all know that it takes far too long to take a transportation project from concept to completion, and this Administration is committed to streamlining this process. Projects that were cutting edge while in the concept stage too often end up turning into "catch-up" projects after years of delay. The Department has made great strides in addressing those delays related to environmental review, including better coordination during the environmental review process, and other improvements that have resulted from implementing the President's Executive Order on Environmental Stewardship that was issued last fall. However, certain legislative changes are necessary. In the environmental review area, SAFETEA provides a menu of solutions, all of which should help reduce the time it takes for a sponsor to deliver a transportation project. These include:

- Strengthening the provisions of current law that establish timeframes for resource agencies to conduct environmental reviews and make decisions on permits;
- Improving the linkage between the transportation planning and project development processes;
- Simplifying the processing of Categorical Exclusion approvals;
- Clarifying the legal standard under “section 4(f)” applicable to determinations as to whether a possible project alternative is feasible and prudent;
- Resolving the current overlap between Section 106 of the National Historic Preservation Act and “section 4(f)”;
- Establishing an exemption for the Interstate Highway System as an historic resource, unless the Secretary deems an individual element worthy of protection under the National Historic Preservation Act. The Advisory Council on Historic Preservation and the Federal Highway Administration are working to achieve the objective of this section through an administrative exemption, using a provision of the regulations that implement Section 106. If we are able to make progress towards such an administrative solution, we will advise Congress that this additional legislation is no longer needed.
- Providing for timely resolution of outstanding legal disputes by establishing a six-month statute of limitations for appeals on the adequacy of projects’ environmental impact statements and other environmental documents; and
- Expanding the ability of States to provide Federal-aid highway funds to resources agencies to expedite the environmental review process.

While making the environmental review process more efficient, SAFETEA also offers important proposals to protect and enhance the environment. Those proposals include:

- Revising the CMAQ program to better address the new air quality standards;
- Continuing a major emphasis on improving public transportation;
- Revising the High Occupancy Vehicle (HOV) lane provisions to encourage the use of cleaner and more fuel-efficient vehicles;
- Encouraging the active consideration and implementation of context sensitive design principles and practices in all Federally aided transportation projects; and
- Establishing a new Transportation, Energy, and Environment program to carry out a multi-modal energy and climate-change research program.

Each year, there are over 900 million visits to national parks, forests, and wildlife refuges. Through our Federal Lands Highways program we provide funding to maintain and responsibly improve access to these areas. Because a substantial maintenance backlog has built up in our system of park roads and parkways, we are proposing a significant funding increase for the Park Road and Parkway Program. Three hundred million dollars would be authorized for FY 2004, and a total of \$1.890 billion would be authorized over the six-year period, to improve these roads. And, in support of the President’s National Parks Legacy Project, a new Federal Lands Transit Program would be established.

The transportation planning process has become overly burdensome as well. To address this problem, SAFETEA proposes the following:

- Combining the long-range metropolitan transportation plan and shorter term Transportation Improvement Program into a single document;
- Aligning the transportation and air quality planning horizons for purposes of transportation conformity; and
- Creating a single set of requirements applicable to both highway and public transportation planning.

Making the Federal Transportation Program Smarter

The President has urged every Federal agency to be more results-oriented, guided not by process but performance. In the context of transportation, that means: using Federal surface transportation programs to increase the efficiency with which people and goods move throughout the transportation system; expanding innovative financing options; enhancing operational capacity; rewarding grantees that meet important, measurable goals; promoting a seamless system in which different transportation modes are efficiently connected; and increasing oversight and accountability to ensure large Federal investments are being protected.

Recent estimates indicate that Import/Export Freight Tonnage could double by 2020 and Domestic Freight Tonnage could increase by about 70 percent over that same period. International trade now comprises over 25 percent of the U.S. Gross Domestic Product and is expected to rise to one-third in less than 20 years. The days when trade issues could be ignored as irrelevant to overall U.S. wealth creation are long gone.

Ensuring efficient global supply chains therefore becomes of paramount importance for the world economy as manufacturing industries respond to a growing goods trade through the implementation of just-in-time manufacturing. Moreover, end products are increasingly comprised of component parts being shipped from all over the world. As a result, the container, by far the most popular means to transport cargo, takes on heightened significance.

Through the implementation of sophisticated logistics policies to manage massive numbers of containers, an inventory management revolution is currently taking place that we must be very careful to protect and promote.

The goal of linking production decisions to the shifting pace of consumer demand that seemed elusive just 20 years ago is suddenly very attainable. With it comes the even more elusive hope of smoothing out business cycles. The ability to actually move freight quickly across various modes of the transportation system, however, is the linchpin of this revolution. The benefits attributable to dramatically lower inventory costs and increased liquidity for businesses that do not need to spend capital on unused inventory can be severely compromised by an inefficient transportation system.

Although carriers and shippers are by and large private entities, their financial health is inextricably linked to the health of public transportation infrastructure. As a result, cooperation between the private sector and government must be improved through an increase in public-private partnerships. The United States, with the most vibrant and dynamic private sector in the world, is unique in its lack of private sector involvement in transportation infrastructure. In addition to improving the overall addition of the Nation's surface transportation network, SAFETEA specifically targets the capacity and efficiency of the Nation's freight system by:

- Establishing a National Highway System (NHS) set-aside to fund highway connections between the NHS and intermodal freight facilities, such as ports and freight terminals;
- Expanding Surface Transportation Program (STP) eligibility to include freight connector projects;
- Continuing the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) and allowing rail freight projects to qualify for TIFIA credit assistance;
- Lowering the TIFIA program's project threshold from \$100 million to \$50 million; and
- Expanding the availability of tax-exempt private activity bonds to include highway projects and freight transfer facilities.

While virtually every other industry in the world has gone through a technological revolution, transportation still lags behind in the area of technology deployment. Our proposal continues to foster the research, development, and implementation of Intelligent Transportation Systems technologies but places a much greater emphasis on using these technologies to improve the performance and operation of transportation systems and motor vehicles in a way that directly benefits transportation customers.

These technologies can be particularly effective in the implementation of innovative demand management strategies. SAFETEA provides more resources to expand capacity, but also provides new tools to States and localities to manage existing capacity more rationally. Our proposal would allow States to establish user charges on Federal-aid highways, including the Interstate System, to improve these facilities. It would also allow States to permit Single Occupancy Vehicles (SOVs) on HOV lanes, so long as time-of-day variable charges are assessed on SOVs for such access.

Despite their critical role in the surface transportation system, intercity buses have been largely a "forgotten mode." SAFETEA addresses this anomaly by establishing requirements to improve intercity bus access to significant intermodal facilities. Our proposal also authorizes a \$425 million grant program to fund capital improvements related to such access.

Evasion of Federal fuel taxes is a serious and growing problem that requires an equally serious Federal response. This has been, I know, a major concern of Congress. SAFETEA reduces legal loopholes and dedicates more resources to collaborative government-wide enforcement effort. If we are successful in curbing fuel tax

evasion, it has the potential to increase resources for investment in the transportation system.

Last, but certainly not least, our proposal strengthens stewardship of Federal funds without treading on State prerogatives or creating red tape. Increased accountability will ensure that every dollar spent will yield the maximum benefit in terms of lives saved, reduced congestion or increased mobility. These proposals include:

- Requiring that project management plans and annual financial plans be submitted for all Federal-aid projects costing \$1 billion or more;
- Requiring that annual financial plans be prepared for all projects receiving \$100 million or more in Federal-aid funds;
- Establishing minimum cost-estimating standards in order to provide more reliable and consistent project cost expectations;
- Strengthening the Department's suspension and debarment policies to prevent contractors from continuing to defraud the government; and
- Allowing States to share in monetary recoveries from Federal fraud cases.

This legislative proposal builds upon the principles, values, and achievements of ISTEA and TEA-21, yet recognizes that there are new challenges to address. We urge Congress to reauthorize the surface transportation programs before they expire on September 30, 2003. Any delay would cause uncertainty and likely reduce infrastructure investment at the State and local levels at a time when such investment is particularly critical.

Finally, let me return to the subject of safety. For the past year and a half this Department, with the critical and timely help of this Committee, has dedicated itself to improving transportation security for Americans. Faced with the scourge of terrorism our Department responded by creating unprecedented partnerships with the private sector, Congress, interest groups, and Federal, State, and local agencies. Together we succeeded in decreasing the dangers of terrorism through new and better technology, more personnel, improved laws, and increased education.

We are going to do the same thing with car crashes. We cannot ignore the deaths of 43,000 Americans each year and the thousands more who are injured. This year, we are going to take the same passion, call on similar partnerships, and build the same record of success through enforcement, education, and engineering. Why? Because it is the right thing to do—and we have the will and the ability to do it.

Last year, Congress gave my Department 36 mandates to improve transportation security. I gave the people in my Department one. My mandate was to find a way to meet every one of the 36 Congressional mandates. They did.

Now I have given my Department another mandate: Dramatically reduce the number of Americans killed and injured by car crashes.

If we succeed, hundreds, perhaps thousands, of lives will be saved and serious injuries reduced each year. And the futures of thousands of our fellow citizens will be better secured. It is a mandate that I ask this Committee and this Congress to join our Department and this Administration in achieving.

Thank you, again, for giving me the opportunity to testify, and I look forward to working with Congress to pass this legislation.

The CHAIRMAN. Thank you, Mr. Secretary.

Dr. Runge, do you want to talk for a minute about this issue of the increase in highway fatalities?

Dr. RUNGE. Thank you, Mr. Chairman, I'd be happy to address that.

I couldn't agree with you more. I think your word was "disturbing." The number 42,850 is an obscene number that we should, indeed, not tolerate.

This goes to the very heart, the very cornerstone, in fact, the very title of our proposal. We believe that we do know the solutions to these problems, and we believe that, through the bill, we can achieve significant gains.

As you said, there are some bright spots. Injuries, in fact, are down for the second year in a row, to historic lows, injuries that would otherwise be hospitalizable. And we believe that we know why that is.

Another bright spot is child safety. Through the efforts of the Congress and everyone in the Administration, child safety has never been at a higher level than it is right now. In fact, 99 percent of infants are in child safety seats, and 94 percent of toddlers.

So we see things going in opposite directions. We have a group that is completely restrained in their vehicles, and we have another group, as you well said, where 60 percent of the fatalities are unrestrained.

Therefore, safety belts, I think you'll see, is a primary part of the NHTSA part of the safety proposal. For the first time, we are putting our money where our education has been, in that the encouragement of States to pass primary safety belt laws is a way that we know we can achieve significant gains.

The CHAIRMAN. Does that include advocacy that States adopt laws that empower their law-enforcement people to stop automobiles or other vehicles just for the reason of checking on seatbelts?

Dr. RUNGE. Yes, sir. That is what we call either a standard law or a primary law. That is exactly that intent. States that have those laws are——

The CHAIRMAN. Ms. Sandberg, do you——

Dr. RUNGE. I'm sorry.

The CHAIRMAN.—agree with that?

Ms. SANDBERG. Yes, sir, I do.

Dr. RUNGE. States that have those laws——

The CHAIRMAN. How do you think the States would react to that?

Dr. RUNGE. Well, we currently have 18 States, and a 19th that just passed their law, who have primary belt laws. They, I believe, are very satisfied with those. Even the parts of the population like minorities that were initially concerned about things like racial profiling have realized huge gains.

The CHAIRMAN. Have we seen any results in these States where those laws were already in effect?

Dr. RUNGE. We have, indeed. New Jersey——

The CHAIRMAN. I don't have the nomenclature down very well, but you know what I'm saying.

Dr. RUNGE. Yes, sir. We've seen, consistently, an 11 percentage-point increase in States after they pass a primary belt law.

The CHAIRMAN. Reduction in accidents, or what?

Dr. RUNGE. Well, even if crashes don't go down, fatalities do go down. And I'll give you those numbers, by State.

Again, vehicle miles traveled have increased. Our rate is staying level, even though fatalities have increased. But we do believe that we know the solution.

The CHAIRMAN. Do you want to add anything, Ms. Sandberg?

Ms. SANDBERG. Yes, very quickly.

As you pointed out, over the last several years—actually, over the last 4 years, we've seen a decline in large truck crashes. And last year, the 3.5 percent decline was the largest decline we've seen in a decade.

The CHAIRMAN. Because?

Ms. SANDBERG. Well, I'd like to say we would take complete credit for that, but I have to give a lot of credit to the States. We've seen an increase in the amount of money that the Federal Govern-

ment has given to States to focus on large trucks, everything from focusing on the driver to the equipment to the company.

And the proposal that you see here in front of you today, we actually looked to close some of the enforcement gaps that are there, as well as focus on the new entrants, who we know are the biggest problem. And we're going to be working with Dr. Runge and Mary Peters, specifically on this seatbelt issue, because we know, in large truck—we have a study that's about to be released that shows only 48 percent usage of drivers of large trucks. And so we need to get to them, as well.

The CHAIRMAN. Senator Inouye?

I'm going to go vote and then come right back.

Senator INOUE [presiding]. On your seatbelt statistics, is there any correlation on age? We hear so much about students and teenagers. And, if so, is there anything specially done in this bill?

Secretary MINETA. Your statement that there are age differences is absolutely correct. The highest group that is restrained are infants, toddlers, followed by small children. And when we get to the teen years, it's the lowest of any group. In fact, males between 15 and 34 are the least likely to buckle their safety belts, and yet they're the most likely to have a crash.

The thing that affects that part of the population the most is not fear of death, but it's the fear of getting a traffic ticket, which is why a primary belt law, such as you have in Hawaii—and, by the way, congratulations on your over-90-percent use rate—that's why a primary belt law is going to have an effect on that part of the population.

Senator INOUE. Mr. Secretary, what do you think of the proposal Hawaii has put up that you should extend the bus funding, intermodal bus funding, to include port facilities and cruise ships?

Secretary MINETA. Well, we had not considered the issue of the cruiseline industry or the passenger side. What we were trying to do is to deal with the intermodal connectivity between ports and rail facilities, in terms of the gateway proposal. And I'll have to study that, in terms of the impact on the funding level that we have in this legislation if we were to extend it to passenger and cruise ships.

Senator INOUE. Mr. Secretary, I'll have to go to vote, but may I submit my questions for your response later?

Secretary MINETA. Absolutely, and I'll respond for the record.

Senator INOUE. I thank you very much.

Senator HOLLINGS [presiding]. Mr. Secretary, with respect to the bill before us, it's entitled the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, and you call it "the largest public transportation initiative," in your testimony. Within it, we have an authorization of \$250 billion over 6 years for highways. We've got millions in here, billions, for transit programs. There's \$25 million, actually, for high-speed rail planning, but nothing for low-speed rail, nothing for Amtrak.

Now, you and I have been going through this exercise, and, you know, the Administration keeps giving me, either through you or through Secretary Jackson, "reform, reform, reform." You don't come before the Committee today with even a greater number of deaths and say, "Reform safety and then we'll provide the money."

So let's not talk about reforming Amtrak and when we'll give you some money. We've been doing this thing for two and a half years. Where is the money for this most efficient, flexible transportation, or the largest public-transportation initiative in the history of the country, where's the money for Amtrak?

Secretary MINETA. Amtrak reauthorization legislation is in the process of being put together right now, and I—

Senator HOLLINGS. But we keep hearing that. That's what we were told. You know, but when I was Chairman of the Committee, that's what you told us. We reported out a bill from this Committee by a vote of 20 to 3, and we held the bill up on the floor, because you were going to submit something. That was last year. Last year. You all were ready to submit something.

Do you believe that there ought to be a public passenger-rail service in this country?

Secretary MINETA. Yes, indeed. And that's—

Senator HOLLINGS. And how do you get it? You've got a good man in Gunn. We did reform that part of it, I'll agree. But that's been over a year. And we're going lose him unless you give the money.

Secretary MINETA. No, but I think that with the reauthorization legislation that we will have sometime this summer, that we will be in a stronger position, in terms of strengthening Amtrak and its services, in terms of intercity passenger rail service.

Senator HOLLINGS. We'll get it before August break?

Secretary MINETA. That is my hope, sir.

Senator HOLLINGS. Well, I know you're an old-time legislator just like me, and this is sort of embarrassing, because we keep on studying it. We keep on talking about reforms and everything else of that kind. And either we're going to have a good public transportation—which would help in the safety area, which is the principal interest, of course, of this Committee. You get a good, nice Amtrak appropriation here, where we can really start making some improvements and everything else like that, there will be improved participation and passenger service, and we'll take some off the highways that are getting cluttered. You just can't pave all of America. You and I agree on that. And I don't know of a single passenger rail service in the world that makes a profit. Do you know of one?

Secretary MINETA. Well, I think what we are contemplating doing, of separating the infrastructure from the operation of the rail system, would do that, would give the operating company the possibility of making a profit.

In terms of what Germany, France, Japan do, they have the Federal Government doing the infrastructure, and then they have an operating company, that is not subsidized by the Federal Government in those nations, operating the rail system. And so the Federal Government there provides the rail-down support, and the operating company does the balance. And they're operating with a profit.

And so here we're envisioning doing something similar to that with the rail infrastructure being held by the Federal Government with capital assistance with the States on the capital side on the infrastructure and an operating company that would be non-subsidized by the Federal Government.

Senator HOLLINGS. Well, at least that submission would give us something to run with. But we only own about 750 miles of that 22,000 miles. So you say we're going to really make ourselves accountable for the 22,000 miles?

Secretary MINETA. Well, something as the compact of between States and—

Senator HOLLINGS. I know we're going to have the compact between the States. In fact, the States are ahead of us. In fact, they've got a \$12 billion initiative out in the State of California, your state—

Secretary MINETA. Oh, absolutely.

Senator HOLLINGS.—and they're ready to go.

Secretary MINETA. Washington, Oregon, and California.

Senator HOLLINGS. That's right, it works out there. So they're way ahead of us. We can't get a billion to keep it up and keep it going. There's one State that's got \$12 billion, and it's working, and it's your State. So I know you know better. I know that. But when we're going to take over the 22,000 miles and—that's fine business with me if we can take it over. You won't find a company that wants to operate, on a private basis, any of these things. They might be doing that in Japan or whatever it is if we look further. But we've looked for those to operate right up in the Northeast, where they make a profit, incidentally. In fact, we use the profits there to keep the rest of it going.

Secretary MINETA. And, of course, in the Northeast, Amtrak owns the rail, itself.

Senator HOLLINGS. Well, that's the 750 miles—

Secretary MINETA. That's right.

Senator HOLLINGS.—that's—

Secretary MINETA. Correct.

Senator HOLLINGS. Yes, but we're talking about a national rail system. You know—

Secretary MINETA. That's—

Senator HOLLINGS.—our Chairman, Senator Hutchison, she and I have emphasized that in previous hearings, that we want a national system, not just a little bit here and a little bit there, we need a national plan from the Department of Transportation. And you're the Secretary, and I know you know this subject, and I know you come from whence it works, and they put up money to make it work, but we'll get every kind of bill here, and we can't get any money. We can get it for high-speed rail, but nothing for low-speed rail.

Secretary MINETA. Well, what we are anticipating, since the other 22,000 miles you're talking about are owned by private rail, would be the contracts with those private rail companies, who generally are operating at 79 miles per hour, that we would want to go up to 125, 130 miles-an-hour track capability.

Senator HOLLINGS. You've got to get the road beds fixed for that.

Secretary MINETA. That's right, and that's where we would be paying the rail companies, in terms of improving the rail to be able to have the trains be able to run at those sustained speeds. The other thing—

Senator HOLLINGS. Those are—the private companies would still own the rail beds, and we'd be paying for it.

Secretary MINETA. Yes, sir. We would be taking the improvement up to the speed that we would want our trains to be running at.

Senator HOLLINGS. Very good. So we appreciate it. The sooner that we can get that, you know how it is, we'll be gone, and another year will pass and then we'll get into next year's election.

Secretary MINETA. Well, the Hollings rail reform legislation will be here soon.

[Laughter.]

Senator HOLLINGS. No, I'm not like Thurmond. He had to have it named after him before he'd move.

[Laughter.]

Senator HOLLINGS. Named everything but the ocean down there, we used to say. The lakes and everything else.

[Laughter.]

Senator HOLLINGS. The Committee will be at ease, subject to the call of the Chair, who will be back momentarily here from his vote, unless, Dr. Runge or Ms. Sandberg, you've got something to offer at this particular time.

Dr. RUNGE. Nothing about trains, Mr. Hollings. I'll sit back and be at ease.

Senator HOLLINGS. It's just—the question was asked—do you agree or disagree? What accounts for the increase in highway deaths?

Dr. RUNGE. Well, this year, I can say fairly safely that it is reflective of the increase in the vehicle miles traveled on the highways. The rate of fatalities in the late 1960s was about five fatalities per 100 million vehicle miles traveled. And so it has gone from 5 to 1.5 over that period of time. So we are making progress, in terms of the rate, but the number is what is so disturbing. We've hit a wall, where the numbers go. But we believe that this public health epidemic has a cure, and we're hoping to get Congress' support to encourage the States to do what needs to be done to fix it.

Senator HOLLINGS. Thank you very much.

The Committee will be at ease.

[Recess.]

The CHAIRMAN [presiding]. I apologize, Mr. Secretary. You're very aware of the way that—the incredibly efficient way in which we operate here.

[Laughter.]

The CHAIRMAN. What are the principal differences between the existing Corridors and Border Program and what you are proposing, Mr. Secretary?

Secretary MINETA. Well, what we have done is to separate the Borders and Corridors Program and given emphasis to the corridors. And what we would like to do is to develop, again, the economic gateways that are present to be connected and, through the Corridor Program, be able to deal with both the northern border, as well as the southern border.

The CHAIRMAN. Thank you.

Ms. Sandberg, do you have anything more to report on the opening of the border?

Ms. SANDBERG. No, sir. We are still looking at the options that we have. And, as I mentioned at the confirmation hearing on the 8th, we have moved forward with the EIS, and the Administration

has not made a decision yet on the appeal to the Supreme Court, but we're working on that.

The CHAIRMAN. Dr. Runge, the rollover accident issue in SUVs, safety of SUVs, all of that stuff, do you have any additional reports to be made on that issue? Have you reached any more conclusions?

Dr. RUNGE. Mr. Chairman, you capsulized it exactly right. You mentioned that 25 percent of all fatalities and a third of occupant fatalities are, in fact, due to rollover. When I was here in February, we were promising you a comprehensive report from our innovative project teams. I'm happy to report that they are ready for publication as soon as Mr. Secretary says it's OK. To do so, we will be briefing him very shortly.

We have some potential solutions to the compatibility issue. We understand what needs to be done with respect to rollover. Those are very difficult to regulate, given the state of the research that we have now, but we will be seeking to do that research in order to support future initiatives in that direction.

The CHAIRMAN. Good.

Were any other Members coming back? Does staff know? Senator Breaux will be returning, so I would ask your patience for a couple of more minutes while he returns.

And I guess, Secretary Mineta, I'd like to ask about the railroad improvement projects. How would they be handled under this program? In other words, would the railroads be eligible to apply for funds so long as they agree to a 20 percent match, or would these projects have to be supported by a local match of the States?

Secretary MINETA. Well, the match would be a requirement. That can be made up of private sources, as well as public funding, as well. And so that it could be both public and private sources of funding for the match.

The CHAIRMAN. Good.

I have no further questions, so I'm going to wait—could you check on Senator Breaux? I hate to deprive Senator Breaux of his opportunity to interrogate you, so—

[Laughter.]

The CHAIRMAN.—wait a minute and determine his whereabouts. And how are you—

Secretary MINETA. He sat to my left on the Public Works and Transportation Committee, and I—

The CHAIRMAN. We all have our crosses to bear.

[Laughter.]

Secretary MINETA.—and I wanted to Chair his Breaux for Senate Committee so that I'd be able to move up one seat in seniority.

[Laughter.]

The CHAIRMAN. How are you feeling, sir?

Secretary MINETA. Very well, and I appreciate your concern during my hospitalization and your cards and calls.

The CHAIRMAN. Well, we're very happy to see you back, and we appreciate your service. And we're going to have to fight a lot of battles in this reauthorization thing, and we appreciate your early and very in-depth involvement in it.

You know, it's hard for me to explain to my constituents this donor State issue, and I really hope we can make some progress in that direction, because every State has their own particular rea-

son to get more money—older States, with aging infrastructure, growth States, like yours and mine, with dramatic new requirements—but it just is not fair what's been going on over the last several years. And perhaps with the elimination of some of these discretionary programs these monies just wouldn't be diverted. Isn't that one of the consequences of your proposal?

Secretary MINETA. Yes, sir, it is. The other thing, too, it does give greater flexibility to the local and State people to be able to direct their resources to what problems they see facing them, because when you have categorical programs, it's sort of one size fits all, and various States have individual problems that face them. And so categorical programs limit the ability of the State leaders to be able to direct their resources. So by going to, let's say, from five programs in the safety area to three, and block-granting it, it gives the State people and the local people better ability to direct their resources to where the problems are.

The CHAIRMAN. Thank you. You're very fortunate, the Chairman of the Breaux for Senate Campaign is prepared for you.

[Laughter.]

Senator BREAUX. Oh, boy, some truth to that, I'll tell you.

Thank you, Mr. Chairman. Thank you for keeping it open. And I thank my good friend, Norm Mineta.

The SAFETEA bill? SAFETEA?

Secretary MINETA. Absolutely.

Senator BREAUX. Who in the world thought of that?

[Laughter.]

Secretary MINETA. Well, it was the same person who thought up ISTEA.

Senator BREAUX. ISTEA to SAFETEA, that's great.

Well, thank you. This is not a—the bill is not going to be one that's going to be sunsetted over a short period of time, like the tax bill.

[Laughter.]

Senator BREAUX. So we can depend on it for the whole period?

Secretary MINETA. That's right.

Senator BREAUX. Yes.

I was just wondering, in the areas of safety on which this Committee has the jurisdiction over—and we note that we have—with regard to safety, we have the Federal Motor Carrier Safety Administration, which basically deals with truck safety. And then we have the National Highway Traffic Safety Administration, which deals with overall traffic safety. I mean, we have two administrations dealing with safety. Has anyone ever thought about combining the two and having an administration within the Department that deals with safety over the Nation's highways? I mean, why do we have to have one that looks at—a whole administration that looks at truck safety and another whole administration that does overall traffic safety? Couldn't we combine the two and be more efficient?

Secretary MINETA. Well, I think in terms of the nature of the operation of private passenger vehicles and that of commercial vehicles is different and ought to have that kind of specialty addressing those two areas.

Senator BREAUX. Well, I mean, one's a truck and one's a car. But, I mean, I know that's different. But, I mean, other than that, we're talking about safety on highways by things that roll across the highways, and we've got two separate administrations, and one does trucks and one does cars.

Secretary MINETA. But the safety of trucks is vastly different from the safety of private passenger vehicles.

Senator BREAUX. Well, we could spend a lot of time talking about that. But, I mean, you've got a driver in each one of them. You want them to be competent. You want them to follow the signals. You want them to not be overloaded. But, for the life me, just looking at it, I can't—I just looked at this, and we've got an administration that deals with truck safety and—it's one thing to have one person dealing with truck safety and another person that deals with car safety. But do we need an entire administration just for cars and an entire administration just for trucks? I think somebody ought to look at that. We're talking about efficiency in government, the fact that we've got two separate administrations dealing with safety on the roads, and one that can only talk about trucks, another one only can talk about cars, to me, doesn't make a lot of sense. Just a thought.

Secretary MINETA. We'll take a look at that, Senator.

Senator BREAUX. Now, everybody in these two administrations aren't going to want you to do that. If you ask them, "Do you think we ought to eliminate one of you," you know what the answer's going to be, "Oh, no, we can't do that, because we've never done it before." But, you know, when you're talking about efficiency in government, to me, for the life of me, I cannot understand why we have one administration that deals with truck safety and a separate administration that deals with car safety. If we had bikes on the highway, we'd have to have another administration for motorcycle safety. It's all safety, and it's all by operators of vehicles on the same highways. Anyway, just a thought. I think you ought to look at it.

The other thing that I wanted to get into in a way is the safety thing. Back in 1999, on Mother's Day, in Louisiana, in my State, 22 people lost their lives. It was a horrible accident involving a motorcoach, a bus. And the bus driver was fatigued. He had several serious medical conditions. He was under the influence of sedatives. He was under the influence of cocaine. The guy should have been in prison, not behind a wheel. And after that, the NTSB made recommendations and moved forward in this area, took steps to strengthen the medical certification process, as I understand it.

And then 3 years later, in June of last year, four more of our Louisiana citizens were in that horrible bus crash over in Garland, Texas. The driver of that bus was fatigued. He was under the influence of sedatives. He was under the influence of cocaine. Same type of thing. The guy should have been in jail, not behind a bus with innocent citizens in it. He also falsified his medical certification records. This guy was a criminal and we were letting him drive under some—for some reason, a bus with people.

In July, the Department issued a final rule disqualifying commercial motor vehicle drivers who have lost their licenses after having been convicted of a traffic violation driving a noncommercial

vehicle, automobile. And I think that is a really positive step that you all did. The final rule also disqualified anyone who had been convicted of committing a drug- or alcohol-related offense. Again, a real positive step that the Department has made. But I think that more needs to be done, because we still don't have the final regulation out on rules regulating the medical fitness of commercial drivers.

And I'd like to ask you, or anyone, Ms. Sandberg, about that. Why has that not been done? Because when the state trooper stops a bus driver, for instance, they can check on the commercial driver's license—any charges against it, any violations against it—but they currently, as I understand it, do not have the capacity or the ability to really check out that medical certification. It could have expired. They don't know that. It could have been falsified. They have no real way of following that up. The guy could have been turned down by five medical doctors and finally found some outlaw doctor who just signed it for him. And there's not enough ability to follow up on the commercial licenses certifying their medical fitness. The rule has not yet been issued. I know you all tried to make them work it out, but if they can't work it out, we're going to have to do the rule without them.

Can anybody bring me up to date on that?

Secretary MINETA. Let me have Administrator Sandberg deal with that.

Ms. SANDBERG. Thank you, Senator.

Yes, we have been working on this specific issue, and out of the NTSB recommendations that came out of that bus crash. The first thing that we are doing right now, which is to—we will have a notice of proposed rulemaking out by December of this year that ties the medical certification to the commercial driver's license. That's the key component there.

Senator BREAU. When is it expected?

Ms. SANDBERG. We're expected to have the notice of proposed rulemaking out by December of this year. And then we'll take comment, and then we'll get the final rule out.

Some other things that we did out of those recommendations from the NTSB was, one, change our medical certification process so that doctors could understand what was required. And then in this reauthorization proposal that you see in front of you, we have a number of other provisions that strengthen, specifically, the medical component. That's to put together a medical review board, as well as certifying medical examiners, so that we have the appropriate medical examiners actually making the medical decisions on these individual drivers so that they're not making improper decisions. For example, the Louisiana crash, the doctor that certified that individual was aware of some medical problems and went ahead and certified that driver. That was one of the weaknesses the NTSB saw.

And so we have some provisions that are in this reauthorization proposal that allow us to move forward to tighten up those medical provisions.

And then the last is a component—and we're working through the Department right now in looking at tying any positive drug and alcohol test and having a database on that so that we can identify

any drivers that have had positive drug and alcohol tests previously.

Senator BREAUX. In your negotiations with the industry, did they agree with this, or did—they were not able to agree with this, or what was the—they couldn't work it out?

Ms. SANDBERG. Industry agrees with this provision. They would like to know when drivers have had previous positive medical—alcohol or drug tests, because it's to their benefit that they not put these people behind the wheel of their vehicle, and so they are working with us on those specific procedures.

Senator BREAUX. It seems that the insurance industry would also feel very strongly about that. If you're going to insure my fleet of commercial vehicles, for heaven's sake, have people who have not been convicted of driving under the influence or with drug violations behind the wheel, because your rates are going to go sky high. It should help them with their liability rates with the new type of certification that this would require.

I would just urge you all to do it as quickly as we possibly can. I'm glad to hear that timetable.

I would say to my colleague from Mississippi, I was very pleased to learn from the Secretary that the SAFETEA bill proposal has no sunset provisions and that it's going to be there straight through.

**STATEMENT OF HON. TRENT LOTT,
U.S. SENATOR FROM MISSISSIPPI**

Senator LOTT. It has a sunset. It's immediate. Before you leave, you might want to hear some of these comments, if you could just stay a second more.

Mr. Secretary, it's good to see you again. How are you doing?

Secretary MINETA. I'm doing well, sir.

Senator LOTT. Good. We appreciate you coming back before the Committee. And I know you're used to carrying a heavy load, and I have to say, I think you've got one in this bill.

The first point is, do you remember what bill it was that President Ronald Reagan had his veto overridden by the Congress? The biggest one?

Secretary MINETA. I would say it was highway—

Senator LOTT. Oh, highway bill, right. So I hope we're not headed down that trail now, but—

[Laughter.]

Senator LOTT.—I just want to emphasize that a veto threat does not scare me at all on a highway bill, number one.

[Laughter.]

Senator LOTT. Number two, for the folks with you and others advocating SAFETEA, do you know what the best thing to do for safety on the highways is in America? You know.

Secretary MINETA. Construction.

Senator LOTT. You got it. Build highways. And I'm not talking about a whole lot of new highways. Make the ones we have safe. Four-lane them. Widen these bridges. Lay some asphalt. Have a highway bill that's not diverting money on all this extraneous stuff.

So, first of all, the \$247 billion, 6-year bill is inadequate. We're going to be way above that when we get through.

Now, you more than double funding for highway safety, a 100 percent increase, while the core program only grows 4 to 9 percent. I think that's a problem. Do you really think you're going to be able to eliminate highway discretionary programs? You know we're not going to do that. We're going to have some line items. In fact, you know who knew the most about the highway needs in California, in your district when you were the Congressman? You.

[Laughter.]

Senator LOTT. Not the Secretary of Transportation or some safety person or some other person. You knew where the greatest crisis was. And so the very idea that you think we're not going to have some earmarks, I think somebody's dreaming.

Now, having said that, for instance on your Borders and Corridors Program, I'm really worried about that program, because you split it—there are two elements I'm really concerned about. One, you spend a billion dollars on planning. You know, instead of putting that money into actual infrastructure, actually building things, you're going to spend a billion bucks over the life of the bill on planning uses, not highway construction uses? And, at the same time, you don't fund, for instance, remote sensing, which is one of the best things you can use to plan the best, the safest, and the environmentally best route. So you don't fund the remote sensing program in here, or you don't authorize it.

Then you want to spend a billion dollars on planning. We have one thing we're working on, along with the Gulf Coast of Mississippi, to move the railroad off the Gulf Coast, which dissects every town, and to run north of Interstate 10 or run in with Interstate 10 to get over to New Orleans. So we've gotten some planning money. They spent about 5 million bucks, and they showed up with the most ridiculous thing I've ever seen in my life. I could have written it out on a napkin at a dinner table and had a better plan than they came up with, and we'd blown five million bucks.

So I guess I'm just saying, just put a billion bucks into this planning, it looks to me like it'd be better to cut that way back and put a lot more of it into actual construction or ready-to-go projects. I know you're an advocate of that. You think that's one way to help the economy. Where we've got these—you all have got a term for it—but you've got these projects, you've already had the planning and the environmental impact statement and all of that, and they're ready to be built. That would be something that would really be good for the economy and would help save lives. And then you also eliminate—as a State, you define the borders program—you know, you come up with a plan, basically, that eliminates States like my own State of Mississippi, even though we're on the Gulf of Mexico, unless you—let's see, I'm trying to remember—who is it—the way you define it, only States like Arizona, Canada, Idaho, those that border Mexico and Canada are included, even though a lot of us have border and corridor possibilities.

And then you also allow for our money to be spent to construct projects in Canada and Mexico. Do I understand that correctly? Can you respond to that, Mr. Secretary?

Secretary MINETA. We have one on the Yukon Highway. That's a continuation of a program that's existed with Canada for I don't

know how many years, but it's one that follows all the way on up into Alaska.

Senator LOTT. Is it so we can get from the Lower 48 to Alaska?

Secretary MINETA. Yes, sir.

Senator LOTT. It's not so—

Secretary MINETA. And there has been—

Senator LOTT. It doesn't, for instance, over—it won't be used, for instance, from Maine into Canada? I'm not picking on Maine. It's just that I don't think the American people think too much of the idea that we're taking our highway money and spending it in Canada or Mexico. I hope that you think about that.

Then you've got a \$7 million, 6-year, blue-ribbon commission to study highway safety needs and develop realistic national safety goals for reducing highway fatalities. I want to do that, too, but that's \$42 million for a blue ribbon commission to do more planning, and so forth.

And I understand that you take \$1.5 million of funding out of the Airport and Airway Trust Fund for the Transportation Energy and Environment Program. Is that correct?

Secretary MINETA. That's correct. That's under a Clean Air Act program to have vehicles at airports that are not emitting air pollution, because there are so many tugs and tractors, other kinds of vehicles at airports, and so that's the purpose of that program.

Senator LOTT. Well, I think you got my drift here. And I know you well enough to know that you understand what I'm saying and why I'm saying it. So rather than asking you five or six questions based on what I was talking about there, let me ask you to give me a generic answer. I'm not real impressed with this. I think you're wasting tons of money, and we ought to be building and repairing roads, building four-lane roads to keep people from being killed on narrow two-lane roads, like my father and like my daughter.

I can give you a school bus case, too. My daughter's daughter is going to be riding a school bus soon to where recently, because of a narrow bridge, you know, a truck scraped the side of the bus spewing glass all into the bus onto the kids. Now, you want to help make kids safer on buses, how about some bridges that are not so narrow you can't have a truck and a bus pass on the same bridge at the same time?

So give me something that makes me feel better.

Secretary MINETA. First of all—

Senator LOTT. I'm a loyal supporter of this Administration, and I'm a long-time friend of yours, but this is not pretty.

Secretary MINETA. Well, first of all, Senator Lott, this bill is the largest infrastructure investment in surface transportation by any administration. It's larger than ISTEA, larger than TEA-21. And the \$247 billion that's in this bill is the largest investment in surface transportation projects.

Now, there's been a great deal of discussion about how much, in dollars, is in this bill. But, by the same token, I would hope that the programmatic reforms that we have in this bill will not be overlooked because of the amount of money that's in this bill. And we think that both because of the emphasis on SAFETEA on safety

that the programs that we have here to reduce traffic deaths, to reduce traffic injuries, is important at this time.

For a number of years, we've had the traffic deaths at about 41-42,000. For the first time, this year we've broken 42,000. And so that's why the emphasis on safety, in terms of reducing traffic deaths and injuries. The kind of economic cost to the Nation is something that we can't afford to continue, and so that's why the emphasis on safety in this legislation.

Senator LOTT. Well, I hope that you will take a look, again, at do we need a \$1.42 billion or more for planning and studying instead of actually doing something about it, even if it's not building roads. Implement programs. I understand experts need to take a look at things, but I would hope that we would get that under a—

Secretary MINETA. Well, this is something—

Senator LOTT.—little bit better control.

Secretary MINETA.—we'll be working with all of you, in terms of developing.

Senator LOTT. And will you take a look, also, and let us know what we might can do, the best way we can work with you on this Borders and Corridors Program? Because I can see that we're not going to be inclined to want to do it the way you're got it set up, and if you would give us some input, that would help.

Secretary MINETA. Shall do.

Senator LOTT. I promise you, Mr. Secretary, despite the way I sound, I'm going to find a way to be an ally, I think. And I certainly am not for the gas tax that's being advocated by some in the House of Representatives. So then the question is, "Well, how do you get to \$320 billion," which is where we're going to wind up being. It won't be easy, but there are some things you can do, or we can do, working with you, you know, that can get this number up. That's where we're headed. And I think if the Administration drags their feet, we're going to do it anyway, and it would help if the Administration would engage us and try to help us do it in the most sensible way.

Secretary MINETA. Right.

Senator LOTT. I can just let you write it, Mr. Secretary, and then everything will be fine.

Well, I guess we're going to do a slow roll on you. I'm glad to see you, again, Mr. Secretary. And I see Senator Lautenberg is here. I thank you very much. Just remember how you used to beat up the Secretary of Transportation when he or she came before your Committee.

[Laughter.]

Senator LOTT. Good luck, Mr. Secretary.

Secretary MINETA. Thank you very much, Senator.

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

Senator LAUTENBERG [presiding]. Mr. Secretary, nice to see you again. I'm not sure you're still Norman, but, listen, Mr. Secretary, it's good to see you. And I promise to give you the same treatment I would have had you come from our side of the political aisle.

[Laughter.]

Senator LAUTENBERG. Just as nice. I mean, you know.

Senator LOTT. He came from your side.

Senator LAUTENBERG. I know. I said I'm going to treat him the same as I would have had he not.

Anyway, I'm glad to see we arrive at an important moment in our planning and budgeting. And the Highway Reauthorization Bill, on its 6-year renewal, manages to be one of Congress' largest undertakings. And the Senate EPW Committee addresses most of the subject matter. But Banking reports out the mass transit title, and this Committee, Commerce, is responsible for safety, Dr. Runge, and rail programs. And I've long been interested in making our roads and highways safer.

During my first three terms, I wrote some bills, now law. Increased the drinking age from 18 to 21. That was in 1984, when President Reagan was in charge and Elizabeth Dole was the Secretary of Transportation at the time. We established .08 as the blood-alcohol standard for drunk driving, and that also saves a bunch of lives. Increasing the drinking age, I think, is estimated to be about a thousand lives a year of young people, a thousand families that don't have to mourn the loss of a child, and it's a really wonderful outcome.

And I wrote the ban on triple-trailer trucks from those States that were not grandfathered. And we're still fighting over that. It worries me that we're going to be dealing with that again, but I think that good judgment will prevail and we'll not permit them on roads that are not equipped for them and where the menace is a very serious one.

The 1991 highway bill, titled ISTEA, and that was a long time ago. ISTEA. We called ISTEA—the 1997 reauthorization that was titled the Transportation Equity Act. We call that one TEA-21. And I understand now we're going to be looking at the SAFETEA. A lot of tea drinkers here. And the title may be catchy, but I think it's a little bit of a misnomer, because I don't see proposals in here that are going to enhance highway safety. I'm afraid it's going to be diminished. And the proposal that allows States to raise safety programs so they can build more highways, I think, is misguided.

Last year, almost 43,000 people died in traffic accidents, so the Administration's failure to take a leadership role here is deeply disappointing, and I'd like your comments, Mr. Secretary, and I'll be finished with my statement in just a minute. And for it to take the position that if a State wants to use Federal money for critical highway safety programs to build more highways, it's disturbing.

Last week, I attended a press conference to remember the 15th anniversary of the Kentucky bus crash, an accident caused by a repeat drunk driver, killed 27 people, mostly children, and injured another 30. And since then we've had the equivalent of another 10,400 Kentucky bus crashes. Last year, alcohol-related traffic fatalities rose for the third consecutive year, nearly 18,000 people died on the highways. And yet the safety proposal has just \$50 million for impaired driving control programs, and that's less than current funding.

So I know that Dr. Runge, the head of the National Highway Traffic Safety Administration, is a staunch advocate of safety programs, and we talked earlier in a hearing that this Committee held

earlier this year. I think Dr. Runge, it's fair to say, supported .08 and the increase in the legal drinking age. And the bill does have some incentive for States to pass mandatory seatbelt laws. But I fear that there isn't enough safety input on the Administration's bill. It falls short of what we need to do as part of the reauthorization to make our roads and highways safer.

The Administration's proposed funding levels for safety programs are insufficient in making the funding fungible so that it can be used for other purposes. The challenge is common sense.

I'm working with Senator DeWine, from Ohio, on legislation to improve highway safety, and I look forward to working with my colleagues here on the Commerce Committee to get these provisions incorporated into our segment of the reauthorization bill that makes it way to the Senate floor.

And, Secretary Mineta, the Administration's proposal allows States to flex their highway safety funding, allowing them to dip into the safety funds to help build more roads, rather than address behavioral problems like seatbelts and drunk driving. Based on a recent GAO report, we see that when given a choice, States are more likely to spend money on infrastructure than addressing the behavior problem.

And I know that you're familiar with the problem, and as we've heard it several times this afternoon, almost 43,000 people died on our roads. Why doesn't the Administration's proposal take more of a leadership role in addressing these safety problems, Mr. Secretary? We've seen it in the past, with the establishing of national standards for seatbelt use, drunk driving standards, like .08, open container. Is the Federal Government moving away from a leadership role on the safety issues?

Secretary MINETA. Not at all, Senator. This bill, first of all, in terms of the amount of investment it makes in infrastructure, in surface transportation programs, is the largest investment by any Administration, larger than ISTEA, larger than TEA-21. And the \$247 billion is the largest investment.

Now, at the same time, the emphasis is on safety, and we have more than doubled the amount of money that's in the safety program. And one of the things that we have done is to allow flexibility at the State and local level in order to allow those transportation leaders to be able to direct their financial resources to where they think the problems are.

I think when you have categorical programs, it's sort of one size fits all. But in terms of looking at State by State, they're facing the various problems that vary from one State to another. And what we have built into this program is the flexibility of those States to be able to take the financial resources that they have and direct them to the immediate needs of those States.

Senator LAUTENBERG. Well, is it a question of either/or? Either it goes to safety or to other needs? Building more roadway and forgetting something about safety? There's one pot there, and if it's to be used for more than one purpose, obviously one is going to suffer. And if we had the sums that we had last year devoted to it, we'd at least look like we're as concerned about safety this year as we've been in the past. And this is a long-term proposition. We're

talking about a 6-year reauthorization. I think that we ought to make certain that safety isn't compromised in any way.

Look what we've done in the past. We've imposed penalties for States that didn't comply, as you know. I'm sure that .08 now kicks into the penalty phase if States don't do it. One of the States is my own, of New Jersey, has yet to pass the bill. It's disheartening for me. We're talking a life-saving thing and estimated to be perhaps 500 lives a year across the country if all the States comply.

So I'm surprised that—given the choice. I mean, one wouldn't do that in aviation, say, "OK, you can build another tower or do other things to improve the safety of the system." You wouldn't say, "OK, well, it's a question of more volume or safety." Doesn't that strike you as being kind of an anomalous situation?

Secretary MINETA. But we also do have sanctions in this legislation as it relates to a certain issue. Maybe Dr. Runge could expand on this.

Dr. RUNGE. Senator Lautenberg, I want to just broadly expand on what the Secretary said about not trying to paint all States with the same brush. We also know very well what the causes of highway deaths are. Two-thirds of the highway deaths are the failure to use safety belts and impaired driving. So we will not be able to pave our way out of this problem. I couldn't agree with you more.

However, one of the things that is in the bill that is very important, the underpinning of the flexibility, is every State's development of a comprehensive highway safety plan at which all people—not just road builders, but all stakeholders in safety, must be at the table. And it would be based on State-specific data.

You'll also see in our bill that we have \$50 million per year for States to improve their highway safety data so that we can find out where those problems are in the State, whether they are behavioral, whether they are infrastructure, and that the money can be apportioned.

With respect to primary safety belt laws, New Jersey is a classic example of why that is so important. I believe that your State had, if my memory serves me correctly, nearly a 20 percentage-point increase in belt use over a few years subsequent to the passage of your primary safety belt law.

So that's why you see our approach to sanctions, which is real incentives, real money for incentives to go to States if they do the right thing and pass a primary safety belt law.

With respect to alcohol, I know that's a particular concern of yours, in fact it's not just \$50 million a year; but, in fact, there is another \$340 million over the bill for incentive grants to go to States who perform well. Their goals must be aligned with the Administration's goals, our goals, of, for instance, .53 fatalities per 100 million vehicle miles traveled. There will be benchmarks established for those States to meet, in terms of alcohol fatality rates, in order to get extra funding.

But there are some States that clearly have not right now. There are States that couldn't get there if miracles occurred. So we're going to try to bring those miracles to them. And that is the \$50 million that you see in alcohol grants are going to go to States that have the biggest problems so that we are not frittering away funds on States that don't have those problems, but, in fact, directing

them toward where it'll do the most good. We want to get them to the point where they can qualify for those incentive grants.

So that part is very directed, but the incentives, overall, will align with our highway safety goals and will allow States to do the right thing based on data.

Senator LAUTENBERG. It's interesting, my assistant just handed me a note that says that GAO reported that States overwhelmingly chose to use open-container repeat-offender transfer funds for construction rather than behavioral programs.

I think that tells you, first of all, that States are under terrific stress, as we all know. I mean, it's just—the budgets have gotten sour for, I think, every State in the country, and they're all operating with deficits.

I wanted to ask Ms. Sandberg a question. You're aware of that comprehensive truck size and weight study that your Department completed August of 2000, and they found that—that study found that longer combination vehicles, the LCVs, could be expected to experience an 11 percent higher fatal crash than single-trailer trucks. The study found also that longer, heavier trucks cause a tremendous amount of bridge damage. They say \$319 billion for longer combination vehicles alone. We have a lot of bridges, 2,350 in New Jersey which are either structurally deficient or functionally obsolete.

Does the Administration take cognizance of this study? And is it reflected in actions that have been taken?

Ms. SANDBERG. We have been looking at the various studies with regard to the longer combination vehicles. And I believe, as I reported to the Committee before, Senator, we are not looking, at this point, to lift the freeze on longer combination vehicles. But we are looking at freight and freight mobility as an intermodal issue inside the Department of Transportation, because we do know that freight is going to increase by 43 percent over the next 10 years. And as we look at that entire issue, we need to look at how we move that kind of volume of freight on the existing infrastructure we have via highway, via rail, via shipping, and via air. And so we're trying to take a holistic look at that entire issue inside the Department.

Senator LAUTENBERG. OK, but you say you're not advocating the release of bans on the LCVs.

Ms. SANDBERG. There is nothing in this proposal that advocates—

Senator LAUTENBERG. I don't know whether I'll be here 10 years from now, but we'll watch with interest to see what takes place, because I think it's outrageous that States should be asked to break the rules, their own judgment, in terms of safety, and say, "OK, we'll let these things go." If you've ever seen—and I know you have—films of triples and how they react in certain weather conditions, there's a menace out there, and it just frightens the devil out of people who are on the road in their cars with those. It's too bad we don't have separate roadways.

Last, I understand, Mr. Secretary, that my colleague, Senator Hollings, said something about intercity rail transportation. And I understand that you promised Senator Hollings an Amtrak proposal by the August recess. I think that the Administration's sur-

face transportation proposal, SAFETEA, is a little short-sighted for not taking rail into account.

And I look forward to receiving your proposal, but I don't know why it can't be understood that without rail, and without support for rail, without support for an advanced rail system—and you know—I think we worked together in your days when you were in the Congress—on trying to improve Amtrak as the principal high-speed rail service between cities so that it could carry some portion of the load that we have on our highways and in the air.

If Amtrak didn't operate in the Northeast Corridor, we would have some 10,000 flights a year more than we have between, let's say, Boston, Washington, and New York. And Amtrak carries more passengers per year than all four aviation companies, airlines, do in a year. All four combined from New York carry less than Amtrak does in a year. My gosh, one doesn't have to be a railroad engineer to know that we're in trouble. We need reliable sources of funding, and I think we've had them in the past, and I hope that we can get them included in the future in a serious way. If we look at the subsidies necessary to operate aviation, subsidies necessary to put into our highway system that go behind the straight tax revenues, I think we'd see that we make an investment in these things because they're absolutely essential.

And I said last thing. There's one more last thing. And that is it may be a disconnect from the subject at hand, but I would tell you, Mr. Secretary, if we go ahead and privatize FAA, we're going to be spending an awful lot more money than we have, and I don't think we get the same value. And if you look at the experience in the U.K. and Canada, it establishes the fact that security on the cheap is not the best investment.

Thank you all for—I'm sorry to have kept you. And I came in last, but you didn't have to, and I thank you for being here, and thank you for your participation.

Secretary MINETA. Thank you very much.

Senator LAUTENBERG. The hearing is adjourned.

[Whereupon, at 4:05 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO
HON. NORMAN Y. MINETA

Adequacy of Overall Funding Authorizations

Question 1. The Federal Highway Administration's (FHWA) 2002 report to Congress on the condition and performance of the Nation's highways, bridges and transit concluded that average annual capital spending over the next 20 years by all levels of government (*in constant 2000 dollars*) would have to be 17.5 percent larger than capital spending in 2000 just to *maintain* our highways and bridges. Does the Administration's proposal include enough additional funding, as identified by FHWA, to keep our roads and bridges maintained?

Answer. As you noted, the "2002 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance" report to Congress (C&P report) focuses on the impacts of investment by *all* levels of government combined over 20 years, rather than Federal investment alone. The C&P report does not endorse any particular funding level, and the proposed Federal-aid highway program funding levels are not directly linked to any C&P scenario. Instead, the program size is set at a level that the expected level of Highway Account revenues (from current taxes and the redirection of 2.5 cents per gallon of gasohol) can sustain and that will allow the maintenance of prudent cash reserves in the Highway Account.

I would like to clarify the meaning of the "Cost to Maintain Highways and Bridges" identified in the 2002 C&P report. This term describes a level of investment at which future conditions *and* performance would be maintained at a level sufficient to keep average highway user costs from rising above their 2000 levels. It thus represents a more ambitious target than simply maintaining the physical condition of the infrastructure.

You correctly note that the C&P report indicates that capital investment by all levels of government would need to increase by 17.5 percent above base year 2000 levels in order to reach the "Cost to Maintain Highways and Bridges" level. The C&P report also indicated that this difference would shrink to 11.3 percent over the 2001 to 2003 period, due in part to higher Federal funding levels in the latter years of TEA-21. Further shrinkage of this "gap" will depend on the level and types of Federal, State, local government, and private highway investment over this period.

Question 2. FHWA also concluded that the cost to maintain and also make improvements to the Nation's highways would require an increase in average annual capital outlays of 65.3 percent by all levels of government. To what extent would the Administration's proposal actually fund improvements to our highway system?

Answer. The "Cost to Improve Highways and Bridges" scenario in the C&P describes an investment level above which it would not be cost-beneficial to invest. However, at this level of investment, major indicators of highway physical condition and operational performance would show considerable improvement over the 20-year analysis period. It should be noted, however, that this level of funding is far greater than historical national levels of highway and bridge investment and represents the maximum level of investment if resources were unconstrained.

All forms of highway capital investment represent "improvements" to the current state of the system. Pavement resurfacing and bridge rehabilitation projects improve the quality of the existing infrastructure; highway expansion and ITS projects improve the operational performance of transportation system; other targeted highway investments can help improve the safety performance of the system. All of these types of investments are eligible activities under the Federal-aid Highway Program.

Corridors and Border Program

Question 3. What is the rationale for requiring a 20 percent state share for border projects? Is it fair to require states to help fund what is clearly a national issue?

Answer. A central concept of ISTEA and TEA-21 was added flexibility for State and local officials to determine how their Federally-apportioned funds could best be invested. SAFETEA expands upon this principle by giving states and localities even more discretion in key program areas. For the border program, States have the authority to determine if a border project is a priority for the States. If it is a priority, then the state may apply for border program funds for that project. By requiring a 20 percent match, we are ensuring that states are making transportation decisions based on their needs and priorities.

While projects adjacent to an international border clearly have national implications due to improvements in the flow of international commercial traffic, these projects are still considered to be standard Federal-aid projects. Such projects generally benefit the State because of increased efficiency and lessened congestion in the border area, and may be even more beneficial to State interests than to national interests.

Discontinuance of Discretionary Programs

Question 4. As you probably know, Mr. Secretary, I am opposed to Members using the highway program to earmark funds for pet projects in their home states. So I was very interested to learn that the Administration's proposal would discontinue a number of discretionary programs. How much earmarked funding or discretionary spending would be discontinued in the Administration's plan?

Answer. Almost half a billion dollars annually in discretionary programs are eliminated (valuing the eliminated discretionary programs at the levels authorized in TEA-21 for FY 2003). In most cases, the eliminated discretionary programs allowed increases in funding for the core highway formula programs. In two cases—the Intelligent Transportation Systems Deployment Program and the Transportation, Community, and Systems Preservation Program—the discretionary programs were converted to formula programs.

Question 5. How much would eliminating these programs improve equity in the distribution of highway funds for donor states like Arizona?

Answer. To the extent that the funds made available by the elimination of the discretionary programs are used to increase the funding for the core highway formula programs, they can improve equity in the distribution of highway funds. The Minimum Guarantee calculation captures funds distributed under the core highway programs (and under TEA-21, the High Priority Projects Program), but does not include discretionary allocations. The more that funds are concentrated in programs that "count" in the Minimum Guarantee calculation, the closer the calculation will be to the true return on contributions.

Donor States

Question 6. Under TEA-21, through 2001, Arizona has received back only 87 percent of its share of total contributions to the Highway Trust Fund. The Administration's proposal would maintain the so-called 90.5 percent minimum guarantee, which is not a guaranteed return on all highway funds. Why should any donor state, particularly those receiving less than a 90.5 percent return, support such a proposal?

Answer. TEA-21 greatly improved the equity of the overall distribution of highway formula funds and did so in a balanced way. In spite of this progress, the issue of return on contributions to the Highway Account of the Highway Trust Fund remains the most difficult of all formula issues because it pits the national economy's need for a strong, connected highway system in every State against the desire for an equitable return on State contributions. Meeting both of these competing goals is costly and a balance must be struck. We believe that SAFETEA's greater concentration of funding in the formula programs will help.

Question 7. What is the Administration's position on increasing the minimum guarantee to 95 percent?

Answer. Regardless of any specific return on contributions, it is important that highway funding be distributed so as to meet important national needs and that the costs of providing the return on contributions be within the means of the Highway Account of the Highway Trust Fund.

Flexible Funding Pilot Project

Question 8. The SAFETEA proposal would establish a pilot program that would allow up to five states to combine funds from various spending categories and manage their highway programs on a systematic, performance basis. What does DOT hope to learn from such a pilot program and how long do you think it would take to determine whether this kind of funding flexibility should be extended to an states?

Answer. We hope to test the ability of interested states to manage Federal-aid highway funds on a performance-driven basis. In cooperation with the Department, States will need to define goals, devise strategies to meet those goals, and measure the success of those strategies. Under the pilot we would also test the success of turning over to the pilot participants some or all of those responsibilities that normally rest with the Secretary of Transportation.

Given the long-term nature of highway projects, we would not anticipate a full evaluation of the pilot until near the end of the reauthorization period. This would position the Department and the Congress to consider the success of the pilot and application of any lessons learned in formulating future legislation.

Question 9. Why is the flexible funding limited to certain categories of highway dollars? Why not allow states to use their highway funds to meet the *transportation* needs of the state, including transit or even intercity rail (Amtrak) service if that is a state's transportation priority?

Answer. The pilot allows the consolidation and performance-based management of the vast majority of highway formula funds. The consolidated funds may be obligated for any purpose authorized under title 23, United States Code, which would include significant opportunities to use the funds for transit. We believe that it is important for the pilot to test the performance-based management of funds without the additional complication of doing so with funds administered by multiple Federal agencies.

Treatment of Proceeds of the Sale of Property Purchased with Federal Funds

Question 10. The Administration's proposal would allow Federal funds to be used by states to help fund the expeditious acquisition of "critical" property needed for transportation purposes and threatened by imminent development for other purposes. Notably, states would not be permitted to retain the federal-aid share of the proceeds if a parcel were sold or leased. I find this curious because FHWA has concluded that in general, the proceeds from a sale by a state of excess property are "state funds" regardless of the Federal contribution to the original purpose. For instance, just this week, I received a reply to my September 2002 letter on this subject, informing me that DOT is permitting the Commonwealth of Massachusetts to apply approximately \$86 million in funds from the sale of a building purchased with Federal aid to the cost of the notoriously over-budget "Big Dig" and not planning to count any of the proceeds against the Federal spending cap of \$8.5 billion. Let me also point out that this position is also contrary to both the opinion of the DOT Inspector General and the General Accounting Office (GAO). Shouldn't states always be required to treat as Federal funds the portion of proceeds from sales of excess property or facilities purchased with Federal funds?

Answer. Section 1504 of SAFETEA would expand a provision of existing law (23 U.S.C. 108(c)) that allows States to acquire critical properties in advance of environmental review to protect the rights-of-way of future transportation projects. Under current law, States may acquire such property with State funds and obtain Federal reimbursement when and if it is incorporated into the right-of-way after the project receives Federal approval. Section 1504 would merely allow states to request Federal funding at the time that such critical property is acquired under very limited circumstances if it is offered for sale on the open market. Because the property would be acquired *before* environmental review of the project, it is important to ensure that neither the State nor the Federal Government environmental review is biased by the acquisition action. To eliminate financial considerations from influencing the environmental process, the Federal funding should be undone if the property is not used for the project. To accomplish that result, section 1504 would provide that these critical property acquisitions would be exempt from section 156(c) of title 23, United States Code.

By contrast, section 156(c) normally applies to property acquired *after* Federal project approval. Income may be generated by the sale or lease of excess property or right-of-way airspace that is not needed for transportation purposes. The provision is intended to encourage States to realize the income potential of such property and to ensure that the income is used for eligible transportation purposes. Before the enactment of section 156, those goals were not being achieved. Section 156 applies in many more situations than we anticipate would be covered by section 1504 of SAFETEA. We believe that allowing states to retain income generated by sale of excess property, so long as the Federal share of the proceeds is used for title 23 eligible projects, advances the purposes of title 23 and promotes streamlining, while reducing administrative burdens.

Project Oversight

Question 11. The Administration's proposal includes new provisions to improve FHWA oversight of major projects like the notoriously over-budget "Big Dig" and the Wilson Bridge. How does the proposal compare with the recommendations the General Accounting Office has made?

Answer. In GAO-03-764T (a statement for the record for the Subcommittee on Transportation, Treasury, and Independent Agencies, House Committee on Appropriations), the General Accounting Office (GAO) summarized cost and oversight issues raised in reports and testimonies issued since 1995 on major highway and bridge projects and described options that GAO had identified to enhance Federal oversight of these projects. Section 1802, Stewardship and Oversight, of the Administration's reauthorization proposal includes several provisions intended to improve oversight of Federal-aid highway projects and address the options described by GAO. We are also pursuing stewardship improvements that do not require legislation, such as tracking cost growth on all projects greater than \$10 million and evaluating cost estimating processes on a nationwide level in order to formulate guidance; developing project management guidance and a project management plan template; and developing a systematic risk management program to guide agency stewardship.

One provision of our Stewardship and Oversight proposal in SAFETEA would require the Secretary to establish an oversight program to monitor the effective and efficient use of funds authorized under title 23, with a specific focus on financial integrity and project delivery. Under this provision, the Secretary must perform annual reviews that address elements of States' financial management systems and project delivery systems. As part of the financial integrity oversight, the Secretary would be required to develop minimum standards for estimating project costs, and to periodically evaluate States' practices for estimating project costs, awarding contracts, and reducing project costs. States would be required to determine that sub-recipients of Federal funds have sufficient accounting controls and project delivery systems.

TEA-21 amended title 23 to require States to submit annual financial plans to the Secretary for projects under title 23 with an estimated total cost of \$1 billion or more (major projects). Section 1802 of SAFETEA would further require States to submit a project management plan for such projects. The project management plan would document the procedures and processes in place to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of the Federal requirements of the project and the role of the agency leadership and management team in the delivery of the project. The project management plan would be developed at an appropriate early stage in the development of a major project.

Another provision would require a recipient of Federal financial assistance to prepare an annual financial plan for projects that receive \$100,000,000 or more in Federal financial assistance and that are not subject to the requirements for major projects. These annual financial plans would be available for the Secretary's review upon the Secretary's request.

Other options described by GAO are addressed through the agency's performance plan activities. For example, performance goals and strategies are established for monitoring project costs. Also, processes are established to track the progress of projects against their initial baseline cost estimates.

Hazmat

Question 12. The Administration's proposal contains a number of provisions addressing the transportation of hazardous materials. Why does the proposal not go so far as to reauthorize the hazardous materials transportation safety program which the Senate tried to accomplish during the last highway reauthorization bill?

Answer. The Administration did not consider all provisions that would go into a hazardous material transportation reauthorization bill to be relevant or appropriate for consideration in the context of reauthorization of the Highway Trust Fund and enhancement of surface transportation security. The Department of Transportation is preparing a hazardous materials transportation reauthorization proposal that it plans to submit shortly to the Office of Management and Budget for approval.

Freight Gateways

Question 13. One of the most important U.S. freight gateways is Chicago. Nearly one-third of all rail shipments travel through Chicago. but shipments currently take two days or more to move through the city and. because of the delays. an estimated 18,000 trailers and containers are off-loaded from railroad flatcars and trucked

across town. How could the provisions of SAFETEA be used to improve the movement of freight, both by truck and by rail, through this and other critical gateways?

Answer. The percentage of freight tonnage moved on our transportation system is projected to increase over 70 percent by 2020. In response to the future freight forecasts, as well as the challenges confronting us today in gateway areas such as Chicago, the Department included several provisions in SAFETEA that support freight mobility and address congestion, security, safety, environmental, and quality of life issues associated with freight transportation gateways.

Section 1205, "Freight Transportations Gateways; Freight Intermodal Connectors," would make publicly owned intermodal freight transportation projects eligible under the Surface Transportation Program (STP). This proposal would allow funding of publicly owned intermodal transfer facilities, such as Chicago's rail yard, or intermodal access to such facilities, and transportation infrastructure modifications necessary to facilitate intermodal access to and from ports. This section also encourages States and localities to adopt innovative finance strategies for freight gateway improvements, including new user fees and private sector investment.

As you note with the Chicago example in your question, many gateways use locally owned connector roads between the gateway or port and the nearest freeway(s). Many of these freight connector roads are in disrepair and create bottlenecks and congestion. Section 1205 of SAFETEA would dedicate funding for intermodal freight and Strategic Highway Network connectors from funds apportioned for the National Highway System (NHS). The amount of the setaside funding is determined by the proportion of freight/STRAHNET connector miles in a State compared to the total NHS mileage in the State, or 2 percent of funds apportioned for the NHS in a Fiscal Year, whichever is greater. A State may be exempted from the required set-aside by showing that connectors in the State are in good condition and providing an adequate level of service. In addition, SAFETEA would increase the Federal share for freight and STRAHNET connector projects from 80 percent to 90 percent. Most connectors are in local ownership and the match is often a problem for local jurisdictions.

SAFETEA would expand eligibility for the Transportation Infrastructure Finance and Innovation Act program (TIFIA) to allow both public and private rail projects to qualify for TIFIA credit assistance. SAFETEA also expands the availability of tax-exempt private activity bonds to include freight transfer facilities.

Opening of the Border

Question 14. If the Federal Motor Carrier Safety Administration (FMCSA) proceeds with a full environmental impact statement (EIS) [as required by the decision of the 9th Circuit Court of Appeals in San Francisco], how long do you expect the EIS will take to complete and implement?

Answer. FMCSA recently issued its Request for Quotations and should have a contractor on-board shortly to develop the programmatic EIS that was required by the 9th Circuit Court for rules relating to the operation of Mexican trucks in the United States. Until the FMCSA makes that contract award to the successful vendor, we are unable to speculate on the exact time-frame required to develop and implement the EIS; however, an EIS of this magnitude is expected to take at least 18 months.

Question 15. What is the status of U.S.-Mexico negotiations to permit U.S. inspectors to conduct on-site safety audits and compliance reviews of Mexican trucking companies?

Answer. The Department developed a proposed Memorandum of Understanding with Mexico focusing on the protocol for conducting safety audits in Mexico by U.S. inspectors as well as the conduct of similar functions in the U.S. by Mexican inspectors. That proposed protocol was sent to Mexico some time ago, and we are following up with the government of Mexico.

Question 16. Should the inspectors and auditors hired to inspect trucks coming into the U.S. from Mexico be reassigned until there is a date certain for the opening of the border?

Answer. Federal Border Inspectors hired and trained to conduct vehicle inspections along the southwest border continue to effectively and efficiently inspect commercial vehicles operating in the commercial zones along the border. Reassignment of inspectors would detract from improving safety along the border.

FMCSA also has hired and trained Safety Auditors to conduct safety audits on Mexican carriers and has hired Safety Investigators to conduct safety compliance reviews on Mexican carriers, and those activities continue. However, due to the effects of the 9th Circuit Court decision, the volume of safety audits and compliance reviews has not approached the level anticipated.

Reassignment of Safety Auditors and Safety Investigators would not be effective in the long term since they will be needed at the border once it has opened for long-haul commercial vehicles from Mexico. However, FMCSA is planning to expand training and improve the skill levels of those staff through temporary training assignments in other parts of the country.

FMCSA Administrative Budget

Question 17. The Administration's FY 2004 budget request for FMCSA shows an increase of approximately \$56 million in Federal administrative expenses, to a total of \$224.4 million. What is the funding needed for and how do you justify such a large increase?

Answer. In the context of FMCSA's proposed FY 2004 account structure, FY 2003 enacted Federal operating expenses and program funding levels total \$168.1 million. FMCSA's total request of \$224.4 million for these activities in FY 2004 would be funded from the proposed SAFETEA authorization for administrative expenses. The \$56.3 million increase is comprised of the following adjustments to the base budget and program increases/decreases:

Adjustments to Base (\$000): \$9,571

Personnel Cost Increase: \$2,645

The total requested increase of \$2,645 in personnel compensation and benefits includes:

- \$826 to annualize January 2003 pay raises (4.1 percent increase to FY 2003 salaries and benefits base for applicable workdays in FY 2004).
- \$1,208 to fund January 2004 pay raises (2 percent increase to FY 2003 salaries and benefits base for applicable workdays in FY 2004).
- \$611 for other mandatory personnel costs.

Extra Work Day: \$487

\$487 to fund salaries, benefits and operating expenses attributable to the extra workday in FY 2004.

Technical Adjustment for FY 2002 Emergency Supplemental: \$3,000

\$4.2 million was provided as part of the FY 2002 Emergency Supplemental Appropriation to implement Section 1012 of the USA Patriot Act, which mandates that a system be set up to conduct security background checks of all CDL drivers who have a hazardous materials endorsement or are applying for the endorsement. Funding was not requested in the FY 2003 President's Budget. \$3 million is needed in FY 2004 for program implementation.

GSA Rent: \$1,777

This adjustment to base reflects GSA increases for rent adjustments, lease expirations, and forced moves. The funding level reflects an increase in space due to staffing requirements.

OST Support Services: \$344

This adjustment to base reflects increases based on OST estimates for services provided.

Inflation Adjustment: \$1,318

The FY 2004 Federal Non-Defense Non-Pay Expenditure Deflator of 1.7 percent was calculated on selected FMCSA operations.

Program Increases/Decreases (\$000): \$46,705

New Entrant Program—Federal Operations: \$16,200

Implementation of the New Entrant program will fulfill the Motor Carrier Safety Improvement Act of 1999 (MCSIA), Section 210(a) mandate for DOT to establish regulations specifying minimum requirements for applicant motor carriers seeking Federal interstate operating authority. This program is also required by Section 350 of the FY 2002 DOT Appropriations Act as a precondition to opening the southern border to Mexican commercial vehicles.

A joint Federal-State funding mechanism is proposed including \$16.2 million to support 32 FTE for Federal oversight and 67 contracted safety auditors, as well as expanded MCSAP grant funding of \$17.0 million for full year implementation of the program. Federal funds will provide infrastructure costs and training of both Federal and State personnel. The Federal-State split is needed as it is anticipated that up to 30 percent of the States will not be able to use MCSAP funding for this program due to incompatibility in State statutes and regulations. FMCSA plans to

move Federal contract audit costs to State grants in the out years contingent upon the level of State participation in the program.

Administrative Infrastructure: \$10,423

To achieve the objectives of the President's Management Agenda and meet the additional responsibilities placed on FMCSA, it is now necessary to fully develop a comprehensive headquarters and field administrative infrastructure. In order to provide FMCSA with the necessary level of support, \$10.4 million is required in FY 2004. Competitive sourcing principles and practices will be used to acquire these critical resources.

When FMCSA was first established, the rapid rate at which new programmatic and management responsibilities would accrue to the agency could not have been predicted. These new activities, like the opening of the U.S.-Mexico border, exacted a toll on both FMCSA and FHWA's administrative capacities. Each agency was inundated with ever increasing workloads and heightened performance expectations. For FHWA, the reimbursement level provided by FMCSA for key administrative services was well below the level at which FHWA should have been compensated in relation to the work being performed. FMCSA was being supported by another agency for its work, a situation that cannot be sustained in the long term. Consequently, FMCSA is requesting the resources necessary to obtain and pay for administrative services commensurate with its workload and performance targets. Only with the resources needed to implement and sustain a comprehensive administrative infrastructure, will FMCSA be in a position to effectively manage for results.

Regulatory Development: \$8,979

Regulatory Development is the cornerstone of FMCSA's compliance and enforcement process. Without additional funds to promulgate all mandated regulations, program performance will be compromised. FMCSA requests \$9 million in FY 2004 for new and expanded commercial motor vehicle safety regulatory development.

The requested increase will support the development and implementation of new and amended FMCSRs, and two new priority initiatives: (1) a standing Medical Review Board to support the development and implementation of performance-based commercial driver qualification standards; and (2) a National Medical Examiner Registry and certification program to upgrade the quality of commercial driver medical examinations nationally. The funding will also provide the agency with sufficient resources to operate the Waivers, Exemptions, and Pilot Programs, which provide motor carriers and drivers with the opportunity to request relief from specific FMCSR requirements. These include the current vision exemption program, the planned diabetes exemption program, and requests for exemptions for loss or impairment of limbs.

Information Management: \$4,157

In FY 2004, the Information Management budget requested increase is \$4.2 million. The requested increase reflects significant changes in two major areas—Information Technology Infrastructure and the Motor Carrier Management Information System (FMCSA's premier safety data system).

In FY 2004, FMCSA will need to create an independent FMCSA information technology (IT) infrastructure. This request provides for procuring telecommunication lines for local and wide area network support for each field office, setting up firewalls and creating independent IT security systems, establishing a FMCSA e-mail system, systematic procurement of upgraded hardware and software, creating backup systems, and providing technical support for IT infrastructure.

The second area that requires a significant increase in the IM budget request is improving the Motor Carrier Management Information System (MCMIS). The MCMIS files are populated with vital roadside inspection and traffic crash data by the States. In addition, MCMIS is the repository for FMCSA compliance review and enforcement case data and carrier registration data. Without the requested increase, the efficiency and effectiveness of any FMCSA program that uses safety data would be adversely affected. Both FMCSA enforcement staff and State enforcement personnel rely on MCMIS to provide timely, complete and accurate safety data. Without that data, enforcement staff will not be targeting the correct carriers at the roadside or their place of business. The increase will enable MCMIS to accommodate major new FMCSA efforts, including New Entrants and Unified Registration System, and to ensure that MCMIS data are properly secured.

HAZMAT Permitting: \$2,000

FMCSA is requesting \$2 million/13 FTE in FY 2004 to implement a HAZMAT Permit program. 49 U.S.C. 5109 requires DOT to implement a HAZMAT Permitting Program for certain carriers of extremely hazardous materials. The program is in-

tended to ensure that carriers transporting these materials have sufficient safety and security measures in place to accomplish that transportation without loss of life, injury, or property damage. These additional measures are necessary due to the possibility of catastrophic consequences if these materials are released, either accidentally or deliberately. Currently there are more than 2,700 interstate carriers that would be subject to the HAZMAT permitting requirements. FMCSA estimates an equal number of intrastate carriers will be subject to the permitting requirements.

Household Goods Enforcement: \$1,008

In FY 2004, FMCSA requests an additional \$1 million/7 FTE to effectively fund and staff the household goods enforcement program. These funds will be used to primarily establish a highly visible enforcement program to reduce the number of consumer complaints filed against household goods carriers and brokers and increase consumer awareness to allow shippers to make better informed decisions before they move across state lines.

Outreach & Education Program: \$1,000

FMCSA requests \$1 million in FY 2004 to continue and expand the “Safety is Good Business” and “Share the Road Safely” programs. (Note: under TEA-21 \$500K was provided annually under a NHTSA reimbursement, which will not continue in FY 2004.)

Conditional Carrier Reviews: \$1,006

FMCSA is requesting 8 additional Safety Investigators to further reduce the population of carriers currently operating with a less-than-satisfactory safety rating. FMCSA conducts 1,460 re-reviews annually, but would have to conduct 2,840 re-reviews to include all less than satisfactory carriers. The requested 8 investigators would facilitate an additional 500 compliance reviews annually. This would bring the overall annual effort to 1,960 compliance reviews focused on carriers that have been previously identified as “at-risk” that continue to pose a safety risk on our highways.

Research & Technology Program: (\$73)

Inflation increases are not included for this program in FY 2004.

PRISM Operations Program: (\$11)

Inflation increases are not included for this program in FY 2004.

Safety/Consumer Hotlines: (\$4)

Inflation increases are not included for this program in FY 2004.

Adjustment for FY 2003 Enacted: \$2,020

Includes adjustments resulting from the enacted across-the-board rescission of 0.65 percent, Working Capital Fund rescission of \$200 thousand, FY 2003 pay raise levels, and other technical adjustments.

Question 17. What is the justification for requesting \$16.2 million in new funds for Federal staff to administer the new entrants program, but requiring the states to fund their portion—\$17 million—out of their *existing* Motor Carrier Safety grant money?

Answer. The President’s FY 2004 budget for the Federal Motor Carrier Safety Administration includes funding for both the Federal new entrant program and a State new entrant program. For the Federal program, \$16.2 million is requested to fund 32 program oversight staff and to hire contract staff to conduct new entrant audits where states are unable to fully conduct audits. The State program includes a \$17 million request for MCSAP grants to States for 100 percent funding of State staff to conduct new entrant audits. By including a separate new entrant State program in the FY 2004 budget, States will not be expected to use their existing MCSAP grant funds.

Household Goods Enforcement

Question 18. The Administration’s FY 2004 budget request for FMCSA requests funding for seven additional employees for household goods regulation enforcement and compliance. Given that FMCSA is receiving between 3,000 and 4,000 complaints annually, should more resources be devoted to this effort?

Answer. The 7 FTE’s requested in FMCSA’s FY 2004 budget request for household goods enforcement and compliance is consistent with our reauthorization proposal. The 7 commercial investigators will begin the process of reducing household goods complaints by concentrating on the most egregious violators.

FMCSA plans to expand the New Entrant Review process by including a commercial regulations HHG motor carrier component as a part of its New Entrant Safety

review process. The New Entrant review program will utilize FMCSA's current field staff, which includes over 200 safety investigators. This program will act as an effective deterrent, in that all New Entrant household goods carriers will be contacted, within 18 months after beginning operations, to ensure that they have HHG arbitration and other required programs in place.

FMCSA's coordinated enforcement efforts with other Federal and State regulatory agencies have proven to be very effective means of leveraging scarce staff resources to pursue rogue household goods movers. FMCSA will, specifically, expand its referral and enforcement partnering efforts with the OIG, which will increase DOT's HHG industry oversight.

SAFETEA's Section 4006 proposes to expand mandatory arbitration to include all household goods related disputes, including pricing, as well as authorizing State Attorneys General to enforce the Federal household goods statutes and regulations. FMCSA believes these actions will further allow increased policing of the interstate HHG industry without additional complaint handling and enforcement staff. This complies with Congress' intent that FMCSA focus more on industry oversight and enforcement actions against HHG carriers with a pattern of egregious actions and not recovery of consumer overcharges or settlement of individual consumer's complaints.

Given these strategies, FMCSA believes we have the resources to adequately address the 3,000 to 4,000 HHG complaints received annually.

Global Warming

Question 19. What does DOT hope to accomplish through the establishment of a \$19 million energy and climate change program and how would DOT efforts be coordinated with the work of other Federal agencies?

Answer. This legislation codifies a small, ongoing, collaborative DOT effort and guarantees that the research has stable, long-term funding. Long-term funding is necessary to support DOT's role in the President's Climate Change Research Initiative. Without guaranteed funding, we cannot fulfill the CCRI products we have committed to produce over the next 2–4 years that have been accepted through the interagency process led by Commerce and released to the public. Transportation accounts for more than one quarter of U.S. greenhouse gas (GHG) emissions and is the fastest growing sector, therefore we have a vital role in addressing climate variability and change research. Our collaboration through the Climate Change Research Initiative, under the U.S. Global Climate Change Research Program, ensures that our efforts complement the work of other Federal agencies and that the CCRI considers transportation concerns.

Establishment of the \$19 million energy and climate program within DOT will ensure that the Department can continue essential research into the relationship between transportation activity, climate change and energy to ensure that the transportation sector can address its role in climate change while continuing to provide for the Nation's mobility needs. Continued DOT research on climate variability and change will help determine future actions that are reasonable, targeted, and cost-effective.

Research done by other agencies into transportation, energy and greenhouse gases does not fully capture the needs of the transportation community, including such important aspects as safety and accessibility. DOT's continued research will complement, not duplicate, the engine and fuel technology research efforts of EPA, DOE, and other research institutions. DOT's understanding of transportation behavior and systems management, such as congestion and value pricing, transportation systems management, and travel demand management, will be vital in developing the market-based incentives that are emphasized in the President's program. DOT's research efforts into energy efficiency and reducing greenhouse gases will continue to be coordinated with those of other Federal agencies under the CCRI.

DOT is also the only agency conducting research into the potential impacts of climate change and variability on transportation and transportation infrastructure. Long lead times in the construction of transportation infrastructure require advance planning and consideration of potential climate change impacts. DOT's research uses the existing expertise developed by agencies such as NOAA and NASA to improve transportation decisionmaking.

Diabetes-CDL Exemption Program

Question 20. FMCSA has issued a proposed rule on the diabetes-CDL exemption program which includes a requirement that in order to even apply for the program, all candidates must have three years of commercial driving experience while using insulin. In effect, the three-year rule makes it impossible for almost anyone to qualify for the program. For example, Arizona only has 15 drivers in its program. Why

does FMCSA support the three-year rule when FMCSA's own Expert Medical Panel opposes it, and its inclusion would mean that very few, if any, drivers will be able to participate in the diabetes-CDL exemption program?

Answer. This is a complex matter. It is incumbent on the agency to carefully weigh the potential safety consequences against the desire of individuals to operate CMVs. A careful and conservative approach is essential. We intend to issue a final decision on our diabetes program this summer.

The 3-year requirement would be the first step in moving from an absolute prohibition toward a more flexible standard. The 3-year requirement is needed to ensure effective safety program oversight; thorough screening of exemptions applicants and periodic monitoring of their performance is the best way to ensure that allowing exemptions from the diabetes standard is consistent with a high level of safety. Any exemption program requires that we determine beforehand, that the level of safety will be equivalent to, or greater than, the level absent the exemption. As such:

- The 3-year requirement is supported by the previous work the agency performed under its diabetes waiver program in the mid-1990s. Drivers in that program, who had 3 years of experience driving while using insulin, had accident rates lower than the National rate.
- The 3-year requirement provides sufficient time to expose anomalies in the driving record and enhance safety predictability, while allowing the driver to develop a routine for managing his or her condition and to demonstrate these adaptive skills.
- The agency will use the 3-year time frame to determine past safety performance as a predictor of future safety performance.

FMCSA believes that its medical advisory panel's recommendation that persons could be qualified to drive a CMV after a 1- or 2-month period of adjustment to insulin use is inappropriate for CMV drivers, given the complex demands of operating a large vehicle.

Diabetes is a chronic disease requiring constant control and monitoring. CMV drivers, however, are frequently required to work long hours and travel significant distances from home, often requiring an overnight stay away from home. Because of economic pressures to arrive at a delivery site on schedule, drivers may often have difficulty maintaining a regular diet, exercise, and blood sugar monitoring patterns necessary to properly manage their diabetes. Failure to properly manage diabetes significantly increases the likelihood of an adverse event such as loss of consciousness while driving due to hypoglycemia (low levels of sugar in the blood).

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ERNEST F. HOLLINGS TO
HON. NORMAN Y. MINETA

Rail

Question 1. SAFETEA would authorize almost \$250 billion over six years for highway and transit programs, including \$25 billion for high-speed rail. Administration officials have promised to provide a plan for Amtrak as well, but so far, nothing has been forthcoming. When will the Administration provide a long-term authorization plan for Amtrak?

Answer. The legislative proposal is in final Administration clearance. I hope to be able to transmit it to Congress in the near future.

Question 2. How will authorization for Amtrak fit with the general transportation authorization in SAFETEA? When we get done authorizing highways and cutting taxes, will there be enough money left over to provide real funding for passenger rail, or will we continue to just talk about the wonders of passenger rail while we leave Amtrak to limp along?

Answer. Intercity passenger rail has always been addressed in a stand-alone legislation and not with programs funded primarily from the Highway Trust Fund. The Administration proposes to continue that approach. The ability to fund all meritorious needs is a challenge that faces all forms of transportation. That is the reason the Administration believes it is essential that intercity passenger rail become a form of transportation driven by its fundamental economics. I believe that with the reforms the Administration proposes the Congress and Administration, in partnership with the States, can find the funds necessary to result in a much improved intercity passenger rail system that serves as an important part of our national transportation system.

Question 3. For decades now, we have invested billions of dollars building a first-class highway system and a first-class aviation infrastructure. We invest billions in

transit systems, bridges, airports, tunnels, and almost any manner of transporting our citizens and their goods. It is plain that long-term, heavy government financial support of transportation is not an alien concept, and Americans are smart enough to realize that our transportation system needs and deserves significant public investment. Why then does the Administration continue to shove aside public support for passenger rail when it is a necessary component of our transportation system?

Answer. The financial resources available for transportation are not boundless. The public uses highways, aviation and transit to a far more significant extent than they use intercity rail and contributes to the development and maintenance of these forms of transportation through user fees. Both these factors can help explain the relative level of Federal financial assistance for highways, aviation and transit when compared to intercity passenger rail. It should be noted that despite the significant challenges facing the Federal budget, this year the Administration has sought a greater level of financial support for intercity passenger rail than was sought during any of the eight years preceding this Administration.

Question 4. There are 28 states along the Administration's 10 designated high-speed corridors. DOT likes to boast that it supports high-speed rail and is investing in its development. The Administration's bill authorizes \$25 million per year for high-speed rail. That would work out to be just \$2.5 million per corridor, or less than \$1 million per state along those corridors. South Carolina has requested \$10 [million] for statewide high-speed rail. Although the funds will not necessarily be divided in equal parts among the 28 states, it would nevertheless be unreasonable to assume the South Carolina would receive more than a fraction of the money it says it will need to develop high speed rail there. What does the Administration expect high-speed rail developers to accomplish with such little funding?

Answer. The Administration believes that all intercity passenger rail, including high speed rail, should be approached as part of one decisionmaking process. Specifically, the States should incorporate the planning for passenger rail into their comprehensive Statewide and metropolitan area planning processes and make the fundamental decisions on which projects or services are needed. The States, as they do for other transportation programs (*e.g.*, highways, and transit), will assemble the resources needed to implement those plans including the capital investment strategy, the operator, and the funding sources. The Federal Government will participate in the funding the necessary planning and in the capital investment. The program referenced in the question is the planning component of this new Federal role. The Administration expects that this level of funding will be of significant benefit in helping States make sound decisions on which intercity passenger rail, including high-speed rail, initiatives warrant the State's attention and investment.

Highway Safety

Question 5. I am a little disappointed in the Administration's proposal to allow States to flex 50 percent of money allocated for behavior traffic improvements to road construction. That means that States could use half of the funds allotted to things like seat belt enforcement and drunk driving prevention to build more roads. The bill would allow a state to move 50 percent of road construction funds to behavioral improvements, but studies conducted by GAO show that rarely happens. States tend to want to use as much as they can to build roads, even though it is a proven fact that seat belt enforcement saves many, many lives each and every year. Is it the Administration's intent to grow the highway infrastructure at the expense of highway safety programs?

Answer. The Administration has built flexibility into SAFETEA to allow each State to utilize funding for programs it deems most critical, based on a data-driven strategic highway safety planning process. This would be a collaborative process, including the Governor's Highway Safety Representative, the State Department of Transportation and other stakeholders. The U.S. Department of Transportation would approve the process.

Under TEA-21, States have demonstrated that funding flexibility has not short-changed highway safety behavioral programs. Data in the recent GAO Report (03-474) indicated only 31 percent of transfer funds were used for behavioral programs, during 2001 and 2002. However, in FY 1998 through 2002, States used \$405.9 of \$552.9 million, or 73 percent, of flexible *incentive* grant funding, from Sections 157 and 163, for behavioral safety programs.

Port Growth & Infrastructure

Question 6. Mr. Secretary, I would like to ask you a couple of questions about your proposal to dedicate a portion of highway funds for use on intermodal connectors. While I applaud you on recognizing the need to set aside a portion of funds to address the infrastructure needs required for cargo or freight movements, in Charles-

ton, South Carolina we have been wrestling with how, or if, we should expand our port. The port has been growing at close to a 7 percent clip over the past ten years or so, and it has been a boon to many of the industries in the entire Southeast region. However, the problem in expanding the port, hasn't been that there isn't enough business, we in fact are the fourth largest container port in the U.S. The problem is we have too many trucks operating in Charleston in the wrong places, and congestion is the reason many in the area don't support port expansion. Your bill provides dedicated funding only to build more roads in each state, why don't we let the states decide if they want to mitigate the congestion using rail and maritime, and help them do that?

Answer. The funds collected by the government from the users of the highway system are generally used to support State programs to enhance the highway and transit infrastructure. For the most part, this Highway Account of the Highway Trust fund is to be used by States and metropolitan areas for major highways. Even for these uses, however, there has been a belief by many in the freight community that States and local governments give too little priority to the needs of freight movement.

For this reason, we included Section 1205, Freight Transportation Gateways program and Freight Intermodal Connections program. This program is intended to meet the specific problems you raise by requiring that States maintain their intermodal connectors including those to rail and maritime, at or above the requirements of the NHS. It will facilitate and support intermodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion leading in and out of these gateways.

It would require States to spend their National Highway System funds on intermodal connectors based on the proportions of freight/STRAHNET connector miles in a State compared to the total NHS mileage in the State, or 2 percent of NHS funds apportioned for the fiscal year, whichever is greater. A State may be exempted from the required set aside by showing that connectors in the State are in good condition and providing an adequate level of service. Finally, it would require each State to designate a freight transportation coordinator to help ensure that States are responding appropriately to the needs of the freight community. In addition, eligibility for publicly owned intermodal freight facilities is included in the Surface Transportation Program (STP), and the TIFIA program now includes eligibility for both publicly and privately owned rail facilities to help mitigate congestion at our major ports, such as the Port of Charleston.

CAFE

Question 7. NHTSA issued its final rule to increase CAFE for the light truck fleet by 1.5 mpg by 2007. While I appreciate the effort of NHTSA waking up and trying to do something to improve the fuel economy numbers that are dropping like a stone, the result leaves a lot to be desired. Are there plans for NHTSA to take up a rulemaking to increase the CAFE for passenger cars?

Answer. Secretary Mineta led the Administration's effort to improve fuel economy, urging Congress in 2001 to lift a 6-year prohibition against NHTSA revising CAFE standards. On April 3, 2003, NHTSA published a final CAFE rule for model years 2005–2007. The rule marks the greatest increase in fuel economy standards in 20 years, and the first change since the mid-1990s. The 1.5 mpg increase (from 20.7 mpg to 22.2 mpg) during this 3-year period more than doubles the increase in the light truck CAFE standard that occurred between model years 1986 and 1996, when it increased from 20.0 mpg to 20.7 mpg.

No decision on when to undertake rulemaking on fuel economy standards for passenger cars has been made yet. As recommended by the National Academy of Sciences, NHTSA is presently examining possible reforms to the CAFE system. Later this year, the agency will publish an Advance Notice of Proposed Rulemaking that will outline specific reforms the agency is considering.

Question 8. In your opinion, does NHTSA's current authority allow you to do work in that area or will you need some additional authority in reauthorization?

Answer. Congress set the MY 1985 passenger car standard at 27.5 mpg and provided for the continued application of that standard, but gave NHTSA the authority to set higher or lower standards. The agency currently has the authority to revise the fuel economy standard for passenger cars as long as it does so consistent with the statutory criteria prescribed for establishing "maximum feasible" fuel economy standards.

Question 9. I remember looking over some budget numbers for NHTSA last year, and I believe that there was only \$60,000 in the budget for staff. I think you all stashed some poor soul in a closet with bad lighting and called that the CAFE department. Now, the Administration is asking for a whopping \$250,000 for CAFE.

That money would not cover an automaker lobbyist's bar tab for six months, much less fund a part of an agency that is supposed to undertake independent reviews of data to make decisions on fuel economy. Do you think that \$250,000 is enough?

Answer. First, we should clarify that the current budget (FY 2003) for CAFE is \$1 million. For FY 2004, we requested an additional \$267,000 for a total budget of \$1.267 million. NHTSA recently set new fuel economy standards for light trucks that were based on sound science and through the rulemaking process. The new standards will ensure improvements in fuel economy without negative impacts on safety and the economy. This demonstrates that NHTSA has both the expertise and the funding necessary to develop CAFE standards and policy as guided by the statutory criteria established by Congress.

Question 10. What was the CAFE budget when you all actually did CAFE in the early 1980s?

Answer. In the late 1970s when the CAFE regulation was first issued, the agency had an annual budget of approximately \$8 million. In the early 1980s, funding was drastically cut to a budget of less than \$0.5 million. As mentioned above, NHTSA's recent setting of new light truck standards demonstrates that it has sufficient funding for the CAFE program.

TREAD Act

Question 11. I have concerns about the development of the early warning program. It is my understanding that filed lawsuits will not be included in the reporting system, but these suits are what brought the Ford-Firestone situation to light in the first place. Since these filings are presumptively public documents, and a number of lawsuits against a particular tire maker would definitely aid in detecting a trend, why are they not being included?

Answer. Lawsuits are considered in the rulemaking and are included within the definition of "Claims." According to 49 CFR Part 579.4, a "Claim" is defined as including, among other things, "a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. . . ."

Question 12. Why has NHTSA reopened its confidentiality rules in regards to the early warning system? If the intent is to restrict disclosure of information from the early warning program, that is a subversion of Congressional intent. It is the public that is injured and killed by defective products and the whole premise of the early warning notice is to put the public on notice, yet NHTSA wants to hide information under this prospective rulemaking? Please explain the rationale of making information from a WARNING system private.

Answer. NHTSA has not reopened its confidentiality rules with regard to early warning data. To the contrary, NHTSA is in the process of considering, through notice and comment rulemaking, the appropriate application of those rules to the early warning data. NHTSA sought public comment on the appropriate disclosure or non-disclosure of the data to help guide this analysis. NHTSA anticipates issuing a final rule addressing this issue shortly.

SUV Safety

Question 13. The working group headed up by the Insurance Institute for Highway Safety and the Alliance will be providing recommendations for voluntary standards to improve rollover and other SUV safety issues. Has this group actually included real input from safety groups like Public Citizen and Consumer's Union? At last report, they were excluded. I am very concerned that your reliance on this working group may result in tepid standards that still put people in dangerous trucks. Update me on the status of the group's work, who is involved and at the table, and NHTSA's course of action if the recommendations are not up to par.

Answer. In 2002, NHTSA Administrator Runge identified rollover and vehicle compatibility as two of his highest safety priorities. NHTSA formed Integrated Project Teams (IPT) specifically to examine these two issues and make recommendations as to how we could most effectively improve safety in these areas. We plan to share the IPT Reports on Rollover and Compatibility with the public very soon via a Federal Register notice.

Subsequent to NHTSA's formation of these teams, the vehicle manufacturers asked the Insurance Institute for Highway Safety (IIHS) to chair groups of experts to make suggestions for ways the industry could voluntarily improve safety in the areas of compatibility and rollover. We welcome the automotive industry's acknowledgement that rollover and compatibility are significant safety problems and their commitment to develop what they believe are effective approaches to addressing these problems. NHTSA was asked to send observers to both the industry rollover

and compatibility working groups. We declined the opportunity to participate in these working groups because we believe the government and industry will achieve the most effective solutions if we proceed with parallel efforts. Thus, the Department has had no involvement in the design and implementation of the working groups, and has no knowledge of participation and input from safety or other groups.

Our only meeting with IIHS and the Alliance of Automobile Manufacturers (Alliance) regarding these working groups occurred on Wednesday, May 28, 2003. At that meeting, representatives of IIHS and the Alliance provided an update of the compatibility working group's progress. We were told that these working groups expect to announce their results later this year. I have submitted for the record a copy of the sheet we were given, and this sheet is also available in our public docket for our Compatibility IPT. We told IIHS and the Alliance that we expect to issue our Compatibility IPT very soon and encouraged them to comment on it. While the Department looks forward to hearing about the industry working groups' progress, our research work to improve SUV safety is continuing independently.

See attachment for brief summary of the Integrated Project Team Reports on Vehicle Compatibility and Rollover.

FMCSA's Reauthorization Proposal

Question 14. The limitation for administrative expenses for FMCSA (their Federal operations) is significantly increased in the first year of reauthorization (2004) by approximately 65 percent, with another 12 percent increase over the life of the bill. Then you look at the Motor Carrier Safety Assistance Program Grants (MCSAP), the core grant program for the states to undertake their roadside truck and bus inspection and other enforcement programs, it remains the same at \$164,500,000 in the first year of reauthorization with only a 10 percent increase over the life of the bill. (Based on a needs assessment from its state enforcement members, the Commercial Vehicle Safety Alliance is asking for a 5 percent annual increase in each year of the life of the bill.)

Given the fiscal crisis in most states today, why is there such an increase for the Federal bureaucracy at the same time that the state grant program is only marginally increased? Shouldn't there be a better balance in the funding of the Federal and state motor carrier safety programs? Aren't the real safety enforcement efforts carried out by the states and don't they deserve more of an increase?

Answer. The majority of State safety enforcement efforts are focused on roadside inspections that include both driver and vehicle. Unquestionably, this is a major element in the overall commercial vehicle safety program. The FMCSA budget request to fund such activity falls under the \$164.6 million Motor Carrier Safety Improvement Program (MCSAP). MCSAP provides funding for States to hire, train, and equip roadside inspectors.

While MCSAP is a significant component, there must be a strong Federal safety program to review carrier operations, conduct enforcement on non-complying carriers, and provide overall policy and procedural direction on programs such as the New Entrant Program, Commercial Driver's Licensing, and others. A strong Federal presence provides leadership for national safety programs and promotes uniformity of safety programs and enforcement for interstate commerce.

The Intermodal Surface Transportation Efficiency Act strengthened the State's role by significantly increasing MCSAP funding. This enhanced State role has been brought forward into the FY 2004 budget and SAFETEA. FMCSA believes its commercial safety program to be appropriately balanced; with opportunities such as safety program reauthorization, any changes to that balance between State and Federal programs can be met.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUE TO
HON. NORMAN Y. MINETA

Question 1. The Administration's proposed legislation provides funding for intermodal passenger facilities as well as freight transportation gateways. I am very interested in these new programs, and would like to see how they might facilitate the flow of passengers and freight at seaports.

I understand that the *intermodal passenger facilities program* is focused on intercity bus intermodal facilities capital grants and lists several modes of transportation as eligible expenses—however it is critical that seaports and cruise ship passenger facilities be included as an eligible expense. The Administration's summary of this program indicates that seaports are eligible, however the language of the bill does not include seaports as an eligible facility for funding. How will the Department of

Transportation ensure that passenger ship facilities are eligible for funding under this program and are provided funding for security measures that are needed at these seaports?

Answer. The Intermodal Passenger Facilities Program reinforces the key role of seaports within the Nation's system of intermodal transportation. Specifically, the Intermodal Passenger Facilities Program would provide grants for that portion of an intermodal passenger facility that is physically and functionally related to intercity bus service. It would also assure intercity public transportation access to seaports, strengthening the links between cruise ships and ferries and the land-based transportation networks that support them. And while security measures at passenger ship facilities are not eligible for funding under this Program, such measures are eligible for grants available through the Maritime Transportation Security Act.

The Administration's SAFETEA proposal recognizes the importance of passenger ferries, providing Federal capital funding for publicly owned and operated ferries through the Federal Transit Administration's Urbanized Area Formula Program, Non-Urbanized Area Formula Program, and the new fixed guideway and fixed guideway modernization categories under the section 5309 Capital Investments Grant Program. Such ferries may also be eligible for Federal capital funding through the Federal Highway Administration's Transportation Enhancement Program, Surface Transportation Program (STP), and Congestion Mitigation and Air Quality Program (CMAQ). Finally, passenger ferries may be eligible for funding through SAFETEA's 2 percent set-aside of National Highway System (NHS) funds for projects on NHS routes connecting to intermodal freight terminals.

Question 2. What methodology was used by the Department of Transportation to determine that intercity buses are the backbone of an intermodal passenger facility?

Answer. Given the overwhelming importance of highway and road networks within the national transportation system, intercity buses play a vital role in facilitating intermodal transportation. Throughout the country, in every State and in most travel markets, the private bus industry enhances the Nation's mobility by providing one or more of its broad array of services: in regular route service between cities; in commuter and shuttle markets; as an intermodal connector to air, intercity rail passenger, and transit operations; and in charter, tour, and sightseeing markets. Additionally, in much of rural America buses serve as the only available public transportation option.

DOT's internal analysis demonstrated the breadth and depth of the private bus industry. The industry's dozens of large carriers and more than 3,000 small and mid-size carriers operate a total fleet of 35,000 vehicles. Its services provide direct connections at more than 200 intermodal terminals. It carries some 40 million passengers per year in the intercity bus market alone (compared with Amtrak's 24 million rail passengers), and it carries more than 500 million passengers annually across its shuttle, commuter, charter, tour, and other markets. In the process, it employs more than 150,000 people and generates \$5 billion per year in carrier revenues. Intercity buses are essential to America's intermodal mobility. Consequently, the Department of Transportation strongly supports the Intermodal Passenger Facilities Program's provision of funding for intercity bus facilities.

Question 3. Freight transportation gateways and freight Intermodal connections are extremely important to the economy of the State of Hawaii as well as coastal communities throughout the United States. They facilitate the transport of intermodal shipping containers from one mode of transportation to another. This program enables a State to invest in publicly owned intermodal freight transportation projects.

The Administration's language indicates that States and localities would be encouraged to adopt innovative financing strategies for freight gateway improvements, including new user fees and private sector investment. Does the Department of Transportation support new user fees for intermodal container transporters to pay for these facilities and security?

Answer. The Administration recognizes both the importance of freight gateway improvements and the often substantial funding levels that these improvements require. Given increasing pressures on a limited pool of Federal highway funding, the Department of Transportation supports the use of a wide variety of innovative financing strategies, including user fees, for freight gateway improvements. The Administration also advocates local solutions to local problems whenever possible. Accordingly, the Department of Transportation supports user fees for container transporters or handlers, providing that such fees are locally developed in consensus with the freight community and that the fees expedite the flow of commerce. Public port authorities may—and often do—incorporate such fees into the tariff rates that they assess port users. In addition to the Department's support for user fees, it should

be noted that other aspects of SAFETEA address intermodal connectivity, including the dedication of a 2 percent set-aside of National Highway System (NHS) funds for projects on NHS routes connecting to intermodal freight terminals.

Question 4. Do you, Mr. Secretary, think that this restriction of funds may discourage commercial investment in the development and expansion of freight intermodal facilities and connectors?

Answer. The Administration does not think that the encouragement of private financing will restrict the building or improvement of intermodal facilities. By encouraging States and localities to consider alternative financing mechanisms, the Administration hopes to *expand*, rather than *restrict*, the total amount of funding available for the development and expansion of intermodal facilities and connectors. Additionally, in SAFETEA the Administration has proposed a number of new financing tools to better support infrastructure investments, including making highway and freight transfer facilities eligible for private activity bond financing for the first time and broadening TEA-21's successful "TIFIA" credit program. The Department views this innovative financing approach to be a viable stimulus for private-sector investment in freight activities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN BREAUX TO
HON. NORMAN Y. MINETA

CDL Medical Certification

Question 1. In the Motor Carrier Safety Improvement Act of 1999, Congress directed the Federal Motor Carrier Safety Administration (FMCSA) to initiate a rulemaking to provide for a Federal medical qualification certificate to be made part of commercial drivers' licensing process. In a letter you sent me on September 24, 2002, you said that the Department would publish the proposed rule in March 2003. To date, this rulemaking has not yet been issued.

The Department has not been able to even propose regulations integrating medical qualification certification with the commercial drivers' licensing process in over three years. Yet the Mexican government already has this combined program in place. When will the Department issue the proposed rule to begin the process of establishing a procedure combining medical qualification with CDL qualification?

Answer. A notice of proposed rulemaking will be published by December.

Question 2. Will this rulemaking be issued as planned, or is the Administration waiting to see what action Congress takes on SAFETEA?

Answer. Yes, the notice of proposed rulemaking will be published by December as planned.

Question 3. According to your letter, the proposed rule combining the medical certification process with the CDL issuance and renewal processes would "reduce the incidence of medical examiners improperly certifying drivers who are not medically qualified to operate trucks and buses in interstate commerce." How will the combining of the certification processes change the behavior of medical examiners?

Answer. The notice of proposed rulemaking combining the medical certification process with the CDL process would include provisions for a national registry of medical examiners that have received training to perform such examinations. This would ensure that medical examiners are knowledgeable of driver qualification standards and guidelines and understand the demands involved in driving a commercial vehicle.

The medical registry will permit monitoring for the current licensing status of medical examiners on the registry, and can be used to disseminate information to practitioners regarding medical standards and guidelines relevant to the physical examination of commercial drivers. A certification process that ensures all medical examiners are qualified to perform physical examinations for commercial drivers would reduce the incidence of medical examiners improperly certifying drivers who are not qualified.

CDL Disqualifications

Question 4. Your letter stated that as of September 30, 2002, commercial motor vehicle drivers convicted of traffic violations while operating a car, which resulted in the cancellation, suspension or revocation of the drivers' license, are disqualified from operating a commercial motor vehicle. Also disqualified are individuals convicted of committing drug- or alcohol-related offenses while driving a car. That restriction has been in force now for almost eight months. How many CDL holders have been disqualified as a result of this prohibition?

Answer. To date, none. The States are currently developing and passing their own legislation to implement and enforce the Federal requirements. The States have until September 30, 2005, to comply with the new requirements. FMCSA is also working with the American Association of Motor Vehicle Administrators (AAMVA) and the States to make the needed revisions to the Commercial Driver's License Information System to accommodate the transmission and recording of convictions for these new offenses in a noncommercial vehicle by a CDL holder.

Question 5. What steps has FMCSA taken to ensure that States are following this new rule by revoking the CDLs of disqualified individuals or by reporting the individuals to FMCSA?

Answer. As mentioned above, the States are currently developing and passing legislation to implement and enforce the Federal requirements. FMCSA is providing technical assistance when requested in developing and reviewing draft State legislation. FMCSA also has a contract with the National Conference of State Legislatures to track each State's legislation. Once the States start enforcing the new requirements, FMCSA will include these standards in our CDL State compliance review and oversight process to make sure they are being enforced according to the Federal requirements.

Your letter stated that a driver who causes a fatality through negligent or criminal operation of a commercial vehicle while driving with a canceled, suspended, or revoked CDL is disqualified from operating a commercial vehicle.

Question 6. If a driver has a cancelled or revoked CDL, isn't the driver already disqualified?

Answer. Yes. However, a conviction for this new major offense of driving a CMV while the driver's CDL is revoked, suspended or cancelled or the driver is disqualified from operating a CMV, will add additional time to the previous disqualification period.

Question 7. Shouldn't negligent or criminal operation of a commercial vehicle be grounds for disqualification, whether or not the behavior causes a fatality?

Answer. That is a question for Congress. The offense of "causing a fatality through the negligent operation of a commercial motor vehicle . . ." in 49 CFR 383.51(b)(8) implements the requirement in section 201(a) of the Motor Carrier Safety Improvement Act of 1999 that states: "convicted of causing a fatality through negligent or criminal operation of a commercial motor vehicle."

Question 8. Is operating a commercial vehicle with a cancelled, suspended or revoked CDL a *prima facie* case of negligent or criminal operation of a commercial vehicle?

Answer. There are two separate major offenses that were established by section 201(a) of the Motor Carrier Safety Improvement Act of 1999. The first is "driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended or cancelled" and the other is "causing a fatality through negligent or criminal operation of a commercial motor vehicle." Some States may consider driving after revocation, suspension, or cancellation of a license to be *prima facie* evidence of negligence, but driving without a license would not necessarily cause a fatality.

CDL Medical Examiners

Question 9. Under the Administration's proposed bill, SAFETEA, FMCSA would initiate another rulemaking to set standards for medical examiners to meet in order to be qualified to examine commercially licensed drivers. FMCSA would also establish a medical review board to provide advice to FMCSA and guidelines to medical examiners to use in examining COL applicants.

It seems to me that we need some threshold health standards that commercial vehicle drivers must meet to qualify for a CDL. Yet, the Administration is proposing to establish standards for *medical examiners* to meet to be qualified to examine commercial drivers. How will the FMCSA determine that the medical examiners are qualified? Will the examiners be tested by FMCSA?

Answer. FMCSA has adopted 13 physical qualification standards for commercial drivers that are directly related to the driving function. Commercial drivers in interstate commerce are required to meet these standards and receive biennial physical examinations. Currently, medical examiners, who could perform the physical examinations, are not required to have specific training and do not need to demonstrate any special or unique competence to commercial operations to medically certify commercial drivers.

FMCSA would develop a certification program based on Federal medical regulations and guidelines. The certification program content would be established by rulemaking. A medical professional would have to participate in training and pass a test

in order to be included in a national database of qualified medical examiners. However, decisions on processes and procedures for establishing a national registry and certification program for medical examiners are only speculative until a rulemaking is completed.

Question 10. Qualified medical examiners will then have guidelines to follow in qualifying (or not) a prospective commercial vehicle driver. Guidelines are not mandatory, so it would follow that the medical examiners will have discretion in deciding who is qualified and who is not. Will this not lead to inconsistency among doctors? How will FMCSA ensure that the guidelines are uniformly applied?

Answer. Detailed best practices guidance is issued periodically to aid medical examiners in understanding the regulations. Medical examiners routinely request this guidance to assist them in making an evaluation of a commercial driver. The national registry of medical examiners will provide FMCSA with a mechanism for disseminating this information to all medical examiners. Making the same information available in a timely manner to all medical examiners will facilitate, if not ensure, consistency among examiners.

Question 11. How will CDL holders and applicants know which medical examiners are qualified under the FMCSA program?

Answer. CDL holders would be required to obtain their biennial physical examinations from a certified medical examiner on the national registry. Decisions on processes and procedures for establishing a national registry and certification program for medical examiners would be made when the agency completes a rulemaking.

Question 12. Will the examiners have to be re-qualified, or will they obtain a lifetime qualification to perform the medical exams on CDL holders and applicants? Will the regulations include standards under which qualified medical examiners become disqualified? If so, will there be an appeals process for medical examiners that have been disqualified?

Answer. A process for certifying medical examiners would include procedures for both initial and refresher training sessions. A program for a national database of qualified medical examiners would have procedures in place to address the removal of medical examiners from the registry and an appeal process.

Question 13. Your letter stated that FMCSA has revised the certification form [medical examination report form] used by medical examiners to include more medical advisory guidance to assist examiners in making physical qualification determinations in order to "ensure that medical examiners are more knowledgeable of the physical qualifications standards." How will this change ensure that medical examiners use the guidance in examining CDL holders and applicants?

Answer. The revised medical examination report form, to the extent possible, includes all relevant information necessary to conduct the physical examination and certification of commercial drivers. It contains the Federal standards, instructions to the medical examiner, and medical advisory guidelines to assist the medical examiner in determining the medical qualification status of commercial drivers. The examination form directs medical examiners to FMCSA Internet reports on specific medical disorders and includes an FMCSA telephone contact number for questions. Easy access to the standards and medical advisory guidance found on the medical examination report form will facilitate, if not ensure, the use of this information.

Diabetic Drivers

Question 14. FMCSA has issued a proposed rule that requires diabetic drivers to have three years of commercial driving experience while using insulin in order to qualify for a diabetes exemption in obtaining a CDL. This scheme would require a diabetic driver to drive a commercial vehicle illegally for three years in order to qualify for the exemption. In effect, the three-year rule makes it impossible for almost anyone with diabetes to qualify for the program and a CDL. Why does DOT support the three-year rule when FMCSA's own Expert Medical Panel opposes it, and its inclusion means that very few, if any, of my constituents will be able to participate in the diabetes-CDL exemption program?

Answer. This is a complex matter. It is incumbent on the agency to carefully weigh the potential safety consequences against the desire of individuals to operate CMVs. A careful and conservative approach is essential. We intend to issue a final decision on our diabetes program this summer.

The 3-year requirement would be the first step in moving from an absolute prohibition toward a more flexible standard. The 3-year requirement is needed to ensure effective safety program oversight; thorough screening of exemptions applicants and periodic monitoring of their performance is the best way to ensure that allowing exemptions from the diabetes standard is consistent with a high level of safety. Any

exemption program requires that we determine beforehand that the level of safety will be equivalent to, or greater than, the level absent the exemption. As such:

- The 3-year requirement is supported by the previous work the agency performed under its diabetes waiver program in the mid-1990s. Drivers in that program, who had 3 years of experience driving while using insulin, had accident rates lower than the national rate.
- The 3-year requirement provides sufficient time to expose anomalies in the driving record and enhance safety predictability, while allowing the driver to develop a routine for managing his or her condition and to demonstrate these adaptive skills.
- The agency will use the 3-year time frame to determine past safety performance as a predictor of future safety performance.

FMCSA believes that its medical advisory panel's recommendation that persons could be qualified to drive a CMV after a 1- or 2-month period of adjustment to insulin use is inappropriate for CMV drivers, given the complex demands of operating a large vehicle.

Diabetes is a chronic disease requiring constant control and monitoring. CMV drivers, however, are frequently required to work long hours and travel significant distances from home, often requiring an overnight stay away from home. Because of economic pressures to arrive at a delivery site on schedule, drivers may often have difficulty maintaining a regular diet, exercise, and blood sugar monitoring patterns necessary to properly manage their diabetes. Failure to properly manage diabetes significantly increases the likelihood of an adverse event such as loss of consciousness while driving due to hypoglycemia (low levels of sugar in the blood).

Accident Investigation

Question 15. Has FMCSA completed its investigation of the June 24, 2002, motor coach accident in Garland, Texas, which killed four Louisiana children?

Answer. The bus crash referred to involved Rockmore's Discovery Coaches and Tours Unlimited, Inc., which was domiciled in the Dallas, Texas area. The crash occurred on June 24, 2002, just west of Terrell, Texas. There were 5 fatalities, which included the driver and four passengers.

FMCSA's investigation revealed that the driver had falsified his medical certificate. It also revealed that the owner of the company did not maintain driver qualification files and did not have drug or alcohol testing programs in place. Enforcement actions were taken on all three counts, and a fine of \$1,990 was imposed. An additional fine of \$2,000 was imposed on the company for lack of proper operating authority.

FMCSA then issued Out-of-Service orders to the carrier for the Unsatisfactory safety rating it received, and later, Out-of-Service orders were served to the carrier's attorney for failure to pay the required fines.

The actual cause of the crash was not made clear, but police records indicate that the driver may have been standing up to adjust his sun visor. The investigation also indicated that the driver did not obtain a full night's rest prior to the trip, and that he may have had some type of narcotic in his system, although FMCSA was never able to obtain the official toxicology reports.

Additional Questions on Reauthorization

Question 16. Louisiana is a donor state. I support increased federal-aid funding to donor states and am a cosponsor of S. 1090, legislation to guarantee equity funding for donor states. This legislation proposes a 95 percent minimum guaranteed rate of return to a state of its share of the total that it contributes to the Federal Highway Trust Fund. How does the Administration's proposed SAFETEA address this issue of equity funding for donor states and a 95 percent guaranteed rate of return to achieve that goal?

Answer. SAFETEA continues TEA-21's guarantee of a minimum return of 90.5 percent on each State's share of contributions to the Highway Account of the Highway Trust Fund. TEA-21 greatly improved the equity of the overall distribution of highway formula funds and did so in a balanced way. The issue of return on contributions to the Highway Account of the Highway Trust Fund is the most difficult of all formula issues because it pits the national economy's need for a strong, connected highway system in every State against the desire for an equitable return on State contributions. Meeting both of these competing goals is costly and a balance must be struck.

Question 17. The Louisiana Department of Transportation and Development says the state has High Priority corridors Interstate 49 North and Interstate 49 South, Interstate 69, and Louisiana Highway 1 named in previous Federal legislation. How

would the Administration's proposed SAFETEA legislation fund these and other listed high priority corridors as well as the Strategic Highway Network systems in the states?

Answer. SAFETEA does not propose changes to the already-designated high priority corridors or to the process for designation of additional corridors. SAFETEA's Multi state Corridor Planning Program provides funds for the multi-jurisdictional and multi-modal planning and the planning for operation alternatives that improve mobility, freight productivity, access to major marine ports, safety and security, all of which are important to successful corridor planning. Construction activities and operational improvements in the corridors would continue to be an eligible activity under the core highway formula programs, especially the National Highway System (NHS) Program and the Surface Transportation Program (STP).

SAFETEA also provides specific support for the improvement of freight movement with its freight gateways program and dedicated funding for NHS freight connectors.

Question 18. The Louisiana Department of Transportation and Development says that I-10 is a major trade corridor as a result of NAFTA and related trade. How does the proposed SAFETEA legislation address the needs of trade corridors that have emerged due to the NAFTA and related trade as has occurred in the case of Interstate 10?

Answer. The proposed SAFETEA legislation would result in almost 93 percent of Federal highway funds being delivered to the States through the core formula programs. This would increase the flexibility available to the Louisiana Department of Transportation to direct funds to projects of importance to the State, including those on trade corridors. The SAFETEA legislation would also result in streamlining of project approval and implementation. This would increase the ability of the Louisiana Department of Transportation to implement the projects the State chooses to fund.

Question 19. How does the Administration's proposed SAFETEA legislation address funding access for intermodal access routes to ports, airports, and other similar facilities?

Answer. Intermodal access routes or connectors are short, but important, highways that connect America's most important seaports, airports, rail yards, and pipeline facilities to the National Highway System (NHS). SAFETEA specifically addresses intermodal access to ports, airports, and other similar facilities by:

- Establishing a National Highway System (NHS) set-aside to fund highway connections between the NHS and intermodal freight facilities, such as ports and freight terminals;
- Creating a Freight Gateways Program by establishing Surface Transportation Program eligibility for privately owned intermodal freight transportation projects.
- Requiring each State to establish a freight transportation coordinator position.
- Expanding TIFIA eligibility to include privately owned intermodal freight projects, reducing the minimum project size from \$100 million to \$50 million and allowing groups of related freight projects (each of which separately might not meet the threshold requirements) to be considered for assistance.
- Expanding the use of private activity bonds for highway and surface freight transfer facilities.
 - Freight is particularly conducive to innovative financing solutions because the revenue streams to finance debt exist.
 - Freight and goods are moved largely by private entities often operating on publicly owned infrastructure. This creates tremendous opportunity to utilize public-private partnerships.

Question 20. In terms of innovative financing and alternative financing programs for highways, bridges, and related infrastructure, does the Administration's proposed SAFETEA legislation expand the existing authorized programs, and if it does, how does it expand them; or, does it add new programs, and if it does, how would these operate?

Answer. A State Infrastructure Bank (SIB) pilot program will be authorized with participation limited to no more than five States. The program will complement the traditional Federal-aid highway and transit programs by supporting projects that can be financed with loans or will benefit from credit enhancements. A State may contribute up to 10 percent of the funds it is provided in Fiscal Years 2004 through 2009 for NHS, STP, Interstate Maintenance, the Bridge Program, and Minimum Guarantee into the highway account of the SIB established by the State.

SAFETEA would reauthorize the Transportation Infrastructure Finance and Innovation Act (TIFIA) credit program by providing up to \$2.6 billion annually for credit assistance. A total of \$780 million of contract authority would be provided to pay the estimated cost of the credit assistance. Access to TIFIA would be increased by lowering the project cost threshold from \$100 million to \$50 million and extending eligibility to private rail freight projects. SAFETEA would also extend eligibility to a group of functionally related freight projects, each of which separately might not meet the project cost threshold. SAFETEA improves the usefulness of the TIFIA line of credit, making it available to a borrower in order to avoid (instead of simply respond to) an event of default. Also, SAFETEA adds a requirement that the total amount of senior project obligations must equal or exceed the total amount of the TIFIA instrument. Other changes are primarily intended to clarify or simplify the requirements in TEA-21.

The SAFETEA Private Activity Bonds provision is intended to encourage additional private participation in surface transportation infrastructure projects. The Internal Revenue Code would be amended to include highway facilities and surface freight transfer facilities among the types of privately developed and operated projects that can utilize tax-exempt private activity bond financing. The new bonds would be subject to the Internal Revenue Code rules that govern exempt facility bonds, except that they would not count against a State's private activity bond volume cap. Exclusion from the volume cap is necessary to allow surface transportation infrastructure projects to be advanced without displacing other types of projects eligible for exempt facility bonds. The maximum aggregate amount of bonds that could be issued under the provision would be \$15 billion. The Secretary of Transportation would allocate the \$15 billion of authority among eligible projects.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. RON WYDEN TO
HON. NORMAN Y. MINETA

Diabetic Drivers

Question. The Federal Motor Carrier Safety Administration has issued a proposed rule on the diabetes-Commercial Driver License (CDL) exemption program which includes a requirement that in order to even apply for the program, all candidates must have three years of commercial driving experience while using insulin. In effect, the three-year rule makes it impossible for almost anyone to qualify for the program. Can you explain why the DOT supports the three-year rule when FMCSA's own Expert Medical Panel opposes it, and its inclusion means that very few, if any, of my constituents will be able to participate in the diabetes-CDL exemption program?

Answer. This is a complex matter. It is incumbent on the agency to carefully weigh the potential safety consequences against the desire of individuals to operate CMVs. A careful and conservative approach is essential. We intend to issue a final decision on our diabetes program this summer.

The 3-year requirement would be the first step in moving from an absolute prohibition toward a more flexible standard. The 3-year requirement is needed to ensure effective safety program oversight; thorough screening of exemptions applicants and periodic monitoring of their performance is the best way to ensure that allowing exemptions from the diabetes standard is consistent with a high level of safety. Any exemption program requires that we determine beforehand, that the level of safety will be equivalent to, or greater than, the level absent the exemption. As such:

- The 3-year requirement is supported by the previous work the agency performed under its diabetes waiver program in the mid-1990s. Drivers in that program, who had 3 years of experience driving while using insulin, had accident rates lower than the National rate.
- The 3-year requirement provides sufficient time to expose anomalies in the driving record and enhance safety predictability, while allowing the driver to develop a routine for managing his or her condition and to demonstrate these adaptive skills.
- The agency will use the 3-year time frame to determine past safety performance as a predictor of future safety performance.

FMCSA believes that its medical advisory panel's recommendation that persons could be qualified to drive a CMV after a 1- or 2-month period of adjustment to insulin use is inappropriate for CMV drivers, given the complex demands of operating a large vehicle.

Diabetes is a chronic disease requiring constant control and monitoring. CMV drivers, however, are frequently required to work long hours and travel significant distances from home, often requiring an overnight stay away from home. Because of economic pressures to arrive at a delivery site on schedule, drivers may often have difficulty maintaining a regular diet, exercise, and blood sugar monitoring patterns necessary to properly manage their diabetes. Failure to properly manage diabetes significantly increases the likelihood of an adverse event such as loss of consciousness while driving due to hypoglycemia (low levels of sugar in the blood).

