S. HRG. 108–640

THE ADMINISTRATION'S PROPOSAL FOR REAUTHORIZATION OF THE FEDERAL PUBLIC TRANSPORTATION PROGRAM

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

THE REAUTHORIZATION OF THE PUBLIC TRANSPORTATION TITLE OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (TEA–21) WHICH EXPIRES ON SEPTEMBER 30, 2003

JUNE 10, 2003

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

U.S. GOVERNMENT PRINTING OFFICE

96–194 PDF WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

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C O N T E N T S

TUESDAY, JUNE 10, 2003

WITNESSES

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

THE ADMINISTRATION'S PROPOSAL FOR REAUTHORIZATION OF THE FEDERAL PUBLIC TRANSPORTATION PROGRAM

TUESDAY, JUNE 10, 2003

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:01 a.m., in room SD–538 of the Dirksen Senate Office Building, Senator Richard C. Shelby (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. The hearing will come to order.

I am pleased this morning to welcome Transportation Secretary Norman Mineta. Mr. Secretary, it is always good to be with you. I am very glad you could come and be with us today. I appreciate that you and other panelists took the time to come before the Committee.

I asked Secretary Mineta to share the details of SAFETEA, the Administration's proposal to reauthorize the surface transportation program. Obviously, this Committee is most interested in the transit title of the bill. TEA–21 expires on September 30 of this year, and I have made transit reauthorization a high-priority item for the Committee's consideration. This is the second hearing, Mr. Secretary, we have had on transit at the Full Committee level, but it won't be the last.

We had the benefit of hearing from Federal Transit Administrator Ms. Dorn, who is with us today, on March 13, when the Committee invited her to come discuss the details of the 2004 budget proposal for FTA. Embedded in the budget were many of the Administration's ideas for reauthorization, so the Committee got an early opportunity to digest many of the central components of the proposal. When the SAFETEA proposal was formally conveyed to the Congress in late May, months later than it was expected—but better late than never, as we say—we were already armed with some advance information about its content.

As such, we have had the opportunity not only to learn some of the details of the proposal, but we also have had the chance to react to them as well. Many of you have already heard that the Ranking Member and I are opposed to reducing the Federal match for New Start projects from 80 percent to 50 percent while maintaining the 80 percent Federal share for highway projects. I believe that would be a mistake and would create an imbalance between the two modes. I think our goal should be to remain mode-neutral and allow communities to make decisions about what best suits their needs and maintain a level playing field.

I am most concerned, however, about the idea of eliminating the Bus Program. To many people, bus service is the lifeblood of the transit system. In the majority of communities, bus grants are an invaluable resource and buses the sole mode of public transportation. Eliminating the program would be detrimental to mid-sized communities who need lump sums to make bus purchases and build bus facilities.

Another item I want to mention is the overall inadequacy of the total funding level. This is an argument that I anticipate that you will hear several Members of the Committee comment on. Mr. Secretary, you may be aware that the Senate passed an amendment to the budget that would increase the overall number for highways and transit. That amendment, which was passed with the support of 79 of my colleagues, bumped up the number for transit to $56.5 billion. Certainly that vote is reflective of the growing demand and need out there for more resources. Unfortunately, the $46 billion proposed in SAFETEA doesn't address the concern. The level proposed by the President is a current services budget and, I think, it is insufficient. Mr. Secretary, that gives you a thumbnail sketch of what about the proposal concerns me and others, so let me now move to tell you what I do like about your bill.

I am pleased that rural transit is finally garnering the attention it deserves. I have seen value in fostering rural connectivity in communities all over the country. Currently, 40 percent of rural counties offer no transit service at all, and increasing the opportunities to provide essential bus service in rural America I think is a very positive step.

I also like the idea, Mr. Secretary, of expanded eligibility for bus rapid transit in the New Starts category. We need to have discussions about how exactly this would work in practical application, but I am favorable here. I think this is a good proposal. The Committee will be holding a hearing on just this issue on June 24. As it is an emerging technology that was not a viable option during the time of the TEA–21's writing, I think it is especially important that we look at it and look at it closely.

I am pleased that you have put a focus on fostering coordination between the providers of social service transportation. This is an area long disregarded, and I think your proposal responds to a need, first identified by the GAO, to make human service coordination of transportation services a priority.

There are several other areas I think represent progress and others where the basic idea was sound but the details may require some tweaking. I am intrigued by the idea of performance incentives for ridership increases. And I want to learn more about how you envision that working.

I would like to make sure that there is an equal focus on building efficiencies, both in capital investments as well as operational expenses. Transit agencies should be held accountable for their cost and ridership projections for New Starts projects and, certainly, transit agencies should be making the utmost effort to identify areas in need of reform that drive up the daily cost of doing business. Addressing both of these items will be useful in ensuring that transit resources are carefully spent and are spent for the benefit of those to which it is intended—the riders of public transportation.

With that, Mr. Secretary, we will see if there are any more opening statements. Senator Johnson.

STATEMENT OF SENATOR TIM JOHNSON

Senator JOHNSON. Thank you very much, Mr. Chairman. I appreciate you holding today's hearing to consider how to improve our transit programs.

Welcome to Secretary Mineta, Ms. Dorn. Secretary Mineta is a long-time friend and a former colleague of mine in the golden days of the House of Representatives.

Secretary MINETA. We all are.

Chairman SHELBY. All of us have served in the House. We are all colleagues.

Senator JOHNSON. That is true. I am very appreciative of his continued public service to our country.

As we work to develop a bill on transit funding, I want to work with the Committee to address the particular needs of rural States such as my own, South Dakota. I appreciate that when people think of transit, they largely think of urban areas, and properly so. I have been a long-time supporter of Amtrak and light-rail development, and I recognize the transit needs of our urban areas. My title is U.S. Senator, not South Dakota Senator.

But at the same time, in the past rural areas have not received all the attention that they deserve. Many of my fellow South Dakotans rely heavily on transit. We have very low-density areas in our State, and yet they need adequate transit service, particularly for senior citizens and disabled. My State, with an increasingly elderly population, is home to a significant transit-dependent population. Although the transit program should always have considerable emphasis on large urban areas, current transit formulas frankly do not adequately meet the needs of rural States such as mine.

Mr. Chairman, I want to address the needs of my State as part of a plan that is good for the country as a whole, and I want to help the Banking Committee grow the program. Unfortunately, in my view, the Administration's SAFETEA program does not grow the program, and I share the concerns of many over the Administration's plan to reduce the Federal match for New Starts. I believe that rural transit does not receive a sufficient Federal match, and I certainly intend to work with my urban friends on the match issue for all of us.

I want to make a few more points on rural transit. First, it is not enough to just increase funding for the rural program. The current rural formula just doesn't get enough money to States that need it most. We need a per-State minimum in some categories. Mr. Chairman, to do this will not cost very much. It is also important to remember that none of the New Start money goes to South Dakota.

Mr. Chairman, South Dakota does participate, most years, in the Discretionary Bus Program that you have alluded to, and I share your discomfort with the elimination of that program. To illustrate my point, South Dakota's share of discretionary bus funding last year was greater than the additional funding that the Administration would send to my State each year through increases in the Rural Transit Program.

In conclusion, last year I cosponsored S. 2884, which provided a reasonable floor per State under the funding level for the Rural Program, for the Elderly and Disabled Program, and for small metro areas. And I was pleased that Senators Allard, Crapo, Hagel, and my friend Mike Enzi are Members of this Committee who also cosponsored that measure. That bill also clarified the ability to use Elderly and Disabled Program funds for operating assistance and would increase the Federal match for operating costs in the Rural Program.

Western States do not have transit match parity with highways as the highway match in Western States is over 80/20 due to the Federal lands adjustment in the Highway Program. This adjustment should also apply to the Transit Program, at least for the Rural Program, the Elderly and Disabled Program, and small metro areas such as Sioux Falls or Rapid City.

I want to work with the Chairman and Ranking Member to strengthen public transportation as a whole, and I believe that the key concepts that others have joined me in advancing last year should and can be accommodated in our work this year.

Thank you, Mr. Chairman. Thank you, Mr. Secretary, and I look forward to hearing from our panelists today.

Chairman SHELBY. Senator Enzi.

STATEMENT OF SENATOR MICHAEL B. ENZI

Senator ENZI. Thank you, Mr. Chairman, and thank you for holding this hearing.

Over the weekend I was in Cody, Wyoming, and mentioned that I would be at this hearing, and State Senator Simpson sends his greetings to you.

Secretary MINETA. I will see him on July 4.

Senator ENZI. A lot of times people, when they think of Wyoming, do not think of transit. But we and South Dakota and some of the other Western States were the early developers of Share-a-Ride. That means two people on a horse.

[Laughter.]

Senator ENZI. We are interested in getting from one place to another, and that is how that came about. So despite our small population, we have some very real transit needs that need to be addressed. Unfortunately, the current funding distribution model for transit programs leaves behind the States with smaller populations like Wyoming, and a lot of these comments will be an echo of what Senator Johnson said.

This year, Wyoming entities received approximately $5.1 million in transit funds. That equals approximately seven one-hundredths of 1 percent of the transit program. Of these funds, 50 percent came from a $2.5 million one-time allocation from the Discretionary Bus Program because of the fine work of Chairman Shelby on the Appropriations Committee. I did want to acknowledge and express my appreciation for your efforts in that matter. It was a tremendous help to Wyoming.

Unfortunately, the Administration proposes in SAFETEA to end this critical program which may result in even fewer dollars for Wyoming. Although there will be an overall increase for rural programs, it does little to ease my concerns about the need to provide adequate transit funding for all States. Simply throwing more money in the pot will not yield the results we are hoping to achieve; rather, I fear it will produce some big winners and some big losers. Although each State may receive the same percentage increase, that won't help States like Wyoming that start out with only seven one-hundredths of 1 percent of the transit budget.

Last year, Senator Allard brought in a witness from rural Colorado who recommended a minimum of $5 million per State annually for the Rural Transit Program. That was picked up in the bill S. 2884 that Senator Johnson mentioned that a number of us are cosponsors of that kind of approach to this problem. We need a small-State minimum for both the Rural Transit and the Elderly and Disabled Program. Small-State minimums are common for a number of formula-based programs because certain costs are present regardless of the location or the population. A little does go a long way in these small States, and that is why I cosponsored that bill. It was a good bipartisan effort to address rural issues at a very modest cost.

I am very pleased we are taking a closer look at these issues in this hearing today because rural States do have transit needs, too, and the current rural formula does not work for the rural States. We need more vanpools and other systems to help seniors and disabled and others in small communities. In addition, we also have to find ways to get seniors, disabled individuals, and other community members more strongly connected to the world beyond the city limits.

I was pleased to learn the Administration included in its proposal a section on intermodal transportation. Intermodal transportation will be particularly beneficial for people in rural areas who have limited access to air and rail transportation, and that, again, kind of defines Wyoming. Connecting these systems will provide some real efficiencies that will save both travelers and the Government real money.

I am looking forward to working with you, Mr. Chairman, on the Committee's bill and on problems I have outlined today. A number of us will be vigilant as we will show our interest in the transit projects that are very interesting and critical to rural and urban America.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Corzine.

STATEMENT OF SENATOR JON S. CORZINE

Senator CORZINE. Thank you, Mr. Chairman, and I appreciate your holding this hearing, and I, like all my colleagues, welcome Secretary Mineta, who is a terrific voice for transportation in this country and a terrific voice in general of a servant for our Nation.

That said, I have strong doubts that SAFETEA will be sufficient, in at least my perspective, on meeting the needs facing our Nation's mass transit infrastructure. Challenges posed by increased ridership and aging of the rail and bridge network require a strong level financial commitment from the Federal Government, and, unfortunately, I find the level not consistent with what the needs are being defined. I am quite positive all of us can talk about more resources, but I think that if we are to deal with the kinds of transportation problems we have in my State, the most densely populated State in the Nation—actually, more densely populated than India—we need to have the development of these mass transit systems for quality of life, environmental, and economic bases that are important.

I just think the amount, the $45 billion plus in mass transit spending over the next 6 years is just not adequate, in my view. By our perspective, it is a 1.2-percent cut, if you take into account inflation, under the authorized amount under TEA–21 and falls well below the Senate's $56.5 billion that we talked about.

I think you are all aware of the Conditions and Performance Report, and the difference between what is requested here and the additions just do not match. We should be doing more both for the rural States, obviously, some of the needs that my colleagues have mentioned are important, but in no way do I think that can take away from the fundamental needs of our urban communities in, as I say, the most densely populated State.

We have been very fortunate in New Jersey in the sense that we have been treated well in the New Starts Program, but that is only because we are catching up on huge gaps in investments that need to be made, and we have argued long and hard about light-rail projects which would significantly change, as I suggested, the quality of life, environmental considerations, and economic development in the region. I also would mention in that context that we are number 49 in the dollars sent off to Washington of the 50 States and receiving it back. It is a hard argument not to deal with in my State that such a fundamental need as mass transit is not talked about.

I am deeply opposed to this proposal that would cap new Federal funding at 50 percent instead of the 80/20 Federal-State split. It is going to be an unbelievably burdensome change with regard to our States, wherever you are, with regard to their current fiscal situation, the long-run fiscal situation as we see. So while I know of the Secretary's personal commitment to transportation, there is a lot of work for us to improve this. I would like to be as cooperative as possible and work closely with the Chairman and the Committee to make that possible.

Thank you.

Chairman SHELBY. Senator Bunning.

STATEMENT OF SENATOR JIM BUNNING

Senator BUNNING. Thank you, Mr. Chairman. I would like to thank all of our witnesses who are testifying today, and I would especially like to welcome my good friend Norm Mineta, Secretary Mineta, excuse me, to the Committee.

As we all know, Congress will be working on a transportation reauthorization bill this year. This is a big deal to all of us, and we all have very many transit needs. We have been hearing from the communities in our States about their transit needs. Primarily in Kentucky, the needs are for rural transportation. We do have needs for buses in Lexington, northern Kentucky, and Louisville. Louisville is also interested in a light-rail system. They are very far along with their studies and would like to start the new construction phase. I would like to concentrate on the rural needs today.

Kentucky has 30 rural transportation providers who receive Federal assistance. We also have three small urban systems serving largely rural counties: Henderson, which also serves Henderson County; Owensboro, which also serves Daviess County; and Ashland, which also serves Boyd County. Federal assistance is critical to these agencies. Without it, they would cease to operate, leaving hundreds of thousands of Kentuckians immobile.

Many of the riders are elderly or disabled, and rural transit is their only way to shop, visit the doctor, go to church, and interact with others. Rural transit also provides transportation for our workers to their jobs in some of the most economically depressed areas of the State and the country.

Rural transportation is vital to our Commonwealth and yet only requires a handful of new buses or vans statewide each year. And operating costs for the whole State are just a fraction of what any large metropolitan area needs.

Finally, since this is my only shot at Secretary Mineta this year, I think I would be remiss if I did not mention some other transportation needs. We are a State that is bordered by two major rivers, so we have a lot of bridge needs. Louisville has a request in for two bridges, which I am sure you have been made well aware of. But northern Kentucky/Cincinnati, which also needs a bridge to replace the Brent Spence Bridge, that allows I–71 and I–75 to cross the Ohio River. The Brent Spence Bridge was designed to carry 80,000 vehicles per day. Presently, it is carrying 150,000 vehicles during rush hour, and it is nearly impassable and is a great safety hazard because of truck congestion and deterioration due to the very large volume.

Because I–71 and I–75 are both major North-South interstates, it is truly a national project. It serves the busiest trucking corridor in the country, and these highways are the main routes for four major international airports. Kentucky and Ohio are united in their support for the replacement and are moving forward together, but we must have Federal assistance soon to ensure that a suitable replacement is constructed before the Brent Spence Bridge becomes unsuitable.

Once again, thank you, Mr. Secretary, for being here and all the other witnesses that are going to testify.

Thank you.

Chairman SHELBY. Senator Stabenow.

STATEMENT OF SENATOR DEBBIE STABENOW

Senator STABENOW. Thank you, Mr. Chairman, and welcome to all of those who will be testifying. Secretary Mineta, it is wonderful to see you again.

Mr. Chairman, I do want to speak for a moment but have my full comments in the record.

Chairman SHELBY. Without objection, your statement will be made part of the record.

Senator STABENOW. Thank you.

Ensuring safe and efficient public transportation is one of the most critical issues that we will face as a Committee, and I know we all share a great interest in this, and I look forward to working with you, Mr. Chairman, and with the Committee.

Michigan is known as an automobile State, and we take great pride in producing and driving our automobiles. But we also have tremendous mass transit needs. And in the year 2002 alone, Michigan buses carried over 88 million passengers, so this bill is a big deal for Michigan and for our citizens.

There are bus systems operating in every one of our 83 counties, from urban Wayne County to rural counties in the Upper Peninsula. And despite covering all the counties, service in many of our areas is minimal, creating a hardship for working families who cannot afford to own a car. I share the concerns of my colleagues regarding rural communities, and northern Michigan and other parts of our State, as well as my colleagues who talk about urban areas, we have both and have needs in both.

Last month, a *Detroit News* series chronicled how underfunded our transit systems are and how they impact our working families. The article focused on following Detroiter Karen Gholston, who stands at the bus stop every morning at 3:30 in the morning with her 2-year-old daughter in one hand and a can of pepper spray in the other, waiting to catch a bus for her 6 a.m. class. This is not unusual among those who are working and trying to get ahead as part of working families.

Despite the fact that her class is only 12 miles away, it takes Karen 2½ hours to get there because the bus only runs once an hour and is often late and sometimes doesn't come at all. This is an example of what we in Michigan are facing, and given that fact, I have serious concerns about the Administration's SAFETEA proposal and am looking forward to your comments.

First, SAFETEA not only fails to grow the transit program to help us and help the woman that I just spoke of, but it also cuts funding from the prior TEA–21 authorization. The Administration's proposal only provides $37.6 billion in guaranteed funding, which is a 7.6-percent cut from TEA–21's guaranteed funding level when adjusted for inflation. And this is of great concern to me.

The SAFETEA proposal also eliminates the guaranteed funding for the General Fund portion of the transit program, and, again, limiting this funding is forcing transit to compete for 20 percent of its funding in a very tight, difficult budget is of grave concern to me.

Finally, the Administration's proposal eliminates the 5309 Bus Discretionary Program, and as a representative of a State that relies almost solely on bus systems for its public transit needs, even though we are looking to options for light rail, we predominantly use our bus systems right now, I find this particularly alarming.

According to the Michigan Department of Transportation, Michigan's estimated transit capital and operating needs total nearly $1.5 billion over the next 6 years. And much of this capital investment is needed to simply keep existing service going, even though ridership is increasing.

Under TEA–21, Michigan received over $124 million under the Bus Discretionary Program, but our capital needs have exceeded

$600 million. So there is a huge gap there. This shortfall exists despite the significant contributions by Michigan taxpayers. Michigan ranks sixth behind five States with rail in direct support for our public transit systems, and we unfortunately already rank last in Federal transit funding among the Great Lake States and only receive 43 cents back on every transit dollar that we contribute to the Highway Trust Fund.

These are serious issues for us. I am looking forward to working with you to address these. The people in Michigan are counting on us to be able to do a better job for them, and I look forward to working with my colleagues on the Committee.

Chairman SHELBY. Thank you.

Senator Miller.

COMMENTS OF SENATOR ZELL MILLER

Senator MILLER. Mr. Chairman, I would like to thank you and Senator Sarbanes for organizing this hearing, and I would certainly like to thank Secretary Mineta and the other members of the panel that we are going to be hearing from. I have some prepared remarks that I would like to ask unanimous consent be made part of the record.

Chairman SHELBY. Without objection, so ordered. It will be made part of the record in their entirety.

Senator MILLER. I would also like to say this for a few minutes. I was around as a Governor in 1991 when ISTEA came along, and I was still around in 1998 when TEA–21 came along, so I know very well the benefits of these programs to the States of our Nation. And there is no doubt that in transportation, like in so many other areas right now, the needs outpace the resources, and we are going to have to deal with that. So I am interested in listening and hearing about the funding level of SAFETEA, but at the same time, Mr. Secretary, I am also interested in retaining the important flexibility and the minimum guarantees and what I call the firewalls that State transportation planning organizations enjoy today.

Thank you.

Chairman SHELBY. Senator Santorum.

COMMENTS OF SENATOR RICK SANTORUM

Senator SANTORUM. Thank you, Mr. Chairman. I just also would like to submit my statement for the record.

Chairman SHELBY. Without objection, it will be made part of the record.

Senator SANTORUM. Thank you, Mr. Chairman.

Just a couple of things that I wanted to stress, and that is, the idea of transportation, public transportation, and the role in welfare and the role that it has played and the important role that I hope it continues to play in getting people to jobs who are transitioning off of welfare. We have programs that we passed in the 1996 welfare bill, and I want to continue to see those programs grow as a way for us to get some of these intractable problems that we have, not just in our inner cities but in our rural areas. And I look forward to working very closely with you, Mr. Secretary, and the Department in making sure that those programs are expanded and create better access for those people in need of transportation to get to their jobs, again, to transition themselves off welfare.

I, too, want to express concerns—at least I have some concerns about the New Starts at 50/50, and I just see that as a real prejudice with any kind of major projects. In a sense, the closer you get to funding these projects at 50/50, the harder it is, obviously, for the locals to come up, and that means these big projects, some of which are very, very important and transformational for our cities in particular, tend to get pushed back in favor of smaller projects that are easier for those communities to budget for.

I am not too sure in the long run that you end up with better transportation networks as a result, and so I think that locking in that number is not going to be beneficial for the efficient use of transit in our urban communities in particular. And having two large urban communities in my State, both of whom have major projects in the pipeline, I want to put my marker down as expressing a very deep concern about that allocation.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Reed.

STATEMENT OF SENATOR JACK REED

Senator REED. Thank you very much, Mr. Chairman. It is good to welcome Secretary Mineta and Administrator Dorn. They both do an extremely good job for us.

I am pleased that you are here today, and I think your presence and the fact that the Chairman is holding this hearing signifies the importance of transit all across the country. Last year, in the Subcommittee we listened to representatives from cities like Salt Lake City, Atlanta, and other major communities across the country, and they all spoke to the critical importance of transit, not just in terms of moving people around but in making sure there is a quality of life and an economic vitality in their cities.

I am pleased that in the proposal the Administration has put forth, principally, I think, through the leadership of both of you, that there is a preservation of the share of the transit funding from the gas tax at the levels of 20 percent of the fund. I think this reflects your longstanding support for balanced national intermodal transportation policy. But I have three major areas of concern with the bill that has been proposed.

First is the failure to provide new resources for transit. I think everything you have heard today from every Member is the need, the growing need, for more resources for transit, and that is not just in the traditional Northeastern or West Coast urban centers, but it is in places like Atlanta and Albuquerque and Denver. More resources are necessary, and I do not think there are sufficient resources to do the job.

The second point I would raise would be the failure to guarantee the transit funding in SAFETEA. There has to be a strong guarantee that transit funding will be there, that it won't be subject to rather innovative financing mechanisms or other ways to do it, but it will be there guaranteed.

And, finally, I am concerned also that there is insufficient specific funding for transit security. We had several hearings last year, and, indeed, Senator Sarbanes and I asked the GAO to do a report.

They looked at just eight transit systems, and they determined that those systems alone would need $700 million to effectively protect them from terrorism. And that is just an example of the kind of resources we will need as we prepare ourselves—we hope it is just simply preparation and never an eventuality, but prepare ourselves for possible terrorist activity.

I look forward to working with you, Mr. Secretary, and with Administrator Dorn, Chairman Shelby, Ranking Member Sarbanes, and Chairman Allard to craft a TEA–21 successor bill that will provide the resources and the flexibility to continue our success in transit.

It is good to see you are well, Mr. Secretary, after your operation. I knew your anesthesiologist who was my classmate at West Point. That was my only concern.

[Laughter.]

Chairman SHELBY. Thank you.

Senator Sarbanes.

STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Well, thank you very much, Mr. Chairman. First, I want to commend you for holding this hearing and also for your indication that other hearings on this important issue will be following.

Chairman SHELBY. Absolutely.

Senator SARBANES. I want to thank Secretary Mineta for appearing, and Administrator Dorn, we are pleased to have her back before the Committee.

Actually, sometimes people say, you know, all those opening statements by Members of the Committee, what purpose do they serve? But I have been sitting here this morning listening very carefully to my colleagues, and I must say I think they have laid out a lot of very serious and important concerns. We are getting this reflection from the grass roots, so to speak, with respect to the transit programs. So, I think it is serving a very important purpose here this morning to put before the Secretary and the Administrator the challenges that are ahead of us.

As Senator Reed commented, we held hearings in the last Congress. In fact, the full Committee and Senator Reed's Subcommittee, held a series of eight hearings on transit issues. Secretary Mineta, you kicked off those hearings, actually, last year. And the witnesses included elected officials, business leaders, transit operators and riders, consumer users, and they gave us some very thoughtful testimony, which I think, frankly, can be summarized by saying that TEA–21 has worked. That was the general view.

Investment in transit over the last 6 years has increased by almost 50 percent. As a result, we have seen increased ridership all across the country. Transit saw the highest percentage of ridership growth among all modes of surface transportation in the period from 1993 to 2001, experiencing almost a 30-percent increase. More and more communities are now considering transit investments, and this is a record of success which needs to be built on.

We also face a struggling economy. The unemployment rate is the highest in 9 years. With TEA–21's reauthorization, we have an opportunity to support a program with a proven record of job creation. The U.S. Chamber of Commerce estimates that each $1 billion invested in transportation infrastructure creates about 48,000 jobs. Transportation investment has a broader economic benefit as well. The U.S. Conference of Mayors has pointed out how much of our Nation's economic output and jobs are in the metropolitan areas. Increasingly over the last decade, congestion is threatening the economic viability and livability of these areas, costing millions of Americans time and money that could be put to more productive use.

Earlier this year, when Administrator Dorn was here to present the Administration's fiscal year 2004 budget request, I outlined three basic principles that I believe any reauthorization bill must include if we are to address the challenges we face. And some of those have already been enunciated by others, but I very briefly want to reiterate those principles.

First, we need to enlarge the transit program. I think virtually everyone recognizes that. I am concerned that the Administration's proposal not only fails to grow the program, taking into account inflation, but it also cuts guaranteed funding over the 6-year period so that the guaranteed level in fiscal year 2009, $6.6 billion, is actually less than the program level today at $7.2 billion. This is the guaranteed level. We need to increase the overall amount, but within that, we need to make sure that we sustain the guarantee levels.

DOT itself has identified $14 billion a year in capital needs simply to maintain the condition and performance of our transit systems, $20 billion to improve conditions and performance. And some of the witnesses on our second panel today have estimated even greater needs.

Second, we need to maintain the funding guarantees which have been very important in enabling local and State governments to plan effectively. As I understand it, while the Administration's proposal maintains those guarantees around the portion of the transit program that comes from the trust fund, it eliminates those guarantees from the portion of the program that comes from the General Fund, which accounts for about 20 percent of the program. So there is a shrinking back of the guaranteed level, which is a source of great concern.

Also, one of the points made last year at the hearings was that the funding guarantees must be preserved. It has been, I think, fair to say that the guarantee level has effectively established the size of the transit program under TEA–21.

We need to preserve the balance established by ISTEA and TEA–21 between highways and transit—I know the Chairman made reference to that in his opening statement—both in terms of overall investments and in terms of Federal matching ratios for the highway and transit programs.

We have worked out an accommodation between highways and transit over the last several authorizations. It has stood us in good stead, commands general support, and yet the Administration has proposed to lower the Federal match for New Starts Transit projects but has not proposed a corresponding change for highway projects. And Senator Corzine and Senator Santorum and others made specific reference to that.

Just to underscore the point, when John Inglish, the head of the Utah Transit Authority, was before our Committee last year, he said:

> Without an 80/20 match, our North-South, our original line, would not have been built. As a relatively poor system, of the quarter-cent in sales tax at the time, we could not have done it with any other match. As it happened, that line so transformed.

Senator Santorum used the word "transformation."

> "As it happened, that line so transformed our community, that within a year they doubled the sales tax to expand the public transit system and the program has continued to grow."

If you weigh it so the highways are at 80/20 and the transit is at 50/50, you are going to lose that transformation effect. And I thought Senator Santorum made a very important point. People will shy away from the major projects that really change the whole transportation network. They will be more inclined to do the small incremental things, and we will lose a major impetus for transforming the transportation infrastructure.

Having said all of that, I want to take a moment to commend the Department for including the Transit and Parks Program in your reauthorization proposal. This has been a pet of mine, legislation I have introduced now in the last couple of Congresses to alleviate traffic congestion, improve the visitor experience in our national parks and other public lands by providing visitors with alternative transportation options when they visit these national treasures. What is happening now, you know, families line up in an automobile, a huge line, emitting pollution. They all edge up to the admission kiosk. Then they get there and are told the park is full, and they cannot come in, there is no more parking and away they go. And we need to develop systems where they can put their cars somewhere else and everyone can be brought into the park. It is being done in some places across the country, and it is working with great success.

We have a big challenge here ahead of us. The interest of the Committee is obviously manifest. You have a quorum already who have come today in order to be here for this hearing, and we look forward to working closely with the Department. But it is my own view that we need to strengthen this proposal in a number of significant respects, and I hope we will be able to do that in the weeks to come.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Carper.

STATEMENT OF SENATOR THOMAS R. CARPER

Senator CARPER. Thank you, Mr. Chairman.

I was in your State of California 2 weeks ago, Mr. Secretary, and flying into an airport down around LA, not LAX but John Wayne Airport, as I recall. I thought, "Well, I never knew him." Then I flew into San Jose, and I was walking around, and I see everywhere I went, it said Norm Mineta Airport. I said to a lot of people, "I know him." Good looking airport. They remember you fondly, and almost every day, I am told.

Senator SARBANES. That is a preliminary to getting a Thomas Carper Airport in Wilmington, Delaware.

[Laughter.]

Senator CARPER. In Delaware we do not have any commercial air service. Amtrak used to have a marketing campaign and the theme of the marketing campaign is, “Maybe your next flight should be on a train,” and in Delaware all of our next flights are on trains. Maybe I can get a train station named after me if I am lucky. Although, Senators Johnson and Stabenow both told me since I walked in that in my absence you decided to eliminate funding for Amtrak. So, maybe we will have to find something else to name after me. Who knows?

Mr. Secretary, thanks for joining us today, Administrator Dorn. It is good to see you both, and I am looking forward to this hearing on SAFETEA. Senator Sarbanes said that he regards TEA–21 as a success in his State and around the country. I do as well. And it sparked in my little State about a 20 plus increase in transit ridership since its enactment and that is a very good thing. And we believe at the heart of the success of TEA–21 is this combination of several things, the program flexibility, State and local control, and substantial resources. And SAFETEA, I am generally pleased to see efforts to expand flexibility and local control so that communities can further define and direct the transportation solutions that fit their respective needs.

Having said that, I do believe the proposal does lack enough of a third key ingredient, and I am sure you heard some of that this morning, and that is substantial and guaranteed resources, and I am afraid that this may be a fatal flaw. SAFETEA provides, as I understand it, about $46 billion in total authorization and some $37½ billion in guaranteed funding for transit over the next 6 years, and when you compare that to what we have provided in recent years, it represents about a little over a 1 percent cut, and maybe a 7½ percent cut respectively from TEA–21’s total funding level when adjusted for inflation. I believe in fiscal 2004 the transit program will be flatlined, the same as that in 2003.

I had a chance to see the highways in your old part of the world, Mr. Secretary, and I know they look a lot like ours in the Mid-Atlantic. The highways are clogged with gridlock and the skies are filled with smog. The critical need for transit service across our Nation has become I think clearer and clearer. I believe we need to spend more, not less, to promote and strengthen transit options in both rural and in urban areas.

The funding levels put forth in SAFETEA will not allow Delaware or our Nation to tackle our impending mobility crisis. These low funding levels are the direct result of the Administration’s opposition to increasing revenue measures such as raising Federal fuel taxes despite an obvious need for transportation investment. I realize the difficulties associated with finding additional revenues for transportation in these lean times. As a Governor, I sought to raise motor fuel taxes. We succeeded once, but a couple of other times we were not as successful. But the money we raised, we put it to good use.

But I think it is our job to determine the appropriate funding level and to provide a fair plan to generate that level of funds, and

I hope to work with my colleagues here and in the Senate to do just that.

Beyond the question of overall funding, I have a couple of specific concerns with policy changes put forth in SAFETEA. Let me just mention them. Principally, SAFETEA proposes eliminating the guaranteed funding or the firewall protection of the General Fund contributions to the mass transit account of the trust fund, which would mean reduced funding for transit due to the competition we all know is going to exist for scarce discretionary dollars. Guaranteed funding is perhaps the most crucial component of TEA–21, and I will work hard to resist changes to the guarantee that could negatively affect the transit program. I am also concerned by the proposed change of the statutory Federal share of funding for the New Starts Program from 80 to 50 percent. I think Senator Sarbanes alluded to that. I just think we need to maintain an equal funding level with highway projects, or we risk dissuading communities from making transit investments, even those that make sense.

I hope to learn more about these issues from your perspective today, and also about other program changes such as the elimination of the Bus Discretionary program, changes to the job access and reverse commute program, and the eligibility of nonfixed guideways projects through the New Starts Program. While some of these changes may enhance flexibility and simplify the program structure, I would like to ensure that they do not have unintended consequences.

In closing, I just want to again say, Mr. Secretary, Administrator Dorn, thanks for being with us today, and for the work that has gone into preparing SAFETEA. I believe the proposal provided us with a good starting place to being our debate, and we look forward very much to being part of that debate with all of you. Thank you.

Thanks, Mr. CHAIRMAN.

Chairman SHELBY. Thank you.

Mr. Secretary, your entire prepared statement will be made part of the record in its entirety. You may now proceed as you wish.

STATEMENT OF NORMAN Y. MINETA, SECRETARY ACCOMPANIED BY JENNIFER L. DORN, ADMINISTRATOR FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION

Secretary MINETA. Mr. Chairman, thank you very, very much. Senator Sarbanes and Members of the Committee, let me thank all of you for this opportunity to appear before you to discuss the Administration's proposal to reauthorize our surface transportation programs entitled the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 or SAFETEA.

I am pleased to have Jennifer Dorn, our Administrator of the Federal Transit program, here to help me answer any of the detailed questions you might ask.

The Administration's proposal serves as the largest Federal transportation investment in our Nation's history. SAFETEA builds upon the principles, values, and achievements of ISTEA of which I was the proud principal author in 1991. Of course then many of you worked on TEA–21 in 1998, while recognizing the need to address the new challenges.

As a former Member of Congress and having served on the city council in San Jose and then elected its mayor, I recognize the importance of this year's reauthorization cycle to securing the funds and the framework for long-term investments in our system of transportation. Because the need for funding predictability for infrastructure investments is critical to our State and local partners, our Nation cannot afford the uncertainty of a short-term extension of current law. So, I urge the Congress to reauthorize a comprehensive 6-year surface transportation program before the current law, TEA–21, expires on September 30, 2003.

Though some might suggest an even greater increase in spending, the facts are clear, the President's proposal represents a record Federal investment in surface transportation. From fiscal year 2004 through fiscal year 2009, SAFETEA would invest over $201 billion on highway and safety programs and nearly $46 billion on public transportation programs which is a 28 percent increase over TEA–21. Simply put, with more than a 28 percent increase in spending over TEA–21, SAFETEA represents the largest Federal commitment to public transportation in our Nation's history. SAFETEA promotes common sense transit solutions by reducing the number of different program silos and distributing all programs by formula except New Starts. Rather than have States try to match projects to specific pots of money, the Federal Government should help States to maximize mobility and to create a seamless transportation network. Accordingly, our proposal provides States and localities with much needed flexibility to fund priority projects in their communities.

Stable formula funds help agencies to do more with less. They provide financial markets the confidence to support transit investments, provide communities an incentive to commit their own long-term resources and instill confidence in local developers. The necessary transit commitments to support infrastructure growth will be honored.

SAFETEA proposes a shift to dependable formula and capital funding and a larger New Starts Program by restructuring FTA programs into three major categories from the present five. Under SAFETEA, urban areas will have increased flexibility and have more predictable funding to improve their ability to make longer-term investment plans and to acquire necessary financing. We must ensure that every year each community can count on a share of these funds. SAFETEA would expand the New Starts Program by 55 percent and expand capital assistance for new nonfixed guideway corridor systems and extensions that meet the New Starts criteria. Today, a fixed guideway is often not the most cost effective way to provide new or expanded public transportation service. Today's rules too often require communities to choose a more expensive, fixed guideway system in order to qualify for a New Starts grant. Moreover, some small- and medium-sized communities that might otherwise benefit from the creation of new transit options simply cannot generate enough riders or travel time savings to justify a more expensive fixed guideway system. While fixed guideway projects are critical and will continue to be eligible for funding, worthy public transportation projects with lower cost nonfixed guideway solutions also deserve consideration.

SAFETEA is also based on common sense transit solutions providing States and localities the opportunity to determine how they can best service those heavily reliant on public transportation including rural residents, older adults, persons with disabilities, and low-income riders. Unfortunately, about 40 percent of rural counties today have absolutely no public transportation, while others enjoy only limited service. Because it is exactly these rural residents that most often rely on rural transit, our proposal increases public transportation funds for rural communities by 87 percent over TEA–21.

With stable formula funding, streamlined programs, performance incentives, and simplified administrative requirements, our communities will be in a much better position to leverage the Federal transportation investment in public transportation and provide Americans with common-sense solutions to meet their transportation needs. Mr. Chairman, Senator Sarbanes, and Members of the Committee, that is exactly what the President's proposal would provide.

Again, thank you for giving me this opportunity to appear before you today. I would be more than pleased to take your questions.

Chairman SHELBY. Thank you, Mr. Secretary. I have heard several times from you and the Administration and the Administrator, who is here, Ms. Dorn, that one of the goals of the reauthorization is to reduce program silos that have had the effect of altering local decisionmaking based on the availability of funds, and I applaud that effort.

I note an inconsistency in that approach in SAFETEA, however. If the theory is to remain mode neutral, and not allow the Federal Government's program structures inappropriately to influence local decisions, why change the Federal match for New Starts? Would that not cause a highway project to look like a more attractive option than a transit project?

Secretary MINETA. Next question.

[Laughter.]

Chairman SHELBY. You can pass that on to Ms. Dorn, but I think she is leaning toward you, Mr. Secretary.

Secretary MINETA. Mr. Chairman, there are probably two overriding issues that people bring up about SAFETEA. One is the funding level and the other is about the change in the New Starts Program. Again, let me reiterate that this is the largest bill involving public transportation investment by any Administration, larger than ISTEA, larger than TEA–21, and so from that perspective we are very proud of the bill.

When in doing ISTEA, if you will recall, at the time highways were 90/10, transit was 75/25. Local communities were making decisions based on where do they put out the money and get the most back? Obviously, it was the highway, 90/10, because transit was at 75/25. That is why in ISTEA I made it all 80/20, so that everybody made decisions based on what is the best transportation solution, not where do I get the most money back for the money that I put on the table? So that was preserved in TEA–21.

As we look at the experience of what we have in public transit today, it is something like 49 percent is really the level of contribution in terms of what comes from the local communities. The pattern has been that even though the law was 80/20, local districts, in order to get up the food chain, increased their own local investment in their system and tried to get more favor because there is more local transit dollars being invested, and that way, they would be looked upon with favor by the FTA. The principle of 80/20 is still there in all of the programs. We have changed it as it relates to New Starts. We believe we are not only conforming to what we are experiencing, but it is also the way to be able to spread more of the money across the country in terms of communities that want to develop a New Start program.

You mentioned the silos, and that really has been a problem, and I experienced that as a mayor, and if I might take the time to give an example. In 1972, President Nixon decided that he wanted to do a block grant type program, and of course we had discretionary pots of money in those days, and so as the mayor of the local community, they chose 14 communities to try something regarding a block grant program. So we came up with all of our needs in our community. One of the needs that we wanted were four community centers, and when I was meeting with the HUD officials they said, “We do not have money for your four community centers. We have money for two. But we notice that you did not have any submission for sewage programs. So do you not go ahead and think up $100 million worth of sewage treatment programs?” I said, “I will tell you what, give me the $100 million and I will go ahead and build the other two community centers.”

Discretionary pots of money restrict the ability to be flexible. That is why in this program we have reduced it from five to three, and given much more flexibility, as Senator Carper was mentioning, in order to be able to have governors or mayors, transportation people, be able to use that flexibility to direct their resources to what is facing them in their local community or in their States. Because otherwise what we do is use this theory of, I guess, you might say, margarine spread on the piece of bread. But that is not how Delaware is, as compared to Alabama, as compared to Utah, Pennsylvania, and I think the flexibility that we have in this program really is giving governors and local transportation people the ability to be much more flexible and direct their resources.

That is why we have eliminated the silos, why we are trying to conform to what in reality is occurring right now, and that is that the local share is now 49 percent.

Chairman SHELBY. Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

Secretary you mentioned the overall level of funding and the New Starts ratio as two issues that are being raised. I also want to talk about the funding guarantees as a very important additional issue.

But on the New Starts, let me just say that the fact that as a practical matter you are getting a higher match does not, in my view, undercut the desirability that the match be the same between transit and highways at 80/20 in their overwhelming needs, and if communities are prepared to do a little more in order to move the project, that is one thing, but they ought not right up front be confronted with this discrepancy between 80/20 and 50/50 because it is going to, as you indicated when you did the 90/10 and 75/25, it is going to skew their decisionmaking. I go back to this quote from the head of the Utah Transit Authority, that I read at the outset in my statement, which I think is very meaningful when he said:

> Without an 80/20 match our north-south, our original line, would not have been built. As a relatively poor system of the quarter-cent in sales tax at the time, we could not have done it without any other match. As it happened that line so transformed our community that within a year, they doubled the sales tax to expand the public transit system and the program has continued to grow.

I mean there is pretty strong testimony there. They never would have embarked on it at 50/50, at least according to this testimony.

Senator BENNETT. That is true.

Senator SARBANES. It has just been corroborated by the senior Senator from Utah.

Secretary MINETA. If I might interject, I wonder if Salt Lake City might now have been a special program because of the Olympics coming there, and as we do with Olympics, whether it was in Los Angeles, Atlanta, or as it was in Salt Lake City, we do pour a great deal of money into those communities. I think that that has helped, especially when the Governor took the initiative to tear down I–15 and start all over again, and it was a program that we supported because of the traffic pattern in Salt Lake City.

Senator BENNETT. I do not want to intrude on your time, but the light rail proposal started before Salt Lake got the Olympic bid, and we had to do it to deal with the problem there. Utah is thought of as a rural State, but 85 percent of our population lives between the mountains and the lake, and it is a very relatively narrow situation, and we had to have some transportation up in there. You talk about tearing up I–15. In order to get I–15 done in time, the State actually paid more than 50 percent of the cost of I–15, and we had to do that for the Olympics. But for the record, the light rail was begun, the 80/20 match was approved and we were underway before Salt Lake achieved the Olympic bid. I do not, by any means, want to suggest that the Olympics did not have an impact. You are right. I think we moved up the queue because of the Olympic bid, and we received the full funding grant agreement probably faster than we would have, but in terms of the actual chronology, it was in before the bid came to Salt Lake.

Senator SARBANES. Right.

Senator BENNETT. Thank you.

Senator SARBANES. Let me turn to the guaranteed funding issue. The DOT is on record in numerous venues as supporting guaranteed funding for the transit program. In fact, the Administrator testified here last April, one of the most visible and important elements of TEA–21 has been the tremendously positive impact of stable and dependable funding streams on transit development. You, yourself stated in March: "The budgetary firewalls have created confidence among grantees regarding Federal funding, an extremely important aspect of program delivery for State and local officials."

As I understand it, over the life of TEA–21 the transit program received 100 percent of TEA–21's guaranteed amount, $36 billion, and only one-half of 1 percent of TEA–21's nonguaranteed authorization, $25 million out of $5 billion. So, in effect, the funding guarantees establish the size of the transit program.

SAFETEA proposes to guarantee highways at $201 billion and purports to fund transit at $46 billion. But assuming that transit is actually funded only at the guaranteed level, as was the case under TEA–21, that would be a highway program of $201 billion compared to a transit program of $37.6 billion. In other words, you are not providing the guarantee for the transit money that comes out of the trust fund about 20 percent of the money. In TEA–21, that money was guaranteed as well, and as I have indicated, the transit money in effect paralleled the guarantees. So it seems to me this is a potentially very serious reduction in transit money. I disagree with your assertion about this being the biggest program ever. I mean in nominal terms that is true, but as I understand it, if we adjust it in real terms for inflation, it does not reach the TEA–21 levels, but leaving that to one side, the drop of a guarantee for 20 percent of the money has potentially extremely severe implications for transit. What is your take on that issue?

Secretary MINETA. In TEA–21, the guarantees only apply to the amount that comes from the trust fund, both the highway and mass transit account, as you have indicated. The portion that comes from General Funds is not guaranteed. There are no other guaranteed programs in the Federal budget. And the only one that was guaranteed was transit.

We feel confident transit programs can compete effectively for General Funds, even if they are not included in the firewall. This was a discussion that went on for a long time and part of it is the fact that how do we isolate transit programs for the total Federal programs and say, yes, they should have a guarantee? It then precludes Congress or the Administration from shifting priorities whenever some need arises including, let us say, September 11. So that is why we felt that the feeling was that we should not tie the hands of future Congresses or the President with General Fund firewalls.

Senator SARBANES. I thought September 11 was a very powerful argument for further enhanced investment in transit. Am I wrong about that? That is my understanding, that the one response to that is we have to beef up these transit systems. These people were moved out of Washington and New York on the transit systems, were they not?

Secretary MINETA. Well, most of the movement was I think on the commuter rails rather than on the local transit systems, the MTA, but mostly the——

Senator SARBANES. Amtrak.

Secretary MINETA. Amtrak, New Jersey Transit.

Senator SARBANES. So you are back to supporting Senator Carper on Amtrak? We are going to keep moving you from one slot to another on this.

Secretary MINETA. And the Governor Thomas Carper Station in Delaware as well.

Senator SARBANES. Thank you.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

Secretary Mineta, let me get back to the original statement I made. Do you share my concerns about rural transit needs, and will you work with us to eliminate those concerns?

Secretary MINETA. Yes, sir. And SAFETEA really does reflect an emphasis on the rural transit needs. As I recall, under SAFETEA, as compared to TEA–21, the rural program is an 88 percent increase in rural formula programs, and so there is recognition of what we have not been doing in rural transit in the past, and we are trying to correct that in SAFETEA.

Senator BUNNING. I know the overall increase, but how about the ability to have the local governments match up in paying?

Secretary MINETA. These monies, of course, go to the State and then they work with local governments. What we have done is to increase the planning and technical assistance that can be provided at the State level in order to strengthen not only the State but also the local communities in terms of their own planning capabilities, to make sure they get the ridership for their local programs. But what we are trying to do is strengthen the planning and just the capabilities at the State and local level.

Senator BUNNING. This question is kind of off the wall, so you can pass it on to someone else or you can answer it.

Secretary MINETA. Ms. Dorn, if you would?

[Laughter.]

Senator BUNNING. Last fall, Congress passed legislation to arm airline pilots by very large margins both in the House and in the Senate. Last week it was reported that only 44 pilots out of a possible 60,000 have been armed. Many pilots believe the TSA is trying to kill the program by foot dragging and making the program burdensome. At the current rate you are training pilots, it will take several hundreds of years to arm them all. It is clear to me that we have not trained enough pilots to have them be any type of deterrent. We have thousands of commercial pilots who served in the military and many still do. Yet the TSA has only been able to arm 44 of them. Do you have any idea why there is such a delay in implementing the law as it is written?

Secretary MINETA. First, as you know, the Transportation Security Administration was transferred on March 1 to the Department of Homeland Security. But prior to that transfer, this program was initiated. Congress had provided no funding to TSA, so we readjusted some monies and reallocated the financial resources to go ahead and do this training of the initial 44 pilots who volunteered for this program, but there is no funding.

Senator BUNNING. Even in the new appropriation bills that were passed in January?

Secretary MINETA. None of the supplemental appropriations.

Senator BUNNING. No, not supplemental. I am talking about the regular appropriations.

Secretary MINETA. The regular did not.

Senator BUNNING. The Omnibus Appropriation Bill.

Secretary MINETA. I do not believe in the Omnibus it was provided. I will check on that, because that was after March 1, and I did not follow it in terms of the Omnibus Appropriations Bill after March 1 when TSA got transferred to Homeland Security. I can get that for the record and submit it to you. (Information was not received in time for publication.)

Senator BUNNING. Thank you very much.

Thank you, Mr. Chairman.

Chairman SHELBY. Thank you.

Senator Reed.

Senator REED. Thank you very much, Mr. Chairman, and thank you, Secretary Mineta.

Senator Sarbanes mentioned we held eight hearings on transit issues, and if I may give you a condensed summary of what the findings are I believe. First, transit has been extremely successful under ISTEA and TEA–21. Ridership has increased. Systems have been renovated, rejuvenated, and all across the country transit has taken on a new energy and a new popularity. In addition, I think that there is increased demand as a result for new transit systems and for increased funding for existing transit systems. That is a result, not just of our transportation policy, but also environmental policy. My Director of Transportation in Rhode Island frankly told me there is just no more room for highways in Rhode Island. If we do not have complementary transit systems, if we do not have remote satellite parking to put people into trains and the buses, even if we had the money, we could not build more highways.

That demand requires additional resources, and it is a demand, as I suggested in my opening remarks, that is not exclusive to any part of the country. Boise, Idaho, the mayor testified about the need for transit in Boise. We have talked about Salt Lake City. They were there testifying. Atlanta, Las Vegas, Denver, and of course New York moves about 33 percent of its people each day in mass transit; Boston. And those are systems that have peculiar problems because of the age and the need to continually renovate a very old system.

The other aspect that I could summarize is that local transit authorities, both State transportation officials and local authorities, need certainty and predictability in terms of their planning. They need that for their own purposes. If they are going to make a significant commitment of local resources, they know the Federal Government will be there, not just this year and next year, but in 5 and 10 years out, because those are the scale or scope of these planning processes.

And that brings me to the criticisms that you have heard repeated here many, many times. Flatlining the transit budget does not give a sense of certainty that these increased demands will be met, that ultimately it will be robbing Peter to pay Paul, and probably robbing Peter and Paul to pay somebody else, given the fiscal situation of the United States. The end of the guarantee, sent a strong signal that there may not be a lot of certainty any longer. I know you indicated that transit is popular, and we will find a way, but again, in a declining fiscal situation with increasing deficits, such efforts might not be successful. The increase of the transit match vis-à-vis the highway match for New Starts sends exactly the wrong signal to planners.

All of this, I think, has to be on the record. I think you recognize it. You point out that this is an increase in terms of size. Without inflation adjusted figures it might be, but nevertheless, it is not just a question of absolute size. It is a question of adequate resources for the demand, and everything we heard in 8 Subcommittee hearings, everything you have heard today, indicates that demand is increasing dramatically. Not only is this satisfying just a popular demand, but also we will never meet the goal of a comprehensive intermodal transportation system that addresses the issues of pollution and congestion unless we have vigorous investment in transit. I know you know that, and I believe that you will be able to work with us to correct some of these issues.

I do not want to ask any specific questions because the questions have been raised and you have responded. I do not want you to respond again. Let me turn to a specific issue, and that is the lack of funding for identified transit security issues. I understand that there is this new arrangement between the Department of Homeland Security and your department, so you might comment on that relationship, and also on what you propose to do in terms of security issues for transit systems.

Secretary MINETA. One of the most extensive programs we have probably undertaken through the great efforts of Administrator Dorn is the work that she has done in conjunction with APTA on getting to the districts or transit districts about security concerns, and also not only transit districts, but also first responders, and that has been, I think, a program that we have aggressively undertaken, but maybe I will have Ms. Dorn give more of the details of what she has done with transit and security issues.

Administrator DORN. Certainly. Mr. Chairman, I appreciate your strong support for the efforts that we are undertaking at the Department, and specifically at FTA. Early on Secretary Mineta encouraged me, in partnership with the transit industry, to be as aggressive as possible about conducting a series of security assessments, which we did 37 security assessments across the country in order to prioritize the risks and the vulnerabilities. This helped the transit agencies understand how they could best prioritize those risks and those vulnerabilities, and to help the transit agencies to understand how they could best prioritize those risks and those vulnerabilities and put together emergency response plans.

The results of those efforts have been two-fold. Number one, they have yielded really important outcomes for the individual transit agencies, because as we have discussed before, it is impossible to do a cookie cutter kind of approach in terms of security. And number two, we have learned in terms of our team of experts, some very important principles about best practices that can be shared with the industry.

We also then are in the middle of doing technical assistance follow-up teams. We identified some vulnerabilities such as emergency response preparedness, and those sorts of activities are being taken into account right now as we have teams on the ground and will over the next year into 60 transit agencies.

The Secretary mentioned our security forums in which we are bringing the first-line responders together with the transit agencies to make sure that those emergency response preparedness plans are acted upon, and we have given approximately 85 grants for drills for community-wide drills.

In the course of our work together, we have discovered that the three most important principles of funding, in terms of getting the most bang for the buck—and we did have limited funding for this activity through the generosity of the Administration and the Congress. We found the three most important investments relate to transit employee training, first-line supervisors, they know what to do and how to react, and we have seen significant improvement across the board. First, our transit agencies are safer than they have ever been, and of course, as we have discussed before, because it is an inherently open and accessible environment, we have a situation that is difficult to address. Public awareness is the second. We can have eyes and ears of our passengers, and they can plan an important role, and many of our transit agencies have partnered with not-for-profits and with other parts of cities in order to make sure that that public awareness level is increased. The third and final piece is the emergency response preparedness and drilling against those plans.

Those are the three most important investment arenas in which we think it is important to undertake real solid work.

We have worked very closely with the TSA, and now it, of course, is in the Department of Homeland Security. They have taken our risk assessment of the 37 top agencies, and they are incorporating those in determining which and how grants should be given to transit agencies. We have an ongoing, daily partnership with Department of Homeland Security. And we believe it is appropriate for them, in the position from which they operate, to be able to determine what other prioritized risk, is port security or another sector more important in terms of those kinds of investments? So we believe that the sharing of expertise continues and the responsibilities appropriately allocated between FTA and TSA. We have a daily, working relationship, and I am confident it will get even better over the course of the months and years to come.

Senator REED. Thank you.

Chairman SHELBY. Senator Santorum.

Senator SANTORUM. Thank you, Mr. Chairman. I am going to try to run down a few questions very quickly.

I think you have heard from the Committee as to our concern about this 50/50 funding. I just have a question with respect to your comments that a lot of transit organizations are trying to jump ahead in the queue by going to better, more even matches, 50/50 matches.

Could you provide me a list of those projects? I want to see whether what I suggested in my earlier comments is true. Are those smaller projects that are easier to fund, or are these big, major projects that are being bid up? I suspect they are probably not. I might be wrong, but I would like to see. And if, in fact, they are smaller projects that are jumping ahead in the queue, I think it proves the point that that is what we are going to get more of.

Chairman SHELBY. Senator Santorum, would you please yield? Would you ask them to furnish that not only to you but also to the entire Committee?

Senator SANTORUM. Yes, Mr. Chairman, I would be happy to.

Senator SARBANES. Could I add a wrinkle on that? I think it is important that we know whether it changed over time. Some of these projects, they start out at 80/20, and then in order to keep them moving or to expand them, once they have proven their value to the local community, they are willing to do more. And I think we need to know that as well.

You may have something that shows up at 60/40 in an expansion, but its genesis was at 80/20. And if that is the case, we need to know that as well.

Senator SANTORUM. I appreciate that additional request to my request. Thank you.

A couple other things. First off, with respect to the Job Access and Reverse Commute, my understanding is you are proposing a formula for that. I have to just put my marker down that I agree with my former Transit Administrator out of Pittsburgh, Bill Millar, who has expressed concern that is going to spread things a little bit too thinly from my perspective and I think could have the impact of diminishing the program's effectiveness. And I just want to make a comment to that effect and suggest that that is something the Committee needs to look at as to how we can best utilize those resources in an area where it is going to maximize their efficiency.

A couple other things. I am also on the Finance Committee, and there is a proposal floating around by Senator Grassley and Senator Baucus with respect to transit bonding. Can you give me the Administration's opinion on that proposal?

Secretary MINETA. We do not support that 2.86-cent diversion at all and feel that the Grassley-Baucus, I believe it is, approach should not be undertaken.

Senator SANTORUM. Thank you, Mr. Secretary.

One final comment. I am going to get off the transit bandwagon here for a second. This is my only chance. I do not sit on any of the relevant Committees on other issues regarding transportation.

I come from Pennsylvania, a State that has more roads than New York, New Jersey, and all of New England combined. And there are proposals floating around saying that all States should get in the new authorization 95 percent funding as a minimum level of funding. I just want to suggest that, as a State that basically connects the entire Northeastern part of the United States to the rest of the country, certain States are more important for interstate transportation than other States; and that if we are going to go to a system that says that everybody is going to basically get back what they put in, what is the point of having a program that is supposed to be modeled after improving efficiency for the entire country?

With that comment in advance, I would like to know what the Administration's viewpoint is on a funding formula that would require that all States get at least 95 percent of the money they put into the system back?

Secretary MINETA. In SAFETEA, we have retained the provisions of ISTEA of staying at 90.5 percent. Now, there is a group called SHARE that is pushing for the 95 percent proposal. That would add $6 billion to the Highway Program itself, and, frankly, we do not know where that funding would come from.

Our $201 billion program is based on moving the 2.5-cent ethanol tax that is now going into the General Fund, moving that over to the Highway Trust Fund, and digging into the resources of the unobligated balance in the Highway Trust Fund in order to come up with the $201 billion program on the highway side, which again, as I said and would reiterate, is the largest highway program. But to get to 95 percent return for every State is an additional $6 billion, and we just do not have the resources to——

Senator SANTORUM. If you give me just an additional minute, maybe I should ask the question a different way. Assuming we could come up with $6 billion, would that be the best way to spend it? I mean, that is really the question here. Congress very well may come up with more money. My point is that if we do come up with more money, is that the most efficient way to spend that money to make sure that we are improving the road network to provide better infrastructure for the interstate transportation of goods in this country?

Secretary MINETA. Without having any other discussions with OMB or Domestic Policy Council, but as a personal opinion, I would say it would not be a good application of the resources.

Senator SANTORUM. I hope you weigh in with those other agencies to express your opinion. Thank you.

Senator SARBANES. Could I point out that to get expeditiously from the North to the South along the Eastern corridor in this country, you have to go through Maryland as well.

[Laughter.]

Secretary MINETA. Maryland will get all the $6 billion.

[Laughter.]

Chairman SHELBY. Senator Bennett.

STATEMENT OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you, Mr. Chairman.

Senator Santorum asked my leading question about Grassley-Baucus, and I am happy to hear you say that the Administration is opposed to that.

A quick little bit of comment and history. When the interstate highway system was first proposed, it was going to be bonded. And Senator Harry Byrd from Virginia said, "Roads, yes, gentlemen. Bonds, no, gentlemen. We are going to pay for this as we go." And the Highway Trust Fund was created and the gas tax was created to see to it that we did not create bonds but that we paid for this as we went along. And given that history that goes back 50 years, I get nervous that people are now talking about bonds to pay for transportation again.

We had a hearing in the Joint Economic Committee on Transportation, and this is an oversimplification of the subject that was discussed, but toll roads came up. And it was a new vision of how toll roads, actually toll lanes, put market forces into transportation, in that people would be willing to pay a higher price to get on an express lane. In an emergency—the evidence where it has been tried would indicate that it wouldn't go to the rich in every instance, that people who have an emergency have to get to a hospital, have to get to an appointment, say it is worth the extra $2 or $3 that I would be charged with a "smart tag" kind of collection system. And I just pull into the lane and go there, and I know I am going to be charged as I go past the various places, but it is worth it to me. And others say I cannot afford that, and it is worth it to me to take a little while longer to get to work, and that would change the mix of highways pretty dramatically and provide another source of funding. Going along with the proposal for an increase in the gas tax, if you start talking about the highest rate of expenditure ever for transit and highways, we have got to have another source of funding somewhere.

Have you looked into that kind of thing? And do you have any opinion about it?

Secretary MINETA. And, in fact, in SAFETEA we allow HOV lanes to be used for what is referred to as "hot lanes."

Senator BENNETT. "Hot lanes"—that is the name I could not come up with. Thank you.

Secretary MINETA. And so that is a facet of our Highway Program in SAFETEA that is new that we allow.

Senator BENNETT. Have you done any studies as to how much money that might raise? What contribution—I assume that would all go into the Highway Trust Fund, or would that all go to local——

Secretary MINETA. No. It would go to the local agencies that are doing that, and probably the best example of that is State Route 91 in California. But there are other agencies that are now considering the idea of a hot lane. And the biggest thing about the hot lane is how to identify whose car or what car it is, and are they already registered as a prepaid customer of the toll lanes so that they would then have their account debited for being in the hot lane.

Senator BENNETT. Thank you. One other question. We have a vote and I recognize that. Would you consider in all of this debate about 80/20, 50/50, et cetera, perhaps bifurcating between New Starts and additional expansions. The experience in Salt Lake City has been cited. I can tell you that there was great opposition to light rail in Salt Lake in some sectors. They were more vocal than they were numerical, but there was a great expression of concern about "snail rail," as they called it.

I remember attending a political activity where I was the only member of the elected delegation introduced to the crowd who did not get an automatic standing ovation. And it was because of my support for "snail rail," and these people were sufficiently opposed to it.

Once the North-South system was built, as Senator Sarbanes has quoted, all of the opposition to "snail rail" disappeared, and suddenly everybody had been for it all along. And everybody had thought what a wonderful idea it was all along, like people now saying how great it is that Saddam Hussein is no longer in power, never suggesting that they wanted to keep him in power.

It was much easier to get the local match for the extension of the system in the East-West fashion and then up to the hospital at the University of Utah based on the success. And, frankly, there was more money because we did better at the fare box than any of the initial projections had been, and we were able to pay a higher percentage out of the fare box of the successful line in the first instance.

So you do not have to commit here on the record, but think about the possibility of maintaining the 80/20 for a New Start, and then saying once you have achieved a certain level of success, then the local community will be asked to come up with 50 percent, or something of that kind, if they want to expand it.

Secretary MINETA. Well, the 50/50 is only applicable to the New Starts Program, and the 80/20 is there for the rest of the program in public transit. So that 50 percent is only as it applies to the New Starts Program.

Senator BENNETT. I am suggesting that you might think about flipping that.

Secretary MINETA. I understand.

Senator BENNETT. Because it is much easier to raise money on the basis of success than if you just have a concept that you are trying to sell an electorate that doesn't want to come up with the 20 percent.

Secretary MINETA. And in these other projects, we do have incentives for increased ridership to the local transit district, because we want to give them incentives as well to improve their own service to their localities.

Senator BENNETT. I just have to make the clear point on the record that FTA/DOT has been fabulous to work with, that we in Salt Lake City have been tremendously benefited by the expertise of your agency. That preceded your coming in, but it has continued in the period that you have been in charge, and I shouldn't leave the opportunity without getting that statement clearly on the record and thanking you for all your help.

Secretary MINETA. Well, it was, without a doubt, your service at the Department of Transportation that set the pace for all of us who are there today.

Chairman SHELBY. Mr. Secretary, that was quite a few years back now.

Secretary MINETA. Yes, indeed.

[Laughter.]

Senator BENNETT. The first Assistant Secretary of Intergovernmental Affairs.

Chairman SHELBY. Senator Carper. I know we have a vote, but go ahead.

Senator CARPER. Thanks very much.

Mr. Secretary, Administrator Dorn, I am pleased to hear you indicate that you do not find favor in the proposal put forth by Senators Baucus and Grassley with respect to a bonding approach for funding transit. I think that is a symptom, and it is a symptom of a bigger problem, and the bigger problem is there aren't enough resources that are available to be committed over the next 6 years for highways or for transit. And I appreciate your statements that this is more money than you have ever allocated before for ISTEA or for TEA–21. But I think when we actually adjust for inflation and for changes in demographics, we find that the resources are inadequate, and as a result, we see proposals well-intended but ultimately, I think, not very helpful that the likes of which Senators Baucus and Grassley have put forward.

I do not want to get Administrator Dorn in any trouble today. I do want to come back—and you have heard us visit and revisit this funding question for New Starts, whether it should be 80/20, 50/50. And I have a note here that Administrator Dorn may have said something to the effect of this, and just correct me if I am wrong. But if we are going to pursue a policy that high demand for Federal funding should dictate a lower Federal share, we should apply that to highway programs as well. And I think you may have said that in one of our hearings. I am not trying to put words in your mouth or to get you into trouble. But if you ever said or thought that, I just want to say I agree.

Chairman SHELBY. Thank you.

Mr. Secretary, you and Administrator Dorn have been very, very patient.

We will continue to hold hearings on transit because it is so important, as Senator Sarbanes pointed out. We thank you for your appearance today.

We have a second panel, and we will get into the second panel as soon as we vote and come back.

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

Chairman SHELBY. Thank you, Mr. Secretary.

[Recess.]

Chairman SHELBY. The hearing will come back to order.

Our second panel today includes William Millar, President, American Public Transportation Association; Jeff Morales, Director, California Department of Transportation, who will testify on behalf of the American Association of State Highway and Transportation Officials; Robert Molofsky, General Counsel, Amalgamated Transit Union; Harry W. Blunt, President, Concord Coach Lines, Concord, New Hampshire, testifying on behalf of the American Bus Association; and Jim Seal, a Federal Transit Administration consultant.

We welcome all of you here. All of your written statements will be made part of the record, and in the interest of time, if you would briefly sum up your remarks, please.

Mr. Millar, we will go with you first.

STATEMENT OF WILLIAM MILLAR PRESIDENT, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

Mr. MILLAR. Thank you very much, Mr. Chairman, and thank you for inviting us to the hearing today.

Having heard the opening statements of all the Members and the subsequent concerns of the Secretary, I am almost inclined to just say "Thank you" and leave it at that, but I do have just a couple of things that I would like to add.

I certainly want to thank you for the role that you and the Committee have had in crafting TEA–21. The good news is that—and apparently, all the Members who are here today spoke to it—TEA–21 works. We have seen an unprecedented level of investment in transit; the public has responded with an unprecedented growth in the usage, and therefore, we believe that this reauthorization should be evolutionary in nature, not revolutionary.

Chairman SHELBY. So we need more money.

Mr. MILLAR. Yes, sir, we do. And we appreciate the leadership that you and the Committee have shown in trying to figure out the best way to get more money, and we especially appreciate the letter that you sent to the leaders of the Finance Committee expressing concern about the bonding proposal.

We too share that concern. We do not believe that taking funds from the Mass Transit Account to fund the highway program and then trying some other way to put money in there is the right way to go, and we thank you very much for your leadership and the leadership of all the Committee leaders in that regard.

As I comment on SAFETEA, let me organize it around the three basic principles that I have testified to this Committee and the Subcommittee earlier: Grow the program, protect the guarantees, and improve the program delivery.

First, with growing the program, as all of you said earlier today, we simply need to have a higher level of investment. APTA has proposed doubling the size of the investment over the next several years. As was pointed out, the Administration's own numbers as well as work done by my colleagues at AASHTO, as well as independent economic analyses, all show we should be spending tens of billions of dollars more on public transit every year than we are.

We need to see more investment, not less, and as was very clearly pointed out by the Members this morning, the SAFETEA proposal does not meet that standard.

Second, we would like to see the funding guarantees maintained. They have been a great boon. They have brought predictability to the program, they have provided certainty so that major projects can go to Wall Street, get private financing to speed up the projects, to bring them in in shorter time and with more benefit. Without the funding guarantees, that goes away.

APTA did do a study in the last year on the benefits of the funding guarantees, and with your permission, sir, I would like to insert that in the record.

Chairman SHELBY. We will make that apart of the record along with your testimony.

Mr. MILLAR. Thank you very much. We also have worked with our colleagues in the transportation construction industry and in the highway construction industry, and we have also completed a study by the firm of Global Insight* that outlines the stimulative effect and the good economic benefits of investments.

Mr. MILLAR. It should be pointed out particularly in this Committee that it was at the insistence of the bipartisan leadership of this Committee in 1998 that the General Funds for the program were included in the guarantees when others would have proposed simply the trust fund. So again, we thank you for that work then, and we thank you for your continued support today.

Finally, with regard to the improvements in program delivery, our reauthorization proposal, which I previously submitted to the Committee, carries 40 pages worth of ideas on how we might speed up program delivery. We certainly appreciate that the Administration wishes in some ways to improve the efficiency of the program and the distribution of the funds of the program, but we do not think a major overhaul such as they have proposed is appropriate.

We also believe that if there are to be major changes in the structure of the program, that should only be done with new

*Held in Committee files.

growth in the program. That way, we avoid taking away from the existing program successes—for example, those that Senator Santorum pointed out in his State. That way, we avoid shortcutting those successes while we do meet priorities that have to be met—for example, more money for rural public transportation.

In APTA's proposal, the largest single category of increase that we propose, some 110 percent increase, would go into rural and small urban transportation. We have additional proposals there for high intensity use, small urban systems and additional proposals for bus replacement and van replacement throughout those areas.

To conclude, we certainly share the Committee's expressed view this morning—we can see no good policy reason to differentiate between New Starts, Federal match, and any other part of the program. We would strongly urge that we maintain the New Starts Federal share at 80 percent.

Let me close by saying thank you, Mr. Chairman, thanks to all the Committee, and we look forward to your questions.

Chairman SHELBY. Thank you.

Mr. Morales.

STATEMENT OF JEFF MORALES
DIRECTOR, CALIFORNIA DEPARTMENT OF TRANSPORTATION
ON BEHALF OF THE AMERICAN ASSOCIATION OF
STATE HIGHWAY AND TRANSPORTATION OFFICIALS

Mr. MORALES. Thank you, Mr. Chairman.

I appreciate the leadership that you and Senator Sarbanes are showing on this issue and moving forward, and we certainly look forward to working with you as the process goes forward.

I will start by agreeing with the basic premise here, which is that the transit provisions of TEA–21 are working well and should be continued. Clearly, the funding must grow.

AASHTO has proposed that the transit program be funded at $7.5 billion in 2004, increasing to at least $11 billion in 2009. We also support the higher APTA-recommended level that would rise to $14 billion, assuming that that funding can be provided as net growth and not come at the expense of other programs.

The Administration's proposed funding levels for transit fall substantially short of its own documented needs, based on the Conditions and Performance Report. Under SAFETEA, transit funding would grow only from $7.2 billion to $8.1 billion, which would represent $1.1 billion below the funding level for 2003, when adjusted.

AASHTO is concerned that the SAFETEA proposal, while guaranteeing funds for the mass transit account, contains no similar guarantee for the General Fund component of transit funding. State and transit agencies need stable, predictable funding in order to construct major transit projects. It is very critical that both the Highway Trust Fund and the General Funds for transit are guaranteed in reauthorization.

I would join, I believe everyone here today in also saying we do not support the proposed reduction of funding for New Start projects from 80 percent to 50 percent. There is no clear policy basis for doing so, and I would add that certainly in California's case, we do overmatch on many projects, both in transit and in the highway program, which has not been discussed today, but we do so on a project-by-project basis, based on what makes the most sense. There is really no basis for making an arbitrary, across-the-board reduction in the amount of Federal funds that could go to a given project.

One of the major moves in ISTEA and carried forward in TEA–21 was enhancing and strengthening the local planning process, and we should not as a matter of policy restrict that process by making this change.

AASHTO commends the Administration for their concern with the solvency of the mass transit account but does not support the proposed program restructuring. SAFETEA proposes that New Starts be funded entirely with General Funds rather than through the Highway Trust Fund. Since General Funds would not be guaranteed under the Administration proposal, New Starts would be vulnerable to funding reductions or elimination even during the annual appropriations process.

Also under SAFETEA, the bus discretionary funding would be eliminated, and the Rail Modernization Program would be shifted to the formula program.

Other alternatives exist to remedy the budget-scoring problems which prompted these proposals, and we would be glad to work with the Committee to find solutions.

There are several aspects of the Administration's proposal that AASHTO supports, including the elimination of some burdensome Buy America certification requirements for smaller transit systems. We do not support an exemption from Buy America but simply a streamlining of some of the administrative burdens placed on them.

We support expediting transportation improvements by allowing planning studies to establish the basis for an environmental assessment or impact statement under NEPA in continuation of the TIFIA Program, with a threshold of $50 million, although we would actually recommend that that be reduced to $25 million.

AASHTO also supports the continuation of the State Infrastructure Bank Program and recommends that it be open to all 50 States.

Rural transit needs have been discussed here today, and I would note that AASHTO's "Bottom Line" report documents the need to double Federal rural transit assistance from the current levels, and we support SAFETEA's recommendation for increased funding. As the Nation's elderly population increases in the coming years, citizens in rural areas will need access to shopping, medical, and other services.

With regard to the transit bonding proposal that has been discussed, AASHTO has joined APTA and other organizations in expressing support of maintaining the existing structure, and I too want to join in thanking both you, Mr. Chairman, and the Ranking Member for taking a leadership role and raising concerns about this and pushing to continue their current growth.

One of the most important advances of both ISTEA and TEA–21 was the integration of the modes, and this reauthorization should continue that trend and not reverse it. The challenge before you is obviously how to meet the growing transit needs in this Nation as we go forward. AASHTO has identified a menu of options that would grow the program to the levels that we have proposed. We believe that through these mechanisms, program levels of at least $55 billion for transit and $300 billion overall for the program are achievable and would certainly be consistent with the Senate Budget Resolution in this area.

Mr. Chairman, we look forward to working with you as this process goes forward.

Thank you.

Chairman SHELBY. Thank you.

Mr. Molofsky.

STATEMENT OF ROBERT MOLOFSKY GENERAL COUNSEL, AMALGAMATED TRANSIT UNION

Mr. MOLOFSKY. Thank you very much, Mr. Chairman and Senator Sarbanes.

For more than 40 years, the Amalgamated Transit Union, now numbering over 180,000 members in 46 States, has been a partner along with the transit industry and others who are appearing before you today in helping to design and shape America's transportation program.

Since 1964, with the first bill, this Congress—every Congress—and, we believe, this Administration, has understood properly that sound national transportation policy requires with it a sound national transportation labor policy. It is that partnership between transportation, labor, and industry in the communities in which our members live and serve that we believe have been the cornerstone for the development of strong, well-funded, well-implemented, and well-operated transit services from the start of the program back in the early 1960's to the present.

We have previously submitted to the Committee a very comprehensive proposal regarding TEA–21 reauthorization. It is entitled, "Next Stop—Real Choices: Moving America Safely." And it is those principles captured in the title of our proposal that we brought our review of the Administration's proposal to make sure that at every step in our review, funding was appropriate to make sure that the Nation's services were maintained and expanded as needed, that the service was secure, and that it was safe.

In looking at the Administration's bill, we too share, like others before you, concerns with the funding levels. Simply stated, there is not enough money in this bill to provide for the necessary transit services and to do it the right way in all communities, rural and urban alike, and to make sure it is safe and secure.

We share the concerns of yourselves and others on the Committee with respect to the funding levels, the focus on guarantees as opposed to the proposed numbers without guarantees, which is an artificial way of describing the bill by not pointing out the real dollars that would ultimately flow. The changes that have been proposed in the Bus Capital Program and the JARC Program to formularize it as opposed to allocate it, we disagree with, and also the restructuring, which includes the JARC Program.

Looking at the Administration's bill, we do believe it is a sound platform upon which to go forward. It recognizes that we are well beyond the debate of linking highways and transit in both the planning and operating programs, and it does seek to address some of our pressing security needs.

I would like to mention and highlight several program issues that we have set forth in our proposal that can enhance the concerns, both funding and safety and security, which have come up today.

I might say, Mr. Chairman, that when I joined the ATU in the early 1980's, one of my first trips was to Alabama to see if the State legislature could approve and extend the beer tax, which at that time was funding transit in Birmingham. We did not get it, but it does underscore ATU's interest, transit, labor, and the communities in which we live, the need to have a strong opportunity to lobby and secure State funding along with the Federal dollars that are put forth. And for that reason, we have proposed a so-called FIG Program, or Federal Incentive Grant Program, that would seek to provide incentives to States based on their ability to secure increases in State dollars for transit, and we have a menu of incentive grant dollars that would flow depending on whether they increased funding, created new sources of funding or, most significantly, opened up their existing trust funds which dating back to the 1930's, were dedicated for highway projects only, without an ability to be used for transit projects.

We believe there should be a strong voice and a dedicated representative serving on the State and local MPOs, involving all constituent groups that benefit from transit services.

In the security area, we have identified a number of initiatives that we think are vital and critical to making sure our systems are safe. It is not enough to do surveys and develop best practices; there needs to be money, and there needs to be a requirement that every, single transit property develop safety and security plans and provide training—and, with all due respect, not just to first-line supervisors but to those who are on the street when problems arise, and that is the operating personnel and those who operate and maintain the services.

We support the Parks Expansion Program and the proposals by CTA, APTA, and others for expansion in the rural areas.

I would like to just close with several comments on three additional programs. One, we think there should be a targeted program for workforce training. Technology has brought this industry far along, from the horsedrawn cars to the kinds of equipment in place today. There needs to be a dedicated targeted program to provide transit systems with funds to train the workforce. It is a security issue, it is a service issue, it is a safety issue.

Two, if ridership is of concern, as it is to everybody, we think there should be an increase in the commuter benefit tax from 100 to 190. S. 661 has been offered, and we support it.

Third, we think the charter regulations which have been in place since the mid-1980's make no sense. They are burdensome and complex. I do not think they continue today to address the real-world issues that confront us today in our communities. In effect, they limit almost to the point of absurdity the ability of public systems to provide limited services to the nonprofits and government agencies who might need those services on a limited basis. We know the private sector has some real concerns about it, and I believe that with this Committee's support, we can, through discussions with those representatives, develop a better system that is less adversarial and provides more certainty to all parties, enabling them to provide the services that are needed.

Finally, we will be prepared as always to answer any questions you may have.

Thank you very much.

Chairman SHELBY. Thank you.

Mr. Blunt.

**STATEMENT OF HARRY W. (WOODY) BLUNT, JR.
PRESIDENT, CONCORD COACH LINES
CONCORD, NEW HAMPSHIRE
ON BEHALF OF THE AMERICAN BUS ASSOCIATION**

Mr. BLUNT. Thank you, Senator Shelby, Senator Sarbanes.

Intercity buses carry 774 million passengers each year and, unlike other modes, we do it with minimal Government subsidy. We transport more people in 2 weeks than Amtrak carries in an entire year. Scheduled intercity buses serve 5,000 communities daily, compared to 521 served by Amtrak and 536 served by the airlines.

Chairman SHELBY. Say that again, please.

Mr. BLUNT. Intercity buses serve 5,000 communities across America on a daily basis. Amtrak services 521 cities, and the commercial airline industry services 536.

Chairman SHELBY. And what about the number of passengers relative to all those?

Mr. BLUNT. Seven hundred seventy-four million passengers; I believe Amtrak carries about 30 million passengers, and the airline industry, in the range of 600 million passengers annually. It was 600 million and growing, but obviously, it is pretty stable now.

A Nathan Associates report* shows that from 1960 to 2001, Amtrak received a total net Federal subsidy of $57.96 per passenger carried. Commercial airlines received $6.07 per passenger carried. But intercity, regular-route, scheduled passengers received only 8 cents per passenger in Federal subsidies.

We applaud the Administration's SAFETEA proposal. It is a great first start, and the proposal begins to recognize the potential of intercity bus. But we do have a couple of recommendations.

SAFETEA continues the ADA Wheelchair Lift Program for intercity buses, providing $7 million in funding for private operators. But with the annual cost estimated by the TRB to be closer to $40 million, $7 million just is not enough.

SAFETEA includes a first-ever Intermodal Passenger Facilities Grant Program that helps to build facilities and ensure coordination between intercity bus and other modes. This is an essential. People should not have to go to another part of town, or the wrong part of town, to get on a Greyhound or Trailways bus.

Our industry at times has been given a bad reputation because of cities not providing good terminals. This city, Washington, DC, is a classic example of that, with a beautiful train station, and the bus terminal relegated to a poorer part of town.

SAFETEA also provides more funding for rural, over-the-road bus programs, which help to restore service to rural communities that often have no other form of public transportation. However,

*Held in Committee files.

we are concerned that States could choose to divert those funds. DOT failed to propose in its reauthorization program an essential bus service system for service between nonurbanized areas and hub airports and secondary airports. We believe that this would be a good alternative in some cases to essential air service.

However, on the top of our list in reauthorization is the subject of transit competition. It simply does not make sense to use transit buses subsidized by Federal tax dollars to conduct a sightseeing service or to ferry people to golf outings. There are thousands of private intercity operators to perform that service. It is akin to asking the local fire department workers to paint houses because they already own ladders and have ladder trucks that are quite often not being used.

In a nutshell, these are our concerns. FTA refuses to fine transit agencies in violation of the present law. The FTA is conflicted to both fund and also regulate transit organizations.

DOT proposed a new loophole under SAFETEA that will allow transit charters if they provide service to the elderly. The elderly are 50 percent of the private sector charter market, and transits now want to, as my colleague has mentioned, gut the regulation entirely. We cannot compete with these heavily subsidized agencies when the deck is stacked against us.

In closing, Mr. Chairman, I would like to take a moment to tell you about a letter that I have had on my desk for 17 years, a wonderfully simplistic letter from a third grade class that went on a bus ride to connect to a plane ride. This was a very special plane and bus ride, because the mom of one of the children on this bus had arranged the trip to go to Florida and the Kennedy Space Center so that the class could watch that mom, Christa McAuliffe, become the first teacher in space on the Challenger shuttle.

Tragically, this letter was written in the days that followed the Challenger disaster, but it brings to total clarity what we talk about here today. This Nation is about discovery and exploration and human experience, good and bad. Our mobility allows us to discover and explore all facets of our transportation system, from a bus to a plane to a rocket, and represents an important link in that transportation and that mobility. The links of the chain make us strong as a Nation, but we need all of those links, and none can be ignored.

Thank you, and I will be glad to answer questions.

Chairman SHELBY. Mr. Seal, we have another vote and what after that, we are not sure, on the floor. Can you sum up in a couple minutes?

STATEMENT OF JIM SEAL
FORMER CONSULTANT, FEDERAL TRANSIT ADMINISTRATION

Mr. SEAL. Sure. Thank you, Mr. Chairman.

I was a consultant to FTA in the 1980's on public-private partnerships. I am not representing FTA today.

I wanted to point out that the proposed SAFETEA legislation does move forward by putting the emphasis on the individual customer, and this will go a long way toward an outcome-based Government. It recognizes that nonincentive-based Government cannot always achieve policy outcomes.

The proposed legislation recognizes that we can achieve congestion relief with the scarce use of resources proposed, and we understand that budget growth is important but not only relying on budget growth. And I think the centerpiece of that is certainly the incentive program, which can go a long way toward reducing congestion and providing cost-effective services.

We also applaud including other parties and other providers as grant recipients in the new planning stage, and this will bring forward new, innovative transportation programs.

In California, we have a contrast of those who rely on competition and those who are more centrally oriented. In San Diego, I would like to report that from 1979 to 2001, in inflation-adjusted costs, San Diego Transit has reduced its costs by 34 percent. In Santa Clara County, the opposite has taken place, where costs have increased by 18 percent after adjusting for inflation—and this does have an impact on transit. The more cost-effective it is, the more service can be provided.

We believe that as many barriers as can be eliminated to provide service cost-effectively is the way to go, one area being the labor protection, 13(c). Certainly, it was called for when there were no State labor bargaining rights. Today, to use that to expand into the JARC and the Administration's New Freedom Initiative would stifle innovation, and by definition, this is new service, and new service has no impact on existing employees. This should be taken into consideration in the legislation.

Thank you very much.

Chairman SHELBY. Gentlemen, we appreciate all of your testimony, and we hate to hurry like this. I have a number of questions for the record for all of you, and I am sure Senator Sarbanes and others might have questions as well. We will get those to you as soon as possible.

We appreciate your participation. I think we are hearing you loud and clear today, and we thank you very much for appearing.

The hearing is adjourned.

[Whereupon, at 12:35 p.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF SENATOR JON S. CORZINE

Mr. Chairman, thank you for calling this hearing to discuss the Administration's proposal for the reauthorization of TEA–21 known as the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, or SAFETEA. I welcome Secretary Mineta as well as the other witnesses appearing before the Committee today and look forward to their testimony.

Mr. Chairman, I have strong doubts that SAFETEA will be sufficient to meet the needs facing our Nation's mass transit infrastructure. The challenges posed by increased ridership and an aging rail and bridge network require a strong level of financial commitment from the Federal Government. Unfortunately, I cannot find that level of commitment in this proposal.

SAFETEA proposes $45.7 billion in mass transit spending over the next 6 years. I believe that this is an inadequate amount. It represents a 1.2 percent cut from the amounts authorized under TEA–21, when adjusted for inflation. And it falls well below the $56.5 billion that the Senate included in its budget resolution that passed Congress in the spring.

Mr. Chairman, in the 2002 "Conditions and Performance Report," the Department of Transportation reported that we need an annual total investment from Federal, State, and local governments of $14.84 billion in transit to maintain conditions and performance at current levels and $20.62 billion to improve both conditions and performance. The only way to do this, under the Administration's proposal, is to pass the costs on to our cash-strapped States and municipalities. I do not believe that we should do this.

In addition, I am concerned about the Administration's proposal to eliminate the minimum guarantee of mass transit funding that comes from general revenue. This proposal would remove the guarantee that protects the General Fund portion of the transit program and leave this amount subject to the appropriations process. In today's tight appropriations environment, I am concerned Congress will be unwilling or unable to make up the difference between the authorized and guaranteed levels.

Finally, I would like to address the Administration's proposal as it relates to the New Starts Program. First of all, I do not believe that we should eliminate the Bus Discretionary program in order to help pay for the New Starts Program. If we do so, we are robbing Peter to pay Paul. But I am also deeply opposed to any proposal that would cap New Starts Federal funding at 50 percent, instead of the current 80–20 Federal-State split. We do not make the same requirement of highway funding and I believe that if we enact this proposal, we will encourage States to choose highway projects over mass transit projects.

Mr. Chairman, my own State of New Jersey is the second largest recipient of New Starts money in the Nation. The New Starts Program funds the ongoing Newark-Elizabeth and Hudson-Bergen light rail projects. These projects will need funding during the life of the next TEA–21 legislation. In addition, I will be seeking funding to help construct a new rail tunnel under the Hudson River. I can tell the Committee that changing the Federal/State split will place a huge burden on New Jersey to find additional funding for these worthy projects.

Mr. Chairman, I look forward to working with the Committee and the Administration to create better legislation that will meet our Nation's transit needs. Thank you very much.

PREPARED STATEMENT OF SENATOR DEBBIE STABENOW

Mr. Chairman, thank you for holding this hearing on the Administration's SAFETEA proposal.

Ensuring safe and efficient public transportation is one of the most critical issues that we face as Members of this Committee. I look forward to working with the Chairman, and all Members of this Committee, as we craft a strong mass transit title to the upcoming TEA–21 reauthorization this year.

Michigan is known as an automobile State. We take pride in producing and driving our cars. However, Michigan also has tremendous mass transit needs. In the year 2002 alone, Michigan buses carried over 88 million passengers.

There are bus systems operating in every one of Michigan's 83 counties, from the urban Wayne County to rural counties in the Upper Peninsula. Despite covering all counties, service in many areas is minimal, creating a real hardship for working families who cannot afford to own a car.

Last month, a *Detroit News* series chronicled how underfunded transit systems impact working famities. The article followed Detroiter Karen Gholston, who stands at the bus stop every morning at 3:30 a.m. with her two-year-old daughter in one hand and a can of pepper spray in the other, waiting to catch a bus for her 6 a.m. class.

Despite the fact that her class is only 12 miles away, it takes Karen two and a half hours to get there because the bus only runs once an hour, and is often late or does not come at all.

Being late too often could cost Karen a spot in the pre-engineering program at Focus:HOPE, ending her dream of escaping from her $400-a-month Government assistance by becoming a mechanical engineer for an auto company. How can we expect working mothers to become independent from Government assistance programs when we do not provide adequate public transportation to get them to their jobs and classes?

Mass transit plays a critical role in Michigan's economy, not only by creating thousands of jobs, but also by providing critical services for Michiganders who cannot afford to own a car. For example, 78 percent of jobs in metro Detroit are 10 miles or more from downtown, more than twice the national average, making public transit critical for working families.

Given Michigan's and the Nation's growing transit needs, I have serious concerns about the Administration's SAFETEA proposal.

First, SAFETEA not only fails to grow the transit program, but it also in effect cuts funding from the prior TEA–21 authorization bill. TEA–21 provided $36 billion in guaranteed funding over a 6-year period, which was a 50 percent increase over the $24 billion actually appropriated under the prior ISTEA authorization.

However, the Administration's proposal only provides $37.6 billion in guaranteed funding, which is a 7.6 percent cut from TEA–21's guaranteed funding level when adjusted for inflation.

The SAFETEA proposal also eliminates the guaranteed funding for the General Fund portion of the transit program. Currently, 20 percent of the mass transit program is funded from the General Fund and this entire amount is guaranteed for transit funding. SAFETEA eliminates this funding guarantee, forcing transit to compete for 20 percent of its funding in a very tight and difficult budget.

Finally, the Administration's proposal eliminates the 5309 Bus Discretionary program. As a representative of a State that relies solely on bus systems for its public transit needs, I find this particularly alarming.

According to the Michigan Department of Transportation (MDOT), Michigan's estimated transit capital and operating needs total nearly $1.5 billion over the next 6 years, and much of this capital investment is needed to simply keep up existing service even though ridership is increasing.

Under TEA–21, Michigan received over $124 million under the 5309 Bus Discretionary program, but our capital needs for buses, facilities, and equipment exceeded $600 million for that same time period.

This shortfall exists despite the significant contribution by Michigan taxpayers. Michigan ranks 6th, behind five States with rail, in direct support for its public transit systems.

Eliminating the Bus Discretionary program, will assure that Michigan will fall further and further behind in meeting its public transit needs. Michigan, already ranks last in Federal transit funding among the Great Lakes States, and only receives 43 cents back on every transit dollar it contributes to the highway trust fund.

I am pleased to be here today as we begin our work on improving our mass transit programs. I hope to be able to work with my colleagues on this Committee to help States like Michigan, increase access to public transportation, which will improve our economy and our quality of life.

Thank you.

PREPARED STATEMENT OF SENATOR ZELL MILLER

I appreciate Chairman Shelby and Senator Sarbanes for organizing today's hearing to discuss the public transit aspects of the Administration's proposal SAFETEA—Safe, Accountable, Flexible, and Efficient Transportation Equity Act. The current highway and transit legislation, TEA–21, expires September 30 of this year. Today's hearing is timely and the issues are important to the people of Georgia and this Nation.

During TEA–21, Georgia received about $777 million for transit over the past 6 years. The Administration proposal provides $45.76 billion for transit over the next 6 years and $37.6 billion in guaranteed funding. But the ridership has outpaced the available resources and the need for the efficient transportation is still unmet.

As a former Governor during the inception of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991 and TEA–21 in 1998, I know well the benefits and importance of a long-term, holistic approach to addressing the numerous transportation challenges of large metropolitan, nonattainment areas as well as rural areas in need of alternatives to safely and efficiently transport people to and from work, school, grocery stores, and medical centers. With the need outpacing the current resources, I look forward to Secretary Mineta's and the other witnesses' testimony about the funding levels in SAFETEA and retaining important flexibility, minimum guarantees, and firewalls that State transportation planning organizations currently enjoy.

PREPARED STATEMENT OF SENATOR RICK SANTORUM

Thank you, Mr. Chairman, for holding this hearing on the reauthorization of the Transportation Equity Act for the 21st Century and hearing testimony on the Administration's proposed Safe, Accountable, Flexible, and Efficient Transportation Equity Act (SAFETEA).

When it comes to transit, I come from a State that has it all. Pennsylvania has small transit operators running bus service in rural north central Pennsylvania as well as the large systems in Pittsburgh and Philadelphia that include existing rail and New Start proposals. I have medium-size operators in at least one small urban area that is considered high-intensity for transit. My State also has a large population of seniors.

As one of those responsible for the creation of the Job Access and Reverse Commute program in TEA–21, I am interested in the impact of proposed changes to the administration of the program contained in the Administration's SAFETEA proposal. I am skeptical about the proposed formularization of the program and take very seriously concerns that formularization will spread the program's resources too thinly and undermine JARC's effectiveness. During my tenure in Congress, I have been active in Congressional efforts to reform welfare and assist recipients in transitioning from welfare to work. The JARC program has been a critical tool in assisting families in that transition. I will work to ensure that JARC remains an effective program that complements other Federal efforts to help build independence for more of our citizens.

I am also interested in how the Administration proposes to provide better transit service to our constituents by improving coordination among different providers of transit and other social services as well as proposed incentive programs.

I note with particular concern the Administration's proposal to reduce the New Starts Federal match from the current ratio of 80 percent Federal, 20 percent non-Federal to 50/50. Not only does this recreate the gap that was intentionally closed in previous Federal transportation laws between highway and transit matching fund levels, I fear that the proposed 50/50 match will discourage large and potentially beneficial projects. You could well have a situation where larger projects that have the ability to really transform communities will take a back seat to minimalist projects that require less non-Federal share money. The 50/50 proposal would also have a negative impact on my State.

As Congress and the Administration work to provide an adequate level of funding to our transportation needs, I have also been made aware of concerns regarding a proposal circulating in Congress for changing the financing system for transit. The proposal currently being referred to as Grassley-Baucus would in many ways shift the financing for transit to a bonding system. There is a real concern about breaking with the current system that funds transit and highways for the most part from Federal gas taxes. As a Member of both the Finance and Banking Committees, I intend to work to ensure that any system used to finance our transportation projects preserves the best aspects of, current transportation law, including equitable treatment for transit and the multiyear reliability of funding so crucial to effective long-term planning.

I look forward to hearing the testimony of today's witnesses.

PREPARED STATEMENT OF SENATOR JACK REED

Mr. Chairman, I want to join you in welcoming Secretary Mineta and our other witnesses to today's hearing on the reauthorization of TEA–21.

I am pleased to have a chance to discuss the Bush Administration's TEA–21 proposal and get the input of transit operators, employees, and riders.

This hearing is proof that transit is a mainstream issue because transit is the fastest growing mode of transportation, and, in no small measure, transit is now vital to cities like Denver, Salt Lake City, Dallas, Atlanta, Miami, and Charlotte that previously never cared about buses or light rail.

While I have some strong disagreements with the SAFETEA proposal put forth by the Administration, I want to thank the Secretary for his leadership in preserving the four-to-one balance between highways and transit, maintaining transit is share of the Federal gas tax and preserving the flexibility of TEA–21. Indeed, this bill continues his longstanding support for a balanced, national, intermodal transportation policy.

However, I continue to have three major concerns with the Administration's bill: (1) the failure to provide new resources for transit, and even highway improvements for that matter, (2) the failure of SAFETEA to guarantee transit funding, and (3) the failure of SAFETEA to offer specific funding for transit security needs. On this last point, I am particularly concerned that OMB chose to ignore these needs, particularly in light of the Sarbanes-Reed GAO report which found that just 8 transit properties estimated they needed $700 million to protect themselves from terrorism. I recognize the White House's view that terrorism is the Department of Homeland Security's job, but the provision of $65 million to the Nation's top 20 transit properties, while welcome, is insufficient and must be addressed if we are truly to call the reauthorization of TEA–21 "SAFETEA."

It is my hope that working with Chairman Shelby, Senators Sarbanes, and Allard we will be able to craft a bipartisan bill that recognizes that TEA–21 works as long as there are sufficient resources available to meet the Nation's growing needs. However, the clock is running, and I am concerned that the OMB's decision to severely limit needed investments in our transit and highway systems as well as the Administration's delay in getting its bill to the Congress makes the job of enacting a reauthorization bill less, rather than more, likely.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF NORMAN Y. MINETA

SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION

JUNE 10, 2003

Chairman Shelby, Senator Sarbanes, 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.

Under SAFETEA, 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. With the increased funding, States would be encouraged and assisted in their efforts to formulate comprehensive safety plans.

Our Nation's transportation system obviously faces significant challenges in other areas as well. 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.

Building on the Legacies of ISTEA and TEA–21

Thanks in large part to the hard work of many of you and your predecessors, SAFETEA builds on the tremendous successes of the prior two surface transportation reauthorization acts. Both the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), with which I am proud to have played a role, and the Transportation Equity Act of the 21st Century (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, DC, 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, but it also 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. In addition, we are proposing that RABA apply to public transportation programs, as well as highway programs.

Funding for Public Transportation Programs

SAFETEA is the largest proposed Federal commitment in the history of public transportation, representing a 28 percent increase over the funding levels of TEA–21. SAFETEA continues to fund transit programs through both General Fund appropriations and funds available from the Mass Transit Account of the Highway Trust Fund. Historically, approximately 80 percent of the funding for transit programs has been provided from the Mass Transit Account, with the remaining 20 percent coming from the General Fund. Under current accounting practice, the Federal Transit Administration's (FTA) split-funded accounts are drawn-down (or outlayed immediately) and placed in the General Fund. This results in the premature depletion of the Mass Transit Account, and would bankrupt the account by 2007 if not corrected.

SAFETEA addresses this issue by funding as many programs as possible from a single source, while maintaining the overall approximate proportion (80/20 percent) of funding between the Mass Transit Account and the General Fund. In particular, we propose to fund formula programs and research activities entirely from the Mass Transit Account; to fund the FTA Administrative account entirely from the General Fund; and to split-fund only the New Starts Program. By minimizing the number of split-funded accounts, we significantly reduce the draw-down rate of the Mass Transit Account, thus avoiding the depletion of that account.

In addition, funds from the Mass Transit Account would be guaranteed by budgetary firewalls. Beginning in fiscal year 2006, authorizations for public transportation funding from the Mass Transit Account of the Highway Trust Fund will be adjusted (increased or decreased) whenever the mass transit firewall amount is adjusted to reflect actual receipts or more recent estimates of Mass Transit Account revenue. That is to say, the budget authority will be aligned with the revenue. The adjustment would be applied proportionately to all Federal transit programs receiving funding from the Mass Transit Account. Adjusting public transportation program funding levels each year to reflect the latest information on receipts into the Mass Transit Account is critical to ensuring that all of the dollars actually collected will be spent on transit programs.

We are well aware that funding issues are 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, especially reforms of public transportation programs.

Commonsense Transit Solutions

SAFETEA promotes commonsense transit solutions by reducing the number of different program "silos" and formularizing all programs except New Starts. This will give States and localities the flexibility they need to fund local priorities. We want States to maximize mobility and create a seamless community transportation network, not try to match projects to specific pots of money.

Stable formula funds help agencies do more with limited resources because they give financial markets the confidence to support transit investments; give communities an incentive to commit long-term resources; and give community developers the confidence that the transit commitments necessary to support new development will be honored.

In light of these important benefits, SAFETEA proposes a shift to dependable formula and capital funding and a larger New Starts Program by restructuring FTA programs into three major categories:

- Urbanized Area Public Transportation Formula Grants Program;
- Major Capital Investment Program;
- State Administered Formula Grant Programs, which include Other than Urbanized (rural) Areas; Special Needs of Elderly Individuals and Individuals with Disabilities; Job Access and Reverse Commute; and the New Freedom Initiative.

Urbanized Area Public Transportation Formula Grants Program

Under SAFETEA, urbanized areas will have increased flexibility and more predictable funding. By folding a portion of the former bus discretionary program into the formula program, we propose to ensure that every community can count on a share of these funds each year, improving their ability to make longer-term investment plans and to acquire financing for these plans, if necessary.

We also propose to move the Fixed Guideway Modernization Program from the Capital Investment Grant Account to this formula program. In doing so, we do not propose to change either the funding level for this program or the formula used to distribute these funds. However, we will accomplish the important goal of increasing local flexibility and administrative ease in the use of these funds from year to year. As you may be aware, some communities find that their need for Fixed Guideway Modernization Funds can vary substantially from year to year, and the priority they give to other investments also varies.

Communities should have the flexibility to merge Fixed Guideway Modernization Funds with their regular urbanized area formula grant, so that they can make more prudent, cost-effective investment decisions. In one year, for example, they may choose to invest more in buses; while the following year, they may require a larger expenditure on rail modernization projects. We believe that local decisionmakers should have the flexibility to make long-term investment plans that are not driven by the old programmatic silos. Furthermore, by funding these programs from the same account, a grantee would submit just a single application for bus or rail ongoing capital needs and preventive maintenance.

Major Capital Investment Program

Under SAFETEA, the Major Capital Investments Program would be limited to the New Starts Program, but would expand that program to provide capital assistance for new nonfixed guideway corridor systems and extensions that meet the New Starts criteria, as well as new fixed guideway systems and extensions. Under the 6-year SAFETEA authorization, $9.5 billion would be made available for the New Starts Program, an increase of 55 percent over the TEA–21 funding level of $6.1 billion. This increase is necessary to ensure that there is adequate funding to meet existing Full Funding Grant Agreements (FFGA) and other meritorious projects in the pipeline. Approximately 20 percent of the funds for this program would be available from the Mass Transit Account of the Highway Trust Fund with the remaining 80 percent appropriated from the General Fund.

Projects seeking $25 million or less in New Starts funding would no longer be exempt from the evaluation and rating process. Unfortunately, experience has demonstrated that early project estimates can be inaccurate. On numerous occasions, project sponsors who intend to seek funds without participating in the project evaluation process suffer serious set backs when they determine that they do, in fact, require more than $25 million in funding from New Starts. Moreover, small projects that proceed without adequate attention to ridership and financial projections may find themselves in financial difficulty. In addition, elimination of this exemption will deter project sponsors from dividing corridor transportation systems into artificially small segments in order to avoid the New Starts evaluation process. Under our proposal, any project that seeks Federal New Starts funds will be required to participate in the New Starts evaluation and rating process.

At the same time, we recognize that the complexity of New Starts projects can vary considerably. Therefore, we are proposing that projects requesting less than $75 million be subject to a simplified New Starts process. We would utilize the same evaluation criteria established by Congress for projects seeking more than $75 million in funding from New Starts, but reduce the number of New Starts hurdles and simplify the evaluation process for these projects.

FTA has, for a number of years, encouraged project sponsors to lower their Federal share requests in order to be competitive with other projects in the New Starts pipeline. Over the last 10 years, the overall New Starts share for projects with FFGAs has averaged approximately 50 percent. SAFETEA would statutorily set the maximum Section 5309 share for a New Starts project at 50 percent. However, 30 percent of the project cost could be from other Federal funds that are eligible to be expended for transportation. This requirement would encourage New Starts sponsors to develop projects with the highest feasible local share and allow us to fund a greater number of meritorious projects in the future. In addition, it gives communities an even greater stake in ensuring that the return on investment in these projects is as high as possible.

Finally, the Administration has proposed to expand New Starts eligibility to permit the funding of cost-effective, nonfixed guideway corridor transit systems. FTA has always funded meritorious public transit projects, but the current statute restricts New Starts funds to projects that utilize a fixed guideway. Fixed guideway projects are critical to public transportation, and they will continue to be eligible for funding, but worthy projects that propose lower-cost nonfixed guideway solutions also deserve consideration. With today's technology—particularly bus rapid transit—a fixed guideway is often not the most cost-effective method of providing new or expanded corridor systems. The current rules encourage communities to choose a more expensive fixed guideway system in order to qualify for a New Starts grant.

Moreover, some small and medium-sized communities that would benefit enormously from the creation of some new transit options simply cannot generate enough riders or travel-time savings to justify a more expensive fixed guideway system. We will work closely with Congress and with all of our stakeholders to ensure that, as we make room for these cost-effective, nonfixed guideway transit solutions, we do not compromise the intent of the New Starts Program.

State-Administered Formula Grant Programs

SAFETEA also seeks to promote common sense transit solutions by giving States and communities the opportunity to determine how they can best serve populations that rely heavily on public transportation, including many rural residents, older adults, persons with disabilities, and low-income riders.

Currently, an estimated 40 percent of rural counties have no public transportation, and in many other rural areas, only limited service can be provided. Yet, rural residents rely heavily on public transit when it is available. Therefore, like the urbanized area program, we are proposing to allocate the nonurbanized area share of the bus program by formula instead of unpredictable discretionary grants. We believe the increased stability and predictability of funding that this change produces will make it easier for States to plan for public transportation investments and to leverage Federal dollars. Almost $2.3 billion will be provided over the life of SAFETEA for the nonurbanized formula program, an 87 percent increase over the TEA–21 level.

The absence of predictable funding has frustrated many States that want to leverage other transportation resources provided at the State level through such health and human service programs as Medicaid. In one northeastern State, for example, the State Department of Transportation knew it had a solution to helping thousands of welfare recipients who could work, but were not able to get to work. The State could make its program funds go twice as far if they could get a Job Access grant from FTA, matching it with State Temporary Assistance to Needy Family (TANF) funds for transportation services. But there was no assurance that the Job Access funds were really coming. In fiscal year 2002, Job Access and Reverse Commute (JARC) projects were earmarked in law, and this particular State project was not among them. As a result, the State Department of Human Services obligated its funds to other services.

To address these problems, SAFETEA proposes to allocate by formula to States all of the funds for transit programs that should be closely coordinated with human service programs in a State. We believe that, if States and communities are to effectively meet public transportation needs, we must provide dependable resources and eliminate the barriers to effective coordination. Our proposal will continue the Elderly and Persons with Disabilities Program that is currently administered as a formula program to States, and it will create a similar formula allocation of funding for the President's New Freedom Initiative.

The New Freedom Initiative will provide new transportation services for persons with disabilities that go beyond the requirements of the Americans with Disabilities Act. In addition, SAFETEA will make the JARC program a State-level formula program. Currently, JARC is administered as a national competitive discretionary grant program, and, typically, many projects are designated in appropriations conference committee reports. The JARC program has proven its effectiveness; it should be made more widely available and provided through a stable, predictable funding mechanism.

Even with predictable funding for these important services, we know that finding solutions that work is not always easy. To help ensure that communities can make informed decisions about priorities and needs, we are also increasing the funds available for planning, administration, and technical assistance. We want the coordinated health, human service, and transportation planning that have been so successful in the Job Access program to become a common practice in every community. As a result, we are asking communities to establish community-wide funding priorities and a coordinated plan for services to the elderly, persons with disabilities, and low-income populations. These plans will give each community more control over its transit planning and make it easier to avoid the creation of costly, duplicate transportation systems. And, as long as the funds are used to serve the intended populations, we intend to ensure that the flexibility to leverage the funding for all of these programs exists.

We look forward to more success stories like that of the Virginia's Northern Shenandoah Valley Public Mobility Project, which formed a coalition of 15 human service and nonprofit organizations to coordinate transportation services for their clients. These clients include individuals with mental or physical disabilities, elderly individuals, and individuals participating in back-to-work programs. Through a coordinated transportation service delivery plan, the number of monthly trips increased by 58 percent, and the costs dropped by almost 18 percent per trip. The bottom line is that we want to let communities implement common sense solutions that will promote independence and economic opportunity—solutions that will save money, and result in more and better service to more riders.

Performance Incentives

Consistent with the President's call for customer-focused, outcome-oriented Government, SAFETEA includes a new ridership-based performance incentive program to encourage A+ performance in transit. The program will be relatively small for the first year—$35 million in urbanized areas and approximately $3 million in rural areas. Over the course of SAFETEA, however, the program will provide nearly $1.3 billion in incentive awards to top performing transit systems.

The many benefits of public transportation cannot be measured in terms of miles of track, number of buses, or the capacity of rail cars. If the buses and trolleys and rail cars are empty, we will not have achieved increased mobility, reduced air pollution, or improved our economy. The benefits of transit depend on riders. Participation in this program would be voluntary.

Providers that receive urbanized area or rural formula funds and prove their success by increasing ridership will be eligible for incentive grants. This program will encourage States and urban areas to institute the data collection necessary to measure performance, but more importantly, focus their attention on the issues that matter most to riders and potential riders.

To ensure that services are not shifted away from transit-dependent populations that are somewhat more costly to serve, urbanized areas that experience a significant decline in public transportation patronage by individuals with disabilities, the elderly, or low-income persons would not be eligible for a performance incentive award.

The Department recognizes that rural transit operators have not been required to report on overall ridership, and urban transit systems are not required to report ridership by population group. During the first three fiscal years of this initiative, a portion of the funds would be available to assist States and urban areas to institute the data collection necessary to measure performance, so that they can participate in the incentive award program.

Simplified Program Requirements

SAFETEA includes a number of important changes to ease the regulatory burden on all transit grantees, but especially on small, rural, and nonprofit grantees whose administrative capacity can be strained by burdensome rules and program requirements. Among the specific requirements affected are Buy America, labor certifications, and drug and alcohol testing. SAFETEA in no way undermines the intent of the current regulations, but rather is intended to ease the burden of compliance, particularly for small grantees.

Buy America

We propose to ease the paperwork and regulatory burden on all grantees by excluding all manufactured products except rolling stock (buses and railcars) from the Buy America requirements. This change comports with the current Buy America rules under the Federal aid highway program. SAFETEA will further help smaller grantees by eliminating the requirement for pre-award and post-delivery audits of Buy America compliance for private nonprofit operators and grantees serving urbanized areas of less than one million people. These grantees will still be required purchase rolling stock under Buy America rules.

Labor Certifications for Rural Operators and Non-Profit Operators

We propose to enact into law the Department of Labor's (DOL) current practice of using a Special Warranty to ensure fair and equitable arrangements protecting the interests of employees of rural operators. Further, in order to provide consistent requirements for nonprofits regardless of which source of program funds they receive, SAFETEA proposes to extend the Special Warranty provision to recipients of Job Access, Elderly and Disabled, and New Freedom Initiative funds. The proposal also includes, however, a provision to give the Secretary of Transportation the authority to, on a case-by-case basis, waive the requirement for a Special Warranty for a private nonprofit operator.

Drug and Alcohol Testing Program

SAFETEA would give the Secretary of Transportation the authority to exempt from FTA testing requirements those public transportation providers that are adequately covered under other Federal or Departmental testing statutes or regulations, such as the U.S. Coast Guard's testing requirements applicable to ferryboat employees.

Fewer Grant Applications

By combining programs under accounts that reflect the type of grant recipient, we have also paved the way for the submission of a single grant application for several grants. Urbanized areas will be required, for example, to submit only one application to receive both their regular formula and Fixed Guideway Modernization Formula Funds. For both urban and rural areas, the formularization of the bus program will eliminate the need to make separate grant applications for those funds. In addition, Job Access funding requests will be submitted through a single, simplified State application. These reductions in "electronic paperwork" will ease administrative workloads throughout the system.

Other Important Initiatives

The Transportation Planning Process

Good transportation planning is essential to understanding the mobility problems communities face, identifying appropriate solutions, and making decisions on the investment of these funds. The resulting decisions contribute directly to the efficiency of our national transportation system, the accessibility of our people to jobs and other activities, the health of our economy, and the quality of our environment.

Over the 6-year authorization of SAFETEA, funds available for State and metropolitan planning ($822 million) will more than double the amount provided under TEA–21 ($365 million). With 76 new urbanized areas designated as a result of the 2000 Census, additional funding will be needed to help support at least 40 new Metropolitan Planning Organizations (MPOs), as well as a number of existing MPOs whose geographic scope was significantly expanded. MPOs are responsible for preparing long-range and short-range plans for transportation improvements in their metropolitan area.

This work involves ongoing public involvement, analysis of travel trends and forecasts, the assessment of community and environmental impacts, and financial planning to ensure that programs are financially feasible. In metropolitan areas, only projects that are formally adopted by the MPO are eligible for funding under FTA and FHWA programs.

SAFETEA proposes to combine the long-range metropolitan plan and the shorter-term Transportation Improvement Program into a single plan. Other changes will improve the linkage between the transportation planning and project development processes, which will ultimately enhance transit project delivery.

In addition, we are proposing to create a new Planning Capacity Building Program, jointly funded by FTA and FHWA, to improve State and local planning methods and technical capacity. Over the last several years, there have been new and increased demands placed on the planning process—more emphasis on freight planning, land use linkages, security, safety, performance-based planning, and operations planning. We want to help all communities take advantage of these important advances by highlighting best practices, sponsoring peer-to-peer exchanges, providing training, conducting special workshops, and other activities.

Federal Lands Transportation

On May 30, 2001, President Bush announced the National Parks Legacy Project, a series of proposals to enhance the protection of America's national parks and increase the enjoyment of those visiting the parks. Each year, there are over 900 million visits to National parks, forests, and wildlife refuges.

In support of the President's National Parks Legacy Project, a new Federal Lands Transit Program would also be established. This new transit program will provide $150 million in funding over the life of SAFETEA. The proposal would authorize the Secretary of Transportation, in consultation with the Secretary of the Interior, to make grants, contracts or other agreements to carry out qualified planning or capital projects in, or in the vicinity of, a federally owned or managed park, refuge, or recreational area that is open to the general public.

Project Delivery

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. We know that it takes too long to move a transportation project from concept to completion, and the 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 progress 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: Delegating categorical exclusions to States; clarifying the role of States or project sponsors in expedited review procedures, particularly regarding the establishment of time periods for environmental reviews; limiting the filing of court appeals to no more than 6 months following a Federal decision; and reforming Section 4(f) of the Department of Transportation Act to include consistent and appropriate criteria.

Technology

While virtually every other industry in the world has gone through a technological revolution, transportation still lags behind in the area of technology deployment. SAFETEA continues to foster the research, development, and implementation of Intelligent Transportation Systems (ITS) technologies but places a much greater emphasis on using these technologies to improve the performance and operation of transportation systems in a way that directly benefits transportation customers. SAFETEA mainstreams the ITS deployment program and offers performance incentives to States and localities that successfully implement technology to improve the overall management of their transportation systems, including their public transportation systems.

Intermodal Facilities

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.

Fuel Tax Evasion

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 a 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 entire transportation system.

Conclusion

Mr. Chairman, 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.

With stable formula funding, streamlined programs, performance incentives, and simplified administrative requirements, our communities will be in a better position to leverage the Federal investment in public transportation and provide Americans with common sense solutions to meet their transportation needs.

Thank you, Mr. Chairman, for giving me the opportunity to testify, and I look forward to working with Congress to pass this legislation. I would be happy to answer any questions you or other Members of the Committee may have.

PREPARED STATEMENT OF WILLIAM MILLAR

PRESIDENT, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

JUNE 10, 2003

APTA is a nonprofit international association of over 1,500 public and private member organizations including transit systems and commuter rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and State departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. Over ninety percent of persons using public transportation in the United States and Canada are served by APTA members.

Introduction

The American Public Transportation Association (APTA) appreciates the opportunity to testify on issues related to the reauthorization of the transit title of the Transportation Equity Act of the 21st Century (TEA–21), and specifically on the Administration's reauthorization proposal, called the Safe, Accountable, Flexible, and Efficient Transportation Equity Act (SAFETEA).

APTA's 1,500 public and private member organizations serve the public by providing safe, efficient, and economical public transportation service, and by working to ensure that those services and products support national energy, environmental, community, and economic goals. APTA member organizations include transit systems and commuter railroads; design, construction, and finance firms; product and service providers; academic institutions; and State associations and departments of transportation. More than 90 percent of the people who use public transportation in the United States and Canada are served by APTA member systems.

Mr. Chairman and Members of the Committee, we want to thank you for the critical role you played in crafting TEA–21. TEA–21 has been an enormous success for the Nation and transit riders in communities of all sizes. Since its enactment, transit ridership has grown by more than 21 percent, the FTA has entered into 18 Full Funding Grant Agreements for rail projects, and millions of the Nation's citizens were given the option to use public transportation.

APTA'S Reauthorization Proposal

APTA worked with its membership over the past several years to develop the transit industry's recommendations for reauthorization of the Federal transit program. To guarantee maximum participation of APTA's diverse membership, APTA developed a reauthorization task force which met more than 20 times in some 14 cities throughout the Nation, many in conjunction with major association meetings.

As a result of that process, APTA developed a proposal that reflects an industry consensus and builds on the extraordinary success of TEA–21. APTA's proposal retains most of the current program structure. It calls for a reauthorization of TEA–21 that is evolutionary, rather than revolutionary. It is based on the idea that a good national transportation system serves as the foundation for a strong and growing economy and that balanced investment in all modes should be encouraged under the Federal program that supports our surface transportation infrastructure.

APTA's proposal is based on identified capital needs. The AASHTO Bottom Line report and a Cambridge Systematics, Inc. study both conclude that to maintain and improve public transportation some $43 billion annually would be required from all sources. APTA proposes to grow the Federal transit program from $7.2 billion in fiscal year 2003 to $14.3 billion in fiscal year 2009. We call for the continuation of funding guarantees for both the trust fund and General Fund components of the transit program that are critical to long-term capital planning conducted by transit operators. And we make a number of proposals to improve program delivery.

Mr. Chairman, our proposal would make no change to the structure of the Federal transit program below the current $7.2 billion funding level. Programmatic changes are made only with funding increases. Over the course of the proposal, some 55 percent of increases would go right back into the existing program. Our proposal calls for extra growth for some programs, particularly for rural and smaller urban areas. It also establishes a rule that would ensure that transit formula funding never falls below $1.15 for every $1 in funding for the major capital investment programs.

Finally, APTA has made recommendations on ways to fund its proposal. It calls for maintaining the longstanding principle under which 80 percent of the transit program is funded from the Mass Transit Account (MTA) and 20 percent of the program is funded with General Funds. We also support a range of ways to increase program revenue, including indexing current motor fuel user fees for inflation—to restore the purchasing power of the user fee; scoring outlays from the Mass Transit Account in same ways as Highway Account outlays are scored; and restoring the payment of interest on trust fund balances.

APTA strongly opposes any reduction in current motor fuels user fee support for transit and recommends an 80/20 split between highways and transit for any increase in the existing motor fuels user fee. We are pleased that our transportation colleagues at AASHTO and ARTBA have also expressed their support maintaining this current structure. We particularly want to thank the leadership of this Committee for its strong, bipartisan support on this issue. We agree with the Committee that these dedicated revenues are essential to the long-term viability of the transit program and we do not want to lose a funding source that has worked so well for more than 20 years.

Mr. Chairman, in this time of slow growth, it is important to note what increased investment in surface transportation infrastructure means for jobs and the economy. Each $1 billion in Federal transportation investment creates 47,500 jobs. In terms of economic impact, we were pleased to sponsor, along with the Transportation Construction Coalition, a study of a proposal to provide significant increases in highway and transit funding over the next 6 years. That study, by Global Insight, Inc.,* clearly demonstrates that increased investment in transit and highways has a significant impact on GDP and is critical to improving business productivity and strengthening the American economy.

Administration Proposal

Overall Funding Levels

On May 14, the Administration submitted to Congress its proposal for TEA–21 authorization, called SAFETEA. APTA commends the overall proposal for its goals of reducing fatalities by improving highway safety, and striving for efficiency. But we are disappointed about several aspects of the proposal.

SAFETEA authorizes funding for the 6-year life of the bill at $247 billion, with $45.7 billion authorized for transit, of which only $37.6 billion would be guaranteed. In our view, the proposal fails to adequately address either transit or highway needs that have been identified by the U.S. Department of Transportation and independent analyses. As noted earlier, The American Association of State Highway and Transportation Officials and Cambridge Systematics, Inc., both estimated that transit capital needs to maintain and improve public transportation are more than $43 billion annually. This Committee's investigations have confirmed that needs exceed current resources and continue to grow.

Under TEA–21, Congress generally funded only the guaranteed portion of the transit program, and this is likely to be the case during the next authorization as well. This is where the Administration proposal is very disappointing: Under it, guaranteed funding for the transit program is limited to resources from the Mass Transit Account and would rise from $5.9 billion in fiscal year 2004 to only $6.6 billion in fiscal year 2009—a significant reduction from the guaranteed level of funding under TEA–21. TEA–21 provided guaranteed funding of $36 billion; the Administration's proposal would provide $37.6 billion. After inflation, this represents a real reduction. In the face of large and growing transit needs, and with the significant ridership growth brought about by TEA–21, clearly greater investment in public transportation is necessary, not less. And just as clearly, the guarantee must include the General Fund portion of the program, as it does under TEA–21. This concept was established by this Committee, and it has been an essential element of TEA–21's success.

Program Changes

At the outset, Mr. Chairman, we do want to note there are a number of provisions in SAFETEA that would streamline Federal transit program delivery and eliminate red tape. We appreciate those proposals to make the program work more effectively, and will work with the Committee staff on them. We appreciate the proposal to co-

* Held in Committee files.

ordinate drug and alcohol testing that would eliminate duplicative testing and unnecessary costs associated with redundant testing. We agree with the Administration effort on small starts. We also want to thank, in particular, Department of Transportation Secretary Mineta and FTA Administrator Dorn for their efforts in recent years to improve the delivery of program resources and eliminate regulatory red tape.

At the same time, however, the Administration proposal calls for major changes in the Federal transit program structure and the creation of a number of new programs without any commensurate growth in new funding. Mr. Chairman, one of our key themes is not only that TEA–21 works, but also that it works extremely well. Transit ridership is up in large cities and small, and States and localities rely on the predictability of funding under the existing TEA–21 structure. That balanced structure has been in place for more than 20 years, and it has served the transit industry well. In short, we believe it is better to build on the success of the existing program and the results that that program has produced.

The Administration proposal would significantly restructure the Federal transit program. It would eliminate the bus and bus facilities capital discretionary program and use funds that now go to that program for other programs. APTA supports retention of this important capital program. Transit agencies have periodic bus replacement and facility needs that cannot be met from the formula program. The role of the discretionary bus program is to address those needs. Our proposal calls for substantial growth in the bus and bus facility program to address growing needs.

The Administration proposal also would reduce the Federal match under the New Starts Program; permit the use of New Starts funds for new purposes; distribute Fixed Guideway Modernization Funds with urban formula funds; and expand the eligible use of Fixed Guideway Modernization Funds. APTA questions the need for all four proposed changes.

APTA strongly opposes any effort to reduce the Federal match on New Start funds. TEA–21 and ISTEA, both emphasized a planning process designed to encourage transportation decisions based on project merit and local needs. Both ISTEA and TEA–21 leveled the playing field for transit and highway investment in so far as the matching ratio is concerned. Reducing the Federal share on New Starts projects to a maximum of 50 percent, while keeping most other surface transportation Federal matches at 80 percent, will simply bias the local decisionmaking process. Transportation planners at the State and local level, with excess demand for both transit and highway projects and dwindling State and local resources, will be far, far more likely to choose projects with the higher Federal match. APTA believes that it makes more sense to address excess demand with increased funding for New Start projects than it does to reduce the Federal match.

The Administration proposal also would permit the use of New Starts funds for "nonfixed guideway improvements to encourage, among other things, consideration of bus rapid transit options." APTA believes that Bus Rapid Transit (BRT) projects can be an effective option for communities considering fixed guideway systems. BRT systems already are eligible for New Start funding, if they have "exclusive rights of way or other fixed guideway design," and APTA supports continuation of that BRT eligibility under the New Starts Program. APTA and the Administration have both proposed increases in the "small starts" threshhold—the funding level under which less expensive fixed guideway projects qualify for a simplified rating process. We believe that this would encourage BRT projects, where Federal funding often stays under $75 million to $100 million. We also believe that less expensive nonfixed guideway bus systems can be funded in good measure under the existing bus discretionary program.

APTA questions the Administration proposals to distribute Fixed Guideway Modernization Funds under the urban formula program and to permit the use of Fixed Guideway Modernization Funds for nonfixed guideway modernization purposes. The Fixed Guideway Modernization Program was originally designed to ensure the proper modernization of the Nation's older rail transit systems, and it helps ensure that as Federal New Start investment projects age they can be modernized. Rail systems in large metropolitan areas carry millions of passengers each year and their ridership has grown substantially in recent years. Many of these systems are approaching capacity constraints. These funds also help systems address this growth in ridership and ensure that passengers can use these systems safely and efficiently. The Administration proposal would allow these funds to go to an urbanized area and be used for any transit purposes, not just modernization. We are concerned that diverting these funds from fixed guideway modernization, where needs far exceed available resources, would only exacerbate unmet modernization needs and potentially result in the deterioration of some of the Nation's most valuable capital assets.

Again, the fixed guideway modernization program has been a critical component of the Federal transit program structure since 1982, and is a great success.

APTA agrees with the Administration that rural formula funding should be increased. APTA's proposal recommends a 110 percent increase in rural formula funding by 2009. Under APTA's proposal the rural formula program would grow to over $504 million by 2009. Under the Administration proposal, rural formula funding would be $102 million less than under APTA's proposal. While we fully support increased funding for rural public transportation, we believe that the Administration proposal to increase the program by $229 million in fiscal year 2004—at the same time that the total transit authorization is frozen and guaranteed funding is cut by more than $1.2 billion—is inappropriate.

The Administration bill would distribute Job Access and Reverse Commute (JARC) grants under a formula to the States. APTA believes that the JARC program has been successful at helping get workers to jobs and training, but with the extremely minimal growth envisioned under the Administration proposal, we are concerned that formulizing the JARC program would only mean that too little funding would be spread to thinly to provide effective new programs at the local level.

New Programs

APTA commends the Administration for attempting to better address the transportation needs of people with disabilities, for improved intercity bus facilities, and public transportation in and around national parks. In particular, not only have we expressed support for transit in parks and the New Freedoms Initiative in the past, but we have also indicated that such programs should not be funded at the expense of existing transit programs or needs.

While APTA recognizes the need to address unmet transit needs, we also believe that current funding levels do not address needs under existing programs, and that new programs should be funded with increased funding and not by reducing funding for current programs. With that principle in mind, we question the Administration's proposal to create both the New Freedoms Initiative and the Intermodal Passenger Facilities programs. Both programs address important issues, but arguably at the expense of current transit needs.

The Administration proposes to fund the New Freedoms Initiative at $145 million in fiscal year 2004, increasing to $162 million in fiscal year 2009. The program is intended to provide grants for "new transportation services and transportation alternatives beyond those required by the Americans with Disabilities Act." Certainly, this is a worthy use of Federal funds, but transit agencies are struggling now to keep up with ADA required services and need additional funding to meet the requirements of ADA.

Similarly, while APTA appreciates the effort to fund intermodal facilities that are related to intercity bus service, this program is unlikely to provide substantial benefits to users of intracity or local public transportation bus service. The fact that it would take $75 million each year from a transit program that does not grow in fiscal year 2004 and grows very little in subsequent years, means that it would be funded largely at the expense of already existing public transportation capital needs.

The Administration proposes to create a new "incentive tier" within both the urban and rural formula programs. In both cases, this would be a takedown from formula funding, which would be distributed to transit systems based on ridership growth. The takedown would be small in the early years and used mainly for data collection. Funding for both would, however, grow to almost $420 million by 2009 and grants are intended to provide incentives for increased ridership. APTA member transit systems are always striving to increase ridership and improve efficiency. This proposal is a "rob Peter to pay Paul" situation under a proposal that provides little growth and a cut in guaranteed funding.

APTA is not convinced that the incentive tier would actually promote increased ridership, and feels that it could hurt transit operators who have already achieved or are approaching capacity limitations. We note also that Congress has already addressed this issue: Current law contains incentive tiers under both the bus and fixed guideway factors of the existing formula program, and that those funds are awarded to systems which have high rates of ridership relative to operating costs. And we note further that APTA's proposal calls for a "high intensity small urbanized area formula program" that would provide formula bonuses to transit systems in small urban areas that provide above average levels of service.

Increased Demand

Growing demand nationwide for transit services shows the effectiveness of increased Federal investment under TEA–21 and the need to continue that trend. In a recent 5-year period, transit ridership grew 22 percent, greater than the growth rate of highways and domestic air travel during the same time frame.

Support for increased transit service remains high. A February 2003 Wirthlin Worldwide Public Opinion Poll showed 81 percent of Americans support the use of public funds for the expansion and improvement of public transportation; 56 percent say the need to reduce traffic congestion has become more important over the last 5 years. The poll also stated 57 percent agree their community needs more public transportation options, including 64 percent of urban residents, 59 percent of suburban residents, 51 percent of rural residents, and 55 percent of small-town residents. Some 64 percent of respondents said they would be more likely to support a Congressional candidate who supports improving public transportation options.

This poll demonstrates that support for public transportation has increased dramatically not only in our biggest cities, but also, in smaller, urban communities and rural areas as well, where 40 percent of America's rural residents have no access to public transportation, and another 28 percent have substandard access. It is estimated that rural America has 30 million nondrivers, including senior citizens, the disabled and low-income families who need transportation options. According to a survey of APTA members, bus trips in areas with populations less than 100,000 increased from 323 million to 426 million in a recent 5-year span.

Conclusion

Mr. Chairman and Members of the Committee, we thank you for your effort to address public transportation needs in the next authorization bill and for your leadership in developing the existing law. TEA–21 was an enormous success for public transportation. Increased investment in our public transportation infrastructure can improve service for millions of citizens who use transit, make the existing highway system in metropolitan areas work more efficiently and reduce the need to build costly new highways in those same areas. It can reduce congestion and pollution in and around our cities, get rural residents where they need to go, and provide a lifeline to medical services and jobs for Americans who do not have access to private automobiles.

Public transportation is an important component of the Nation's transportation system and we need to invest in that entire system if we are to keep pace with the growing demand for transit service and preservation of the existing Federal investment in the transit infrastructure. Mr. Chairman, we look forward to your leadership and to working with you and the other Members of the Committee as it crafts and advances legislation to reauthorize the Federal transit program. We would be pleased to answer questions you may have on APTA's proposal or our testimony.

PREPARED STATEMENT OF JEFF MORALES

DIRECTOR, CALIFORNIA DEPARTMENT OF TRANSPORTATION
ON BEHALF OF THE AMERICAN ASSOCIATION OF
STATE HIGHWAY AND TRANSPORTATION OFFICIALS

JUNE 10, 2003

Mr. Chairman and Members of the Committee, my name is Jeff Morales, and I am the Director of the California Department of Transportation. I am here today to testify on behalf of the American Association of State Highway and Transportation Officials (AASHTO) in my role as Chairman of the AASHTO Standing Committee on Public Transportation. We thank you for your leadership in holding this hearing to address key transit issues to be considered in the reauthorization of the Transportation Equity Act for the 21st Century (TEA–21).

Let me begin my remarks by saying that there are a number of key transit provisions in the TEA–21 legislation that should be continued in the reauthorization legislation. With regard to transit issues, while we believe that while some of the TEA–21 provisions may need some fine tuning, and annual funding levels need to be significantly increased, for the most part, the transit program provisions of TEA–21 should be continued. We have divided our testimony into three major areas, including:

- AASHTO's reaction to the Administration's reauthorization proposal titled, The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA);
- AASHTO recommendations for rural transit in the TEA–21 reauthorization legislation; and
- Transit bonding proposal.

AASHTO's Reaction to the Administration's SAFETEA Proposal

Major Investments and Program Financing—AASHTO members are disappointed that the Administration's proposed funding levels for highways and transit fall substantially short of the documented need for investment in highways and transit. The Administration proposes $201 billion for highways and $46 billion for transit, in spite of the significant highway and transit needs identified by the U.S. Department of Transportation in its report titled Status of the Nation's Highways, Bridges, and Transit: 2002 Conditions and Performance Report. Under SAFETEA, transit funding growth would be limited over the reauthorization period, starting at $7.2 billion in fiscal year 2004 and rising to only $8.1 billion in fiscal year 2009. In fact, the level in constant dollars would be $1.1 billion below the transit funding level for fiscal year 2003.

AASHTO's reauthorization policies call for a total program level of $300 billion over 6 years, including $245 billion for highways and $55 billion for transit. Under the AASHTO proposal, the transit program would be funded at $7.5 billion in fiscal year 2004, increasing to a minimum level of $11 billion in fiscal year 2009. Further, AASHTO supports the higher APTA-proposed funding level that would rise to $14 billion in fiscal year 2009, provided that such an increase would not come from sources upon which highways depend.

In addition, AASHTO is very concerned that the SAFETEA proposal, while "guaranteeing" funds from the Mass Transit Account of the Highway Trust Fund, contains no similar guarantee for the General Fund component of transit funding. One of the key provisions of the TEA–21 legislation is the guarantee that it provides for both Highway Trust Fund and General Fund monies. The framers of the TEA–21 legislation recognized that the States and transit agencies need a stable and predictable source of transit funds in order to plan, program, and construct major transit projects. AASHTO believes that it is critical that both Highway Trust Fund and General Funds for transit are guaranteed in the TEA–21 reauthorization legislation.

AASHTO is further concerned that the SAFETEA proposal *calls for a reduction of the Federal funding share for New Starts projects from 80 percent to 50 percent.* AASHTO believes that in order for State and local officials to make balanced decisions between highway and transit projects, the Federal share of 80 percent should be retained for both highway and transit projects. Otherwise, the decisionmaking process can become skewed toward projects with a higher Federal match rate, particularly when State and local governments are experiencing tight budgets.

The SAFETEA proposal would shift the FTA program funding structure so that the New Starts Program would receive approximately 80 percent of its funding through the General Fund while other major FTA programs would be funded through the Mass Transit Account of the Highway Trust Fund. This approach is being taken in order to deal with the issue of the solvency of the Mass Transit Account of the Highway Trust Fund. Since SAFETEA does not propose a guarantee for General Funds, a major component of the FTA program, New Starts, would be vulnerable to significant funding reductions during the annual appropriations process. The New Starts Program is a key part of the FTA program, and needs to be funded in a way that State and local governments are assured of a stable and reliable source of Federal funding as they embark upon these more expensive projects. As part of this proposal, bus discretionary funding would be eliminated and the Rail Modernization program would be shifted to the formula program.

AASHTO agrees that solvency of the Mass Transit Account can be addressed without such major changes to the FTA programs. AASHTO staff is available to work with your staff to offer recommendations in this area.

Program and Requirements Streamlining

Existing transit legislation provides that an independent pre-award review and a post-delivery review must be conducted when an FTA grantee purchases transit rolling stock. This has been a costly and burdensome requirement for many smaller transit systems. AASHTO supports the provision in SAFETEA that eliminates the requirements for private nonprofit organizations and grantees serving areas fewer than one million people to have to certify on Buy America requirements. All manufacturers and suppliers would continue to have to certify compliance with Buy America during the bidding process, and they would remain bound by their original certification.

Planning—AASHTO supports the SAFETEA proposal that would give standing in NEPA to studies developed as part of the planning process. The results of studies developed as part of the planning process that may have standing in the NEPA process include purpose and need; the alternatives selected for evaluation in an environmental assessment or impact statement; and an assessment of environmental impacts related to development growth, including direct and cumulative effects, that is consistent with local land use, growth management, or development plans.

This provision is designed to expedite the planning and development of transportation improvements presuming that studies developed as part of the planning process establish the basis for an environmental assessment or impact statement. AASHTO has been working with U.S. DOT and Congressional Committees for the past several years to get a number of improvements to the project development process and to reduce the time needed to deliver a project.

Innovative Finance—In the area of innovative finance, the Administration's bill would continue the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. Under this proposal, the threshold for requesting credit support is reduced from $100 million to $50 million. AASHTO recommends that this threshold be reduced to $25 million. However, we believe that the Administration is taking an important step in the right direction.

SAFETEA would continue the State Infrastructure Bank (SIB) pilot program, although it would be restricted to five States. Currently six States are participating in a pilot, and officials indicate that those States would have to again compete for participation with other States who may now be interested. AASHTO has recommended that the SIB program be expanded to all 50 States.

AASHTO Rural Transit Proposals for TEA–21 Reauthorization

Every State has some level of public transportation service to its rural areas. Approximately 1,260 organizations provide public transportation in rural areas, and 3,660 organizations provide public transportation services to the elderly and people with disabilities. Approximately 55 percent of the existing bus and van fleet serving rural America has already exceeded the Federally rated service life. Within the next reauthorizaiton period, almost all of the Nation's rural transit vehicles will need to be replaced. About 9,200 vehicles per year will need replacement on an ongoing basis.

AASHTO, in its "Bottom Line" report, documented the need to double rural transit assistance. This report stated that $191 million will be needed to replace or rehabilitate existing public transit vehicles, and $194 million will be needed to replace or rehabilitate specialized rural transit vehicles.

We believe that it is critical to strive to meet current and future transit needs in rural America, particularly as the Nation's elderly population increases in the coming years with the aging of the Baby Boomer generation. Citizens in rural areas will need access to shopping, medical, and other activities, particularly when they are no longer able to operate an automobile.

AASHTO supports the SAFETEA proposal to increase funding for rural transportation (FTA Section 5311 program).

Transit Bonding Proposal

AASHTO is aware of a concept being considered in the Senate Finance Committee to move most funding under the Mass Transit Account of the Highway Trust Fund to the Highway Account, and then fund transit for the most part through a bonding program.

As indicated earlier, AASHTO believes that the current funding structure under TEA–21, in which Highway Trust Fund revenues are split with 80 percent credited to the Highway Account and 20 percent credited to the Mass Transit Account is working well and should be retained. The Federal transit program needs a stable source of guaranteed funds from the Mass Transit Account of the Highway Trust Fund and the General Fund in order for decisionmakers to commit to expensive transit solutions. The current arrangement under TEA–21 provides a stable, more predictable environment for planning, programming, and constructing these key transit projects.

Mr. Chairman, the State transportation officials across the country and the AASHTO staff are available to work with you, the Members of your Committee and your staff in the vital work of reauthorizing the Nation's highway and transit legislation for the coming 6 years. Thank you again for holding this important hearing.

PREPARED STATEMENT OF ROBERT MOLOFSKY

GENERAL COUNSEL, AMALGAMATED TRANSIT UNION

JUNE 10, 2003

Mr. Chairman, Senator Sarbanes, and Members of the Committee, thank you for the opportunity to testify today on behalf of the Amalgamated Transit Union (ATU).

My name is Robert Molofsky. I have been General Counsel for the ATU since 1996. Prior to becoming General Counsel, I served as ATU's Legislative and Political Director for 15 years. The Amalgamated Transit Union is the largest labor organization representing public transportation, paratransit, over-the-road, and school bus workers in the United States and Canada, with nearly 180,000 members in over 270 locals throughout 46 States and nine provinces.

For 111 years, ATU has been proud to serve the mobility needs of Americans, playing an important role in most legislative efforts affecting the public transportation industry during the past century, from requiring closed vestibules for streetcars in the 1890's, to the creation of a Federal role for public transportation in 1964, to passing the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA–21), which recognized that local communities should be primarily responsible for the transportation choices that ultimately affect them. Our century-long commitment to transit safety and security issues has led to many of the innovative improvements within the industry, including better bus designs and braking systems, exact fare, and Federal penalties for assaulting public transportation workers. And we have championed the need for increased funding and expanded service at the Federal, State, and local levels.

We are pleased to offer our views on the Bush Administration's surface transportation reauthorization proposal, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA), while also presenting some of ATU's core principles in connection with TEA–21's renewal.

Overview

SAFETEA is certainly a thoughtful and creative document, which generally keeps current Federal transit programs intact. It also recognizes that we are well beyond the debate of whether to link the transit programs with the Federal highway programs by seeking an integrated transportation planning process. The proposal serves as a suitable platform from which to launch the discussion of which programs should be retained and what other new initiatives should be created.

Nevertheless, because the legislation is so *incredibly underfunded,* the many laudable goals set forth in the Administration's bill simply will not be able to be met. Most significantly, despite its logo—"SAFE"TEA—the legislation falls well short of providing the resources necessary to continue the provision of safe and secure transit service for the millions of Americans who rely on public transportation each day.

Finally, the bill would eliminate or consolidate a number of very important and successful programs, and curtail some crucial program requirements, including certain labor requirements, without any justification. ATU has major concerns regarding the Administration's proposals relating to (1) the Bus Capital Program; (2) Federal matching ratios for New Starts; (3) the Job Access and Reverse Commute Program (JARC); (4) the structure of the New Freedom Initiative; (5) safety and security requirements; and (6) certain labor issues. We also offer a number of recommendations to improve the planning process, increase State transit funding, coordinate the delivery of specialized transportation services, and train personnel in connection with new technologies and maintenance requirements that are associated with keeping the Nation's public transportation fleets in working condition.

Bush Administration Proposal

FUNDING

Mr. Chairman, in examining the Administration's transit proposal, there are two levels of funding to keep in mind: The proposed *guaranteed* levels for transit, and the proposed *fully authorized* levels (combined guaranteed and nonguaranteed authorization levels). Since fiscal year 1998, the Federal transit program under TEA–21 has been funded only at the *guaranteed* level on an annual basis (except in fiscal year 1999 when the actual appropriation exceeded the guarantee by $25 million). For example, for the current fiscal year, the program was funded at $7.2 billion, the guaranteed level under TEA–21, rather than the fully authorized level of $8.2 billion. If this practice continues, which is likely in the current fiscal climate, appropriators will continue to fund the program at the *guaranteed* level during the next 6 years.

Therefore, with regard to SAFETEA, it is only necessary to look at the Administration's proposed *guaranteed* levels for transit. We have included a chart at the back of our full written testimony which indicates that for fiscal year 2004, the Administration is proposing a guaranteed level of $5.9 billion for the transit program, *which is a $1.3 billion cut from the current fiscal year. The guaranteed funding level in SAFETEA for fiscal year 2004 is 17.9 percent less than the guaranteed funding level in TEA–21 for fiscal year 2003.* In fact, under SAFETEA, the Administration would not even reach the current level of spending by the end of the reauthorization period. *Guaranteed public transit funding would be 8 percent less in fiscal year 2009 than it is in fiscal year 2003!*

During the past 2 years, this Committee has conducted numerous hearings on the success of TEA–21's guaranteed, increased funding levels, and the impact the program has had on transit ridership, planning, and the overall growth of the Nation's transit systems. The Administration's funding proposal, if enacted, would not only reverse these trends but also cripple our transportation system.

Ironically, because of its proposed devastating funding cuts for transit, the legislation which is called "SAFE"TEA would negatively impact the ability of transit systems to upgrade rolling stock and safety and security measures, causing the public transportation industry to jeopardize its reputation as the safest mode of surface transportation in the United States.

SAFETEA ELIMINATES SUCCESSFUL PROGRAMS; CREATES UNNECESSARY NEW PROGRAMS

Under SAFETEA, the *Bus Capital Program* would be *eliminated,* and the *JARC Program* would be distributed by a formula. It is not clear why the Administration is recommending the elimination and consolidation of two of the most successful programs under FTA's jurisdiction. Under current practice, Congress selects specific projects for funding from requests submitted by eligible recipients. This process is the best way to ensure that large, medium, and small transit systems can replace equipment and provide much needed service in their communities. ATU supports maintaining the Bus Capital Program and JARC as allocated programs.

SAFETEA would also create a *New Freedom Program* to provide grants to recipients for new transportation services and transportation alternatives beyond those required by the Americans with Disabilities Act (ADA) of 1990, including motor vehicle programs that assist persons with disabilities with transportation to and from jobs and employment support services.

ATU fully supports the principles set forth under this proposed program. However, the best way to achieve these goals is by expanding fixed route and paratransit services *in coordination with the already existing JARC Program.* Through the FTA, the Federal Government has already invested in ADA paratransit and JARC, and it would be more efficient to expand the JARC Program with an emphasis on people with disabilities than to allow separate special purpose systems to be subsidized.

In addition, the reauthorization of TEA–21 offers a real opportunity to tap into already available funds from other Federal agencies. Public transportation can make a difference in how people get to jobs, health care, training, and other social services. Every dollar dedicated to human services transportation by transit agencies can be stretched further if *coordination* is implemented at the Federal level and encouraged at the State and local levels.

In addition to 10 DOT programs, there are at least 12 Department of Health and Human Services (HHS) programs that together are providing approximately *$10 billion* annually to assist transportation systems to provide access for persons with special transportation needs. Moreover, the two major Department of Labor (DOL) programs, Welfare-to-Work and Temporary Assistance for Needy Families (TANF), may also be tapped for transportation purposes. The potential benefits from coordinating transportation services can be significant. Benefits include increased service levels, better quality of service for riders, cost savings, upgraded maintenance programs, more professional delivery of transportation services, and safer transportation services.

TRANSIT SECURITY ISSUES

ATU applauds the Administration's proposal in SAFETEA to expand the definition of "capital project" to include not only capital security needs, but also noncapital, security-related training, and drilling, thereby authorizing formula grant expenditures for these purposes. While expanding the definition of "capital project" is a step in the right direction, there absolutely must be a separate, dedicated source of funds available to transit systems solely for security purposes, frontline transit employee training in particular.

According to a recent report by the General Accounting Office (GAO), issued in response to a request from this Committee, the most significant challenge in making transit systems as safe and secure as possible is the difficulty financially strapped transit agencies are having in obtaining sufficient funding. The American Public Transportation Association (APTA) estimates this funding need to be over $6 billion. As I will discuss later in my testimony, Congress must call on the Department of

Homeland Security to dedicate the necessary resources to assist transit agencies in their security efforts.

SAFETEA further proposes to authorize FTA to investigate security concerns and to withhold funding if necessary to compel a transit system to make necessary security improvements. While this proposal addresses an obvious need for FTA oversight and direction of security matters at transit agencies, it does not go nearly far enough to ensure that systems are taking all the necessary steps.

As we have stated to this Committee before, there must be specific legislative and regulatory requirements with respect to the equipment, technology, training, and personnel needed to prepare, prevent, and respond to any terrorist attacks or threats. The GAO recognized this need in its report, stating that "goals, performance indicators, and funding criteria need to be established to ensure accountability and results for the Government's efforts" (GAO–03–263). Failure to meet these minimum requirements should result in the withholding of FTA funds in an amount determined by the Secretary.

EQUITY ISSUES

Federal Matching Ratios

SAFETEA would statutorily set the maximum Section 5309 share for a New Starts project at 50 percent. The current maximum is 80 percent. Deputy Secretary Jackson has justified this recommendation by noting that "all forms of transportation must face the hard reality that Federal financial resources are not boundless and cannot fully fund every meritorious transportation need." Yet, under SAFETEA, the maximum share for highway projects would remain at 80 percent.

Having identical matching requirements between the highway program and the transit program provides communities with the opportunity to decide on future transportation projects without having to consider the issue of the Federal contribution. The Administration's proposal violates the spirit of both ISTEA and TEA–21, which were structured to finally give communities an unbiased choice by placing highways and transit on a more equal playing field. The policy of allowing for an 80 percent Federal match for highways while cutting the Federal limit for transit New Starts to 50 percent is backward thinking. A recent GAO report confirms that "officials from several MPOs stated that a cap on New Starts funds could influence their selection of highway over transit projects since the decisions are often affected by the availability of funds from various Federal programs and which projects will receive the highest Federal share" (GAO–02–603).

Congress should reject this approach. ATU supports preserving the Federal-State/local funding matching ratio for transit New Starts at the TEA–21 level of 80 percent/20 percent, the same level that currently exists for highway construction, to ensure that communities can make their own choices about their future transportation plans.

Commuter Benefits

Under current tax laws, the monthly cap on employer provided tax-free parking benefits is $190, but the monthly limit on employer provided tax-free transit passes is only $100. SAFETEA would do nothing to change this imbalance, which encourages people to continue to drive to work alone. This especially affects people who ride the Nation's oldest and far reaching transit systems, where monthly fares to travel between suburban and urban areas reach well over $100. Suburban bus, heavy rail, and commuter rail riders should be *rewarded*—not *penalized*—under the tax code for choosing to ride transit rather than driving to work.

Under the transit pass program, everyone wins. Employees do not pay Federal income tax on transit commuter benefits, and employers can deduct their costs for providing such benefits, and avoid payroll taxes on such benefits, regardless of who pays. TEA–21 proved that when you pay people to ride transit, they will indeed leave their cars at home.

ATU supports raising the monthly cap on employer provided tax-free transit benefits to the level allowed for parking benefits to encourage more people to ride public transportation.

LABOR ISSUES

The U.S. public transportation industry has experienced remarkable labor relations stability during the 40 years of the Federal transit program. This has allowed transit employees to go about the business of their most important role: *Moving America Safely.* The basis for five decades of this labor-management partnership is Section 5333 (b) of Title 49 of the United States Code (formerly Section 13(c) of the Federal Transit Act), which states that when Federal funds, most recently authorized under TEA–21, are used to acquire, improve, or operate a transit system, there must be arrangements to protect the rights of affected transit employees.

Every surface transportation reauthorization bill enacted since 1964 has been linked to a strong labor policy that provides employee protections for public transit workers. Today, as in the past, ATU's support for reauthorization will be contingent on the continuation of those policies and their application to any new programs or innovative finance mechanisms created through the new bill. The value of this historic link between a strong transportation bill and sensible labor policy has been clearly recognized by the Administration, which has recommended the retention of the crucial Section 13(c) labor protections for the major formula (49 U.S.C. 5307) and Capital Investment Grant (49 U.S.C. 5309) Programs.

SAFETEA would also apply Section 13(c) to the majority of the small and medium size programs under the current legislation as well as the proposed new FTA Programs. *However, SAFETEA raises serious questions on the mechanisms chosen to apply (and potentially waive) 13(c) in connection with such programs.* By proposing a new waiver process for labor protections in certain programs, the Administration's bill would create inconsistencies and *gaps in 13(c) coverage* throughout the Federal transit program.

In 2000, this Committee requested an in-depth study of the Section 13(c) Program, embodied in a November 2001, GAO report entitled *Transit Labor Arrangements: Most Transit Agencies Report Impacts Are Minimal* (GAO–02–78), which supports the ATU's long-held notion that the provision does not substantially delay the flow of capital for transit projects.

GAO surveyed more than 100 transit agencies in the United States, who overwhelmingly reported that Section 13(c) has had only a minimal impact on (1) labor costs, (2) the ability to adopt new technologies, and (3) the ability to modify transit operations. In fact, more than 70 percent of transit agencies indicated that certain other Federal requirements, such as compliance with the ADA, were far more burdensome than Section 13(c). Most significantly, the report notes that an overwhelming majority of the transit agencies have been satisfied with the timeliness of FTA's grant processing, confirming a 2000 GAO report which found that *98 percent of the DOL's applications were processed well within the 2-month period required by the Agency's new guidelines.*

Given the overwhelming conclusions of the GAO reports, we do not see the FTA's justification for proposing to curtail the labor protection requirements of the Federal Transit Act for certain existing and proposed new programs.

The Administration calls for the implementation of the DOL specially designed warranty arrangement (in which grants are labor certified without a referral) and possible *waiver* options in connection with 13(c) for certain *existing* programs, such as the JARC Program, the 5311 Rural Program and the Over the Road Accessibility Program. In addition, the bill calls for a possible *waiver* of 13(c) for the *entire* 5310 (Elderly and Disabled) Program. SAFETEA would also create a possible waiver of 13(c) for *new* programs, such as the Indian Reservation Rural Transit Program, and the above mentioned New Freedom Program.

With regard to the JARC Program, under current law, entities receiving JARC grants must comply with the full transit-labor certification process under 13(c), with the exception of JARC grants to applicants serving populations under 200,000, which are labor certified by using the warranty. There is no support or justification for changing the grant procedures under this program. Since the 1999 regulations were released, and the separate procedures were set for applicants based on population, there have been no problems regarding this program. The new time limits are working perfectly, and no JARC grants have gone unfunded because of 13(c). The current coverage should be maintained *without a new waiver option.*

Similarly, the warranty has worked well under the 5311 Rural Program, and could be just as easily applied under the proposed Indian Reservation Rural Transit Program proposed as part of 5311. There is no reason for statutory language calling for a waiver regarding this program.

Other Labor Issues

Also, SAFETEA would create a new Intermodal Passenger Facilities Program which perhaps inadvertently *does not include 13(c) coverage.* The program, if enacted, should of course include 13(c) coverage. Moreover, without a properly funded bill, we do not support funding for this program from the Mass Transit Account.

Finally, the bill would allow DOT to waive 13(c) requirements for certain demonstration projects and projects involving new technology. There is no evidence of any demonstration projects or other projects involving new technology having been negatively affected by Section 13(c). In fact, the opposite is true. Section 13(c) is the basis for five decades of labor-management cooperation in the transit industry, allowing for major technological advances.

CHARTER BUS SERVICE

SAFETEA maintains the current restrictions on public transit agencies that permit them to provide only a limited amount of charter service within their service areas and proposes to enforce these rules by allowing the Secretary to withhold Federal funds in the event of a violation.

It is important that any revisions of the charter service regulations take into account the increasing concerns of those in both the transit and intercity bus industries that the existing rules are not only cumbersome and confusing, but are also serving to create an adversarial method of decisionmaking that is harmful to those seeking charter service. In addition, it must be recognized that while the current regulations grew out of concern that without restrictions, the allocation of Federal funds to public agencies would create unfair competition with the private charter bus industry, private operators today are receiving significant amounts of Federal funding as well.

Certain minimal exceptions have been established by FTA to respond to transit agency requests to serve elderly persons and individuals with disabilities. We support further efforts to reform the charter bus regulations to permit public agencies to provide, upon request, a limited range of charter bus service to nonprofit and governmental organizations within their service areas.

Based on our discussions with public transit agencies and representatives from the private bus industry, we believe a new, more effective, streamlined set of regulations can be crafted which protect the economic interests of the private bus industry while at the same time allow public agencies to respond to community-based charter service requests.

Congressional support for this ongoing effort would greatly enhance the likelihood of an agreement between the parties and provide a basis for establishing sensible revisions.

ATU Proposal

Mr. Chairman, the ATU's entire TEA–21 reauthorization proposal is included in this book, entitled *Next Stop: Real Choices.** I will summarize the most important aspects of the proposal.

The proposal is a comprehensive plan which contains the ATU's recommendations on major policy, fiscal, and structural issues in connection with the Federal transit program for the first decade of the 21st Century. ATU's reauthorization plan calls for the continuation of a strong Federal role in connection with providing the resources necessary to maintain and improve the quality of America's public transportation systems.

While we consider all parts of the proposal extremely important, the following are the seven core principles and ideas that we believe should be an essential part of the reauthorization bill:

INCREASED, GUARANTEED TRANSIT FUNDING

ATU has joined APTA in its recommendation for increasing Federal transit funding by *12 percent annually,* so that by fiscal year 2009, the program would be funded at a guaranteed level of $14.3 billion. In order to reach this level, ATU supports raising and indexing the Federal gas tax as recommended by leadership of the House Transportation and Infrastructure Committee. ATU also supports bipartisan proposals to draw down reserves in the highway trust fund, and collect the interest on fund reserves.

In addition, we call for the preservation of the firewalls (for the *entire* Federal transit program) that ensure *guaranteed funding* for the program on an annual basis. Moreover, we support maintaining the needs-based formulas which determine transit funding. Congress should reject any so-called "equity" proposals that would cap transit funding for any one State at a certain level or percentage. We also support increased funding for *flexible* transportation programs, such as the Congestion Mitigation and Air Quality Program (CMAQ), which have allowed communities to meet expanded transit needs where traditional funding sources have not been adequate.

Finally, Congress should *oppose* any transit funding proposals that would break the historic link between highway and transit funding and decrease transit's share of the Federal motor fuel tax. For example, a draft proposal under consideration at the Senate Finance Committee would redirect gas tax funds currently earmarked

*Held in Committee files.

for transit to pay for highway construction by decreasing transit's share of the gas tax to a half-cent. The rest of the Federal transit program would be financed through an *unproven bond scheme.* Financing public transportation with bonds is a proposal to make an essential element of our transportation system dependent on an untested, destabilizing funding source.

This approach will require ever-increasing borrowing, at a greater cost to taxpayers, and destabilize future transit investments. Removing dedicated funds for transit undermines the long-term viability of our public transportation systems, ultimately placing the economy, metropolitan areas, transit-dependent populations, and air quality at risk. Further, separating the funding sources could erode the linked planning process, which addresses environmental issues affecting both the highway and transit programs.

The *guaranteed* funding provisions of TEA–21, which link transit funding to the *Federal motor fuel tax,* have provided an unprecedented degree of stability within the public transportation industry since 1998. Ridership levels are at their highest point since 1960, and ATU membership has grown to more than 180,000, the highest in the 111-year history of our union. ATU certainly supports increased highway funding and the equitable resolution of the donor-donee issue, but placing transit funding at risk is not the best solution.

FLEXIBILITY INCENTIVE GRANT (FIG) PROGRAM

ATU is proposing a new transportation initiative in connection with the reauthorization of TEA–21. The idea behind the program named—the *Flexibility Incentive Grant (FIG) Pilot Program*—is to provide incentives that would encourage States to establish new sources of revenue for transit projects and services and to reward States for creating more flexibility in the use of their existing transportation funds.

The FIG Program is also designed to encourage States to think twice before cutting transit funding in the face of rising fiscal pressures by providing "bonus" Federal transportation dollars to those States that increase public transportation funding or take steps to increase funding. Significantly, States could use funds derived under the FIG Program for any *highway* or *transit* projects eligible for assistance under Title 23 or Chapter 53 of Title 49.

Under the proposed FIG Program, the Secretary of Transportation would be authorized to allocate $5 million annually to each State that increases transit expenditures by at least 10 percent as compared to the previous fiscal year. If a State is already expending more than $1 billion on public transportation, the Secretary would be authorized to allocate $10 million to such State if it increases transit expenditures by at least 1 percent.

In addition, States would be eligible for grants on the condition that they create new dedicated sources of revenue for public transportation. Such sources may include the dedication of new State motor fuel taxes, sales taxes, interest on existing highway funds, motor vehicle excise taxes, tolls, loans to be made out of highway funds, or other sources of funding.

Finally, in order to encourage flexibility in the spirit of ISTEA, as continued under TEA–21, the FIG Program would authorize the Secretary of Transportation to reward States for amending their existing statutes or constitutions to allow funds that are currently restricted for highway purposes only to be eligible for transit projects and services as well as highway purposes.

The FIG Program would not affect existing formulas under which States receive transportation funds through Title 23 or Chapter 53 of Title 49; it would be a "bonus" program to be awarded *in addition* to any funds received through those sources. Also, the Program would be funded out of General Funds and therefore would not put further pressure on the Federal Highway Trust Fund.

The FIG idea is, of course, just one very small initiative in the context of the massive highway/transit bill. Nevertheless, ATU believes the idea has a great deal of merit because it seeks to unlock billions of dollars in State resources, each year, for public transportation, community and rural transportation, and ADA services. A draft legislative proposal is available for your review.

TRANSIT SAFETY AND SECURITY

This Committee knows the severity of the security threat facing our Nation's transit systems today. Given that one-third of terrorist attacks worldwide target transportation systems and that transit systems are the mode most commonly attacked, it is imperative that the Federal Government expand its role in securing transit systems—through the establishment of national standards for transit security and the provision of Federal funds to assist agencies in meeting these standards.

Currently, only rail fixed guideway transit systems are required, as a condition of FTA funding, to adopt a safety and security plan. There is no similar requirement for transit bus systems. At a minimum, all transit systems, bus and rail, should adopt a security plan to be overseen and implemented by a system security committee, including both management and employee representatives, and all systems must provide security and emergency management training for frontline transit employees, including vehicle operators and maintenance employees.

Security training for frontline transit employees is not only necessary in today's environment, but is one of the most cost-effective measures that an agency can take to better protect the nine billion passengers riding transit each year, as well as more than 350,000 transit employees. Despite this, a recent survey of ATU members showed that 80 percent of respondents reported that they had not received any security training from the employer.

It must be recognized that frontline transit employees, including bus and rail operators and maintenance employees, are the eyes and ears of every transit system. These employees, with the appropriate training, can be crucial in deterring, diffusing, and responding to serious security incidents that occur aboard their vehicles and within transit stations or facilities. In addition, transit employees are often the first line of defense in a terrorist incident, offering protection and much needed transportation away from terrorist targets and disaster sites. For these reasons, FTA should require all transit systems to provide comprehensive training for their employees on a regular basis. Training programs developed by the National Transit Institute in conjunction with FTA, APTA, and the ATU are a good model of the type of training necessary.

As I noted in my comments on the Administration's proposal, financially strapped transit systems across the United States have been unable to gather the resources to fund necessary security training and improvements. It is imperative that the Department of Homeland Security (DHS) and its Transportation Security Administration dedicate sufficient resources for such purposes.

Given the extensive expertise of the FTA and the countless security-related initiatives undertaken by the Agency in the past few years, it is important that funding from DHS be distributed only after appropriate consultation and coordination with FTA, including analysis of FTA readiness assessments. In order to facilitate such coordination, Congress must call on DHS and FTA to enter into a Memorandum of Understanding expeditiously so that any available funds can be distributed effectively and efficiently.

A Real Voice In Transportation Planning

Unfortunately, transit riders, environmentalists, pedestrian and bicycle groups, businesses, transit workforce and industry representatives, and other individuals with a direct stake in transportation planning in reality have no real voice with regard to the metropolitan planning organizations (MPOs) that control their future. Under current law, MPOs, serving as the transportation planners for every U.S. urbanized area with a population of more than 50,000, and determining the future of our communities for decades, are composed of only local elected officials, officials of public agencies that administer major modes of transportation, and appropriate State officials, often with competing political and transportation interests.

Although representatives of mass transportation authority employees, along with the general public, are given a *reasonable opportunity to comment* on long-range plans, they are not afforded a seat on the board, and they certainly have no voting rights. In fact, by the time riders, workers, and residents are permitted to submit comments at all in connection with long-range transportation plans, extensive research, and consultation with State representatives has taken place, and plans are already in their final stages. No opportunity to submit comments, or any other public procedure, is required during the drafting stages.

This is an outdated process. These constituency groups would, as intended in the original process, bring a real world and informed perspective to the MPO boards, with a *real* ability to be heard and effect the decisionmaking process.

Public transportation workers in particular would be helpful on issues involving transit operations and the implementation of new technology. ATU supports the diversification of MPO boards, requiring MPOs to appoint transit workforce representatives, minority groups, transit riders, bicycle and pedestrian advocates, businesses, and others with a direct stake in the provision of public transportation services to sit on such panels, with the right to vote. We also support requiring the governors to appoint these representatives for statewide planning. Finally, we support the ability of the general public to view long-range plans and submit comments during the *early* research and development of such plans, rather than after a draft has been completed.

TRANSIT IN NATIONAL PARKS (TRIP)

Congestion in our national parks has reached massive proportions. The 384 units of the National Park System drew approximately 300 million visitors in 2001, and the National Park Service expects demand to increase by 500 percent over the next 40 years. The millions of Americans who escape urban congestion by visiting national parks each year are greeted by dim, hazy vistas and unhealthy air instead of the expansive views and scenery that have made these areas our national treasures.

The piecemeal approach to solving the serious congestion issues in our parks is simply not working. ATU supports the adoption of S. 1032, the Transit in Parks Act (TRIP), which would provide increased funding for mass transportation in certain federally owned parks, as part of TEA–21's reauthorization. Without question, this legislation begins to address the major congestion and environmental issues that currently exist in U.S. National Parks from coast to coast.

PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAMS

While the transit industry has effectively focused on the development of rail infrastructure and rolling stock, there has been a lack of attention directed toward *training personnel* in connection with *new technologies* and *maintenance requirements* that are associated with keeping the Nation's public transportation fleets in working condition. The public transportation industry desperately needs job training and career ladder programs to provide workers skills necessary to carry out maintenance tasks in a cost effective manner. It also needs to provide training and technical assistance to individuals who are interested in commercial driving careers.

The Transit Technology Career Ladder Partnership (TTCLP) was launched in 2001 with a seed grant from the DOT and the FTA. Working through the nonprofit Community Transportation Development Center, the program has assisted local transit systems and unions to jointly develop transit training partnerships in five pilot locations. These locally sponsored partnerships have already raised eight times more State and local funding than originally invested by DOT in the pilot program. ATU and the Transport Workers Union call for the program to be funded at a level of $1.76 million in fiscal year 2004, to increase to $2.5 million by 2009, as the program expands to more States. ATU supports TTCLP as an integral part of the reauthorization of TEA–21 to provide training and technical assistance to individuals who are interested in commercial vehicle driving, maintenance, or other careers within the transit industry.

MEETING COMMUNITY TRANSPORTATION NEEDS

As recommended by the Community Transportation Association of America (CTAA), the Committee should recognize that an increase in capital investment is long overdue for *rural and small-urban transit organizations,* which provide critical mobility services outside of America's largest regions. More than one-third of America's population lives outside of urbanized areas. The agencies involved in Section 5311 services enjoy strong community support, providing more than 340 million passenger trips per year. However, more funds are needed to keep up with expanding services. The existing fleet is *far older* than typical useful life projections, and agencies are falling behind vehicle replacement suggestions. Moreover, the reauthorization bill should address the *serious lack of services* in rural America, which impacts disproportionately on persons with disabilities and low-income people, who are particularly transit dependent. Thirty-two percent of all rural residents are classified as transit dependent, including 36 percent of all rural Americans living in nonmetropolitan areas. Guaranteeing access for America's most transit dependent population should be a priority in the next reauthorization.

Conclusions and Observations

In summary, ATU's message to the Committee is simple: TEA–21 has been an enormous success. Let us *build* off the progress of ISTEA and TEA–21 by *maintaining and increasing* the Federal investment in the existing transit programs and policies that have forever changed the travel patterns of America's communities, both large and small.

Additionally, Congress should properly fund required security and employee training programs and adopt appropriate new programs, especially those that have the potential to *encourage more transit investment* from nonfederal sources, so that we may finally narrow the ever-widening gap between transit needs and transit investment. Finally, let us provide those with a direct interest in transportation services with a *real voice* and an *expanded role* in connection with transportation planning so that the ideals that were set out in ISTEA and TEA–21 may finally be realized.

We realize of course, Mr. Chairman, that without *adequate resources, none* of the reforms proposed by the Administration, the Members of this Committee, or any of the organizations represented on this panel can be fully reached. And, whether Members of Congress agree on the concept of a gas tax increase or not, it should at least be clear to lawmakers on both sides of the aisle and in both Chambers that increasing the gas tax is the best possible way to meet the extensive highway and transit needs of this Nation. Congress will not be able to solve the issues of donor/donee distribution, training, safety, research and development, or underwrite service expansion unless the gas tax is increased. Otherwise, as is the case with the Administration's proposal, we will end up with a situation in which crucial programs will be eliminated or consolidated so that limited resources may be shifted elsewhere.

It is for these reasons that ATU supports raising the Federal gas tax as recommended by leadership of the House Transportation and Infrastructure Committee. Each penny of the motor fuels excise taxes currently yields over $1.7 billion per year, generating more than 80,000 jobs in the transportation industry, with about $1.4 billion being deposited into the Highway Account of the Highway Trust Fund and $350 million deposited into the Mass Transit Account. The Federal motor fuels tax is currently 18.4 cents, and has not been raised since 1993.

With unemployment at an 8-year high and 1.7 million workers unemployed for more than 6 months, President Bush and the Congress should approve a plan that will create jobs in our communities and ensure that our future transportation needs are met. As a bipartisan group of 43 U.S. Senators recently stated in a letter to the President, "a robust public transportation infrastructure is vital to continuing America's economic growth."

We believe it is time for a frank debate on this matter. It is not a contradiction to support the President's tax cuts while calling for an increase in gas tax revenues. Whether an individual earns more than $300,000 or less than $30,000 annually, each person gets the same seat on the bus or the train. Moreover, just as the new tax bill is a balance of tax cuts and loophole fixes, a transportation bill with a gas tax increase will net out as a gain for all taxpayers. Supporters of the tax cuts have said that eventually the money people save will wind up back in the economy. Similarly, a gas tax increase will put more cash in everyone's pockets—money saved from reducing the overwhelming burdens of traffic congestion. According to the Texas Transportation Institute, in 2000, congestion (based on wasted time and fuel) cost about $68 billion in 75 urban areas. The average cost for each of the 75 urban areas was $900 million. By providing for even just a nominal two-cent gas tax increase, which would cost the average driver a mere $12 per year, or 6-cents per day, we could begin the process of redirecting at least a portion of that $68 billion back into the economy.

We know that one mechanism alone cannot provide the necessary resources to maintain and improve the conditions of the Nation's highway and transit systems. ATU has and will continue to support innovative finance mechanisms in addition to (but not in lieu of) the gas tax, such as State Infrastructure Banks, TIFIA, and bonds with labor protections, including Section 13(c) and Davis Bacon, attached to directly funded projects as well as those funded in subsequent generations. However, just as Congress is striving for simplicity in the tax code, there is no substitute for the basic, time-tested method of meeting our transportation needs with funds generated directly out of the transportation system.

Without question, these are enormous challenges, and we are undoubtedly living in extraordinary times. Yet, ATU firmly believes that Congress has the means, the will, and the experience to achieve these crucial mobility goals. The transit industry, in cooperation with ATU, has certainly come a long way since the 1964 Federal Transit Act. However, the success of our efforts has produced new challenges that must be immediately addressed in order for us to sustain the progress that has been made. ATU looks forward to working with this Committee in meeting these challenges, so that we may continue to *Move America Safely* during the period of the next reauthorization bill, and beyond.

* * *

Fact Sheet: TEA–21 versus SAFETEA

TEA–21	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	TOTAL
Fully Authorized Level	$4.6	$6.3	$6.8	$7.2	$7.7	$8.2	$41
Guarantee	$4.8	$5.3	$5.8	$6.3	$6.7	$7.2	$36

SAFETEA	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	TOTAL
Fully Authorized Level	$7.2	$7.4	$7.5	$7.7	$7.8	$8.0	$46
Guarantee	$5.9	$6.0	$6.2	$6.3	$6.5	$6.6	$37.6

(Billions of Dollars)

Since fiscal year 1998, the Federal transit program has been funded only at the *guaranteed* level on an annual basis (except in fiscal year 1999 when the actual appropriation exceeded the guarantee by $25 million). For example, for the current fiscal year, the program was funded at $7.2 billion, the guaranteed level under TEA–21. If current practice continues, appropriators will continue to fund the program at the *guaranteed* level during the next 6 years.

Therefore, in examining the Administration's proposal (SAFETEA), it is only necessary to look at the proposed *guaranteed* levels for transit. As the charts indicate, for fiscal year 2004, the Administration is proposing $5.9 billion for the transit program, *which is a $1.3 billion cut from the current fiscal year*. In fact, under SAFETEA, the Administration would not even reach the current level of spending by the end of the reauthorization period. *Guaranteed public transit funding would be 8 percent less in fiscal year 2009 than it is in fiscal year 2003!*

PREPARED STATEMENT OF HARRY W. (WOODY) BLUNT, JR.

PRESIDENT, CONCORD COACH LINES

CONCORD, NEW HAMPSHIRE

ON BEHALF OF THE AMERICAN BUS ASSOCIATION

JUNE 10, 2003

Good morning, Mr. Chairman and Members of the Committee. My name is Harry Blunt and I am President of Concord Coach Lines, a private over-the-road bus company based in Concord, New Hampshire, that provides service in New England. Concord Coach Lines and its affiliate, Dartmouth Coach are one of the largest independent motorcoach companies in New England. We provide daily intercity service to Boston and Logan Airport from 34 cities and towns in Maine and New Hampshire. Thirty-one of these cities have no other form of intercity public transportation. Concord carried 670,000 passengers in 2002 and employs 134 full and part-time personnel.

I am testifying on behalf of the American Bus Association. The ABA is the trade association of the over-the-road bus industry. ABA has 3,400 members, of which some eight hundred are motorcoach operators and 200 are tour operators. The remaining members are hotels, tourist destinations, and attractions. I am the immediate past Chairman of the ABA's Board of Directors and currently serve as Chairman of the ABA's policy committee. Before I begin speaking on our issues with SAFETEA, I would like to present a few facts about the over-the-road bus industry.

The industry that I have served for over 30 years transports 774 million U.S. passengers each year. We transport more people than the airlines, and we transport more passengers in 2 weeks than Amtrak does in a year. Further, we serve more than five thousand cities and towns in regularly scheduled service, again more than any other mode of public transportation. Between fixed route, intercity, commuter service, charter and tour, and airport shuttle service the industry is involved in the life of virtually all Americans. For example, Eyre Bus Service, an ABA member, provides commuter service to DC for over 2,500 Maryland residents every day; in addition, intercity bus companies provide fixed route, scheduled service to 79 communities in Alabama. This is far more than the combined number of communities served by air and Amtrak. A map detailing this service has been provided to the Committee.* ABA members provide these services without any meaningful subsidy from the Government. A report by Nathan Associates, Inc.* details the Federal subsidies to passenger modes between 1960 and 2001. This report is dramatic evidence of the lack of subsidy given to intercity bus transportation. The industry buys its own buses, builds its own facilities, trains its own personnel and maintains its own

*Held in Committee files.

*Held in Committee files.

equipment. And since the attack on America on September 11, we have taken our share of losses.

My subject today is the Administration's bill to reauthorize the Federal highway bill, the so-called TEA–21. The current bill is called SAFETEA. Whatever its name, it is a bill vital to the health and well being of the over-the-road bus industry, and we at the ABA no less than you on the Banking Committee want to get this right. While there are many good provisions in the bill that we support, there are also sections of the bill within the jurisdiction of this Committee that are largely a disaster for the over-the-road bus industry.

Our first and most important problem with SAFETEA may be summed up in two words: "transit competition." The private bus industry is under assault. Today, we face illegal competition from transit agencies that ignore Federal rules regarding the provision of transportation services provided by the private bus operators; from transit agencies that ignore Federal Transit Administration (FTA) cease and desist orders and continue to provide illegal transportation; from short sighted policies by local governments like that of the District of Columbia which wants to spend over thirty million Federal dollars to operate a tour bus service in a city which has three private sightseeing tour operators that have seen drastic declines in their own business.

In short, we face withering competition from transit agencies that are provided significant Federal and/or local funding. Agencies that then take that money and use it against the private operators and ultimately against the public. The most blatant examples of this "competition" are found in the fight to provide "charter" service to the public. When I speak of "charters" I mean groups of people seeking to travel to some destination. Charters form a significant portion of our business. Indeed, nearly all ABA members provide some charter services to the public.

FTA regulations require federally funded transit agencies to notify the local private companies, ABA, and FTA if there is a charter opportunity that it wishes to pursue. The ABA notifies its members and FTA regulations require that the publicly funded transit agency allow the private, unsubsidized operator to provide the service if it is "willing and able" to do so. If there is no private operator available or willing to provide the service, the transit agency is free to do so.

As ABA has documented, transit agencies often do not follow these rules. Some transit organizations fail to follow the notification procedures at all; others provide the service before the determination of a "willing and able" private provider is made. Further, publicly funded transit agencies often use their heavily subsidized fleets to charge prices well below cost to win charter work. Most egregiously, as I referred to earlier, at least one transit agency has ignored two FTA orders to stop operating its charter service. Not only has it continued to operate this service, but also the transit agency's only penalty so far has been FTA's willingness to overlook the continuing violation while working with it to find a way to allow it to continue to operate. Reportedly, FTA is accomplishing this by determining that transit agency's charter service to an annual golf tournament event is a "regularly scheduled" service and therefore not charter service. In the meantime, ABA member Kemp's Bus Service loses revenue from the event to an outlaw public transit agency and struggles to survive. A situation the charter rules are intended to prevent.

Where this issue is relevant to SAFETEA is embodied in Section 3020 of the bill. That section would give the Secretary of Transportation the authority to suspend the charter rules if the transit could say that it was providing service to the elderly or the disabled. This section is a dagger in the heart of the charter rules. The essence of private charters in the United States is the provision of service to the "elderly." To allow anyone to abrogate the "willing and able" test in this circumstance would be to throw out the charter rules. Creating an exception for "disabled" transportation from the charter rules is no less pernicious. ABA is aware of no instance where disabled citizens have been denied the use of public transportation. Indeed, the Americans with Disabilities Act (ADA) spurred Congress in TEA–21 to establish a fund for private operators to equip their coaches with wheelchair lifts. The fund has been oversubscribed each year and currently provides seven million dollars for this purpose. The public transit agencies cannot say that the private bus operators are failing to provide transportation to the disabled and the only remedy is to dispense with the rules.

On the contrary, the charter rules clearly provide that if there is no "willing and able" private operator the business opportunity is open to all bus operators public as well as private. Any suggestion that the charter rules are preventing the publicly funded transit agencies from meeting unmet needs is nonsense.

ABA has three remedies to correct the transit competition imbalance. First, SAFETEA's Section 3020 must obviously not be enacted. Second, there must be penalties that make sense when a transit agency violates the charter regulations. At present, FTA says that its only remedy for such a violation is to bar the transit from receiving *any* of its Federal funding. Not surprisingly, this penalty has never, and in my opinion, will never be used. In place of this nonexistent penalty, we suggest a penalty of a percentage of the transit is funding for the first violation of the charter rules, a greater percentage for a second violation, and so on. And third, the industry needs clear definitions of "charter service" and "sightseeing service." It cannot be that a once a year charter (for example, the Alabama-Mississippi football game) is a regularly scheduled event. If any agency can sustain such a definition than there are no charter rules.

At the end of my testimony, I have appended ABA proposals to change SAFETEA's Section 3004 and amend 49 U.S.C. 5302 and SAFETEA's Section 3020 and revise 49 U.S.C. 5323(d). These proposals define charter bus and sightseeing bus transportation and add a complaint process and workable penalties to the FTA tool kit in addressing this problem. The "bright line" definitions are designed to eliminate the confusion that seems to overcome the public transit agencies when charter bus operations are offered, the complaint process and penalty provision will give parties a forum within which problems arising out of charter opportunities can be resolved.

An important problem for the bus industry and the Nation is SAFETEA's half-hearted solution to equipping buses with wheelchair lifts. This problem is embodied in Section 3036 of the bill. TEA–21 authorized funding to meet the Federal mandate requiring wheelchair lifts on all fixed route over-the-road and charter motorcoaches. The Transportation Research Board (TRB) has put the annual cost of the mandate at forty million dollars. However, the wheelchair lift program over the life of TEA–21 has been funded at approximately 15 percent of its annual cost. To put one wheelchair lift on a new or used bus costs between $35,000 and $40,000. In our industry, where the majority of our operators have 10 or fewer motorcoaches, the cost of this mandate is prohibitive. As I noted previously, the wheelchair lift program is oversubscribed each year. An increase to at least 50 percent of the mandate's cost is warranted and necessary.

A second problem with SAFETEA is found in Section 3011, the "New Freedom" program. This program establishes a competitive grant program which will provide funds for "*new transportation services and transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including motor vehicle programs that assist persons with disabilities with transportation to and from jobs and employment support services.*"

While we obviously applaud more funds for transportation for the disabled, we believe the initiative is wrong in its insistence on "new transportation services and alternatives." As drafted, it excludes the ability of any grant recipient to fund wheelchair lifts on buses, even while allowing the purchase of motor vehicles. Wheelchair lifts are the method by which the overwhelming majority of physically disabled citizens get to work; to not fund this tried and true method would, I believe, disadvantage many of our citizens in the service of this "new freedom." In sum, ABA believes that funding for wheelchair lifts should be allowed under this section.

Also regarding the New Freedom Initiative, Section 3034 of SAFETEA allows the grants to be increased depending on increases in the efficiency of the transportation service offered. We suggest that the program be modified to allow the Secretary to consider cost reductions in determining efficiency.

In Section 3002 of SAFETEA the term "mass transportation" is replaced with "public transportation." We are concerned that the change could destroy the primary purpose of Federal transit subsidies, which is to provide for local transportation services, and expand funding for those programs beyond that core focus to a broader array of services in direct competition with the intercity bus industry.

Our concern is due to the fact that "public transportation," as that term is commonly understood, means "transportation to the public." Thus, we believe it is possible to interpret the change as allowing transit funds to be spent, for example, on Amtrak, since the rail carrier provides public transportation; or to allow transit funds to be spent to compete with Greyhound Bus Lines in intercity service. By contrast, the term "mass transportation" has a 30-year history of usage as denoting "local" transportation services with no opportunity to expand range of services a transit agency can provide.

There is a solution. Insert the word "local" before "public transportation" in Section 3002. This change would ensure the revised Section 3002 would not broaden the range of allowed transit services into providing intercity bus or rail services but rather to concentrate on the transits' core mission: "local transit service."

Less this Committee believe that ABA has nothing good to say about SAFETEA, one provision we strongly support is Section 6002 and the bus industry's counterpart H.R. 1394, the Intermodal Transportation Act. Both H.R. 1394 and SAFETEA propose the creation of a new competitive grant program for intermodal transportation centers. All modes of public transportation—intercity bus, intercity rail, urban mass transit, and rural transit should be linked by intermodal transportation centers so that seamless public transportation becomes a reality.

The intermodal transportation center fund, $100 million annually under H.R. 1394 and $85 million annually under SAFETEA, solves this problem by providing sufficient seed money to States and communities to make these intermodal projects happen. Some States, such as my home State of New Hampshire, have taken the lead in developing intermodal transportation centers, in cooperation with the private sector. Those centers, such as the ones in Concord and Portsmouth, have been tremendously beneficial in enhancing the attractiveness of public transportation. The proposed transportation center program would enable other States to do the same.

Another major component of creating a seamless, comprehensive public transportation system is the need to link rural communities with the Nation's aviation and rail systems. Thousands of rural communities need connections to the national air and rail system, yet only a handful receive such connecting service from the Essential Air Service program. Buses now provide unsubsidized service to thousands of rural communities; with relatively little Federal support, existing or new bus service could link these communities to air and rail hubs.

H.R. 1394 creates a $35 million per year essential bus service program, which would provide States with funds to contract for public surface transportation services to link rural communities to airports and train stations. This program would provide a potential link to the air and rail systems for the thousands of communities without EAS service.

Integrating public transportation information systems is another important part of creating a seamless public transportation network. Such a system is needed so that with one call or Internet visit, consumers can access fare, schedule, and location information for all public transportation modes. This is particularly important for people with disabilities. Some States and service providers are working toward this goal, but a coordinated Federal effort is needed. Both H.R. 1394 and SAFETEA have such a program. Frankly, we prefer the H.R. 1394 model because it separates the information system program from the intermodal terminal program which we believe would promote administrative simplicity.

ABA strongly supports the SAFETEA proposal to increase the Section 5311 rural transportation funding by roughly 50 percent. This means a comparable increase in the Section 5311(f) rural intercity bus program. Overall, rural transportation providers have been very effective in providing a great deal of essential transportation with relatively little funding; the rural intercity bus providers particularly stand out in this regard. For example, in 2002, Greyhound provided at least daily, fixed route service to 332 communities with $4.7 million in Section 5311(f) operating subsidies. This is an exceptionally productive use of Federal funds. Expansion of 5311(f) will enable States to do more contracting with intercity bus operators to connect many more of the thousands of rural communities that are not connected to the Nation's public transportation network.

A matter related to the intermodal terminal development issue detailed above is FTA's insistence that FTA intermodal funds can be used for the transit and intercity rail portions of intermodal but not the intercity bus portions of such terminals. This is contrary to good intermodal policy and discriminates against rural communities that rely on intercity bus service. Indeed, this interpretation is inconsistent with one of the stated purposes of Section 5309 of the Federal Transit Act, which is to cover the capital costs of coordinating all forms of public transportation. H.R. 1394 provides language that clarifies that FTA funds can be used for all transportation portions of intermodal transportation centers.

SAFETEA proposes a variety of innovative financing mechanisms in order to enhance funding sources for new transportation investments, and there have been various Congressional innovative financing proposals. We agree that innovative financing can play a role in providing additional sources of revenue for transportation projects in these tight budgetary times. One of the Administration's proposals is to broaden the eligibility for private activity bonds to include highway projects and surface freight facilities. We believe that intermodal passenger transportation centers and intercity bus facilities should also be included as eligible projects, given the important role that they play in our Nation's passenger transportation network.

There are two final changes to SAFETEA that we urge on the Committee. First, we suggest that Section 3012, which reauthorizes the major capital investment program, be amended. The Administration proposes that the program be limited to a "New Starts" program to provide grants for capital costs incurred when coordinating public transportation with other transportation, the costs of introducing new technology though innovative and improved products into public transportation, and the development of corridors to support public transportation. However, it is not certain as written that the capital investment funds can be applied to the intercity portion of intermodal facilities. Again, at the end of my testimony, I have appended legislative language taken from H.R. 1394 that would eliminate this problem.

Second, Section 3010 provides additional "incentive" funding for rural transit agencies that are increasing ridership. The problem here is that private bus operators that also provide rural transportation services are not included in the incentive funding. Rural transportation by private operators is provided under the 5311(f) program. Simple fairness would seem to insist that if, in providing service under the 5311(f) program, an operator shows increasing ridership, that operator should be eligible for such incentive funding. Moreover, not to do it the "fair" way could lead to transit agencies using their cost advantage to increase ridership at the expense of the private operators. Thus, private operators would be at a double disadvantage. First, by the transit's use of its cost advantage to undercut the private operators, and then its receipt of an incentive payment for increasing ridership at our expense.

It is fair to say that what has been presented here is a short list of the problems that SAFETEA presents for the private bus industry. However short the list, each problem is of enormous significance to the private bus industry. Like other modes of transportation, the private operators have lost jobs, operators, and revenue due to the effects of September 11, the downturn in the economy, and the failure of the American people to travel as they have in the past. Unlike other modes there is no significant private bus subsidy and no Congressional bailout of the industry. We seek none here.

However, we do seek to level the "playing field" that we share with the public transit agencies. We do seek to have FTA treat us in law and regulation as they do the public agencies. We do seek to provide the most service to the most people for the least cost. All of these can be achieved by the changes to the SAFETEA bill we outline here.

Thank you for your time and attention. I will be happy to answer any questions.

PREPARED STATEMENT OF JIM SEAL

FORMER CONSULTANT, FEDERAL TRANSIT ADMINISTRATOR
U.S. DEPARTMENT OF TRANSPORATION

JUNE 10, 2003

Achieving Better Outcomes—Incentive-Based Performance

There should be broad support for SAFETEA's explicit recognition that the mission of Government should be congestion mitigation and relief, for example, maximizing mobility with available funds. The proposed new performance-based incentive program, which could be greatly expanded by Congress, is an initial first step in realizing the President's call for a more customer-oriented and outcome-based Government.

Congress has understood the importance of maximizing mobility (§ 5301) over several decades by embedding "efficiency" as one of its guiding principles. In fact, Congress found that the welfare of an urbanized society depended on an "efficient" and "economical" transportation systems in and between urban areas [§ 5301 (3)]. Regrettably, local agencies do not pay enough attention to improving efficiency. This has resulted in decreased mobility. For example, in Santa Clara County, 29 percent of bus service will be cut by next January in comparison to service levels 2 years ago.

When competition is injected into the delivery of public transit as it has in some urban areas across the country, but more extensively throughout the world, private transportation providers have assisted transit agencies to achieve efficient customer-oriented service as called for by the President. All of these initiatives are consistent with several Federal statutes designed to ensure that private enterprise is involved "to the maximum extent feasible" (§ 5306).

Consistent with this goal, SAFETEA preserves and reinforces existing private enterprise provisions in one important way; SAFETEA does not discriminate against private transportation providers when ensuring that MPOs are in compliance with Federal laws. Specifically, SAFETEA does not preempt the Secretary from making a finding of MPO compliance with private enterprise participation requirements during the Secretary's certification process (§ 5203 Metropolitan Transportation Planning).

Additionally, including private sector entities in § 5305 as a grant recipient in a new planning program for the development of transportation plans and programs to plan, engineer, design, and evaluate a public transportation project will result in the creation of more cost-effective solutions that increase mobility and reduce air pollution.

The new Planning Capacity Building Program in § 5305, allowing the private sector to be involved in innovative practices and enhancements in transportation planning, has the potential to facilitate more public/private cooperative ventures at the early planning stage of project development.

Reinforcing these private enterprise involvement requirements in SAFETEA and expanding private sector involvement in the planning process as stated above are consistent with the President's recent Federal procurement announcement expanding competition in delivering Federal services by, in part, broadening the definition of what is inherently the work of the private sector.

Pursuant to this new Federal policy and to fully achieve the high performance goals of SAFETEA, local barriers to the provision of new service by the private sector should be eliminated as a condition of Federal funding.

Private transportation carriers provide fixed route, handicapped-accessible and charter services nationwide in urban and rural areas and therefore private sector participation in federally funded activities should be greatly expanded.

To allow federally funded agencies to provide new service presently operated by the private sector or potentially operated by private enterprise in the future, whether these services are subsidized or not, or whether these services are public transit or not would be inconsistent with existing Federal statutes, regulation, and Administration policy.

Competition vs. Monopoly—A Case for Enforcing Private Sector Participation

California provides an excellent example of two different models of transit delivery. In Santa Clara County (Silicon Valley), the VTA has a monopoly of over 95 percent of fixed route transit service, while in San Diego County a substantial portion of transit service is subjected to competition. It should be noted that while the Silicon Valley is in the forefront of competition in high-tech and software development, its transit system embraces an anticompetitive model. The advantages of transit competition were highlighted in a recent *San Jose Mercury News* Op-Ed article authored by the San Jose Chamber of Commerce (included at the end of my statement).

San Diego County in Comparison to Santa Clara County

In San Diego County over 36 percent of bus service is subjected to competition totaling $44 million annually, and from 1979 to 2001 San Diego's inflation adjusted costs to produce an hour of service have decreased by 34 percent, while over the same period inflation adjusted costs at VTA have increased 18 percent.

Other performance indicators under a competitive vs. monopoly environment have produced the following results from 1979 to 2001:

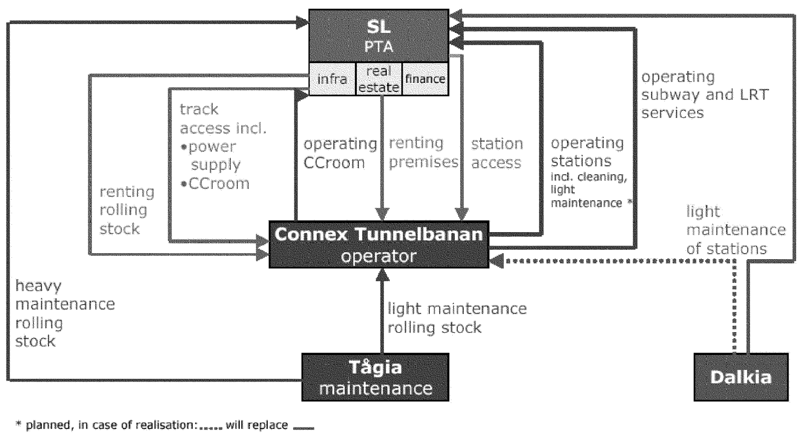
- Bus and light rail cost per passenger mile have decreased an inflation adjusted 32 percent in San Diego while bus and light rail cost per passenger mile at VTA increased 13 percent;
- From 1979 when gross budget levels were roughly similar, total inflation adjusted bus expenditures increased 36 percent at San Diego in comparison to total inflation adjusted bus expenditures increasing 150 percent at VTA;
- In 2001, San Diego's total bus budget was just under $100 million, while VTA's bus budget was slightly under $200 million—a $100 million difference in favor of competition;
- In 2001, total bus boardings in San Diego were approximately 10 million higher than VTA;
- In 2001, bus operating ratio in San Diego was 42 percent in comparison to 13 percent at VTA; and
- In 2001, light rail operating ratio in San Diego was 58 percent in comparison to 12 percent at VTA. Both systems operating budgets are of similar size.

In 2001, San Diego's contract services cost per revenue mile ($3.76) was 42 percent of VTA's in-house cost per revenue mile ($8.89). Labor costs as a percent of total operating budgets represent approximately 70 percent for both entities. Even when adjusting for differences in "mean hourly" wage estimates between San Diego and San Jose (U.S. Department of Labor Bureau of Labor Statistics 2001 State Occupational Employment and Wage Estimates—California), San Diego's unit cost of $4.12 per revenue hour is still less than 50 percent of VTA's unit cost per revenue mile.

There are several other successful competitive models in California, notably Foothill Transit in the San Gabriel Valley of Los Angeles County. From 1986 to 2001, Foothill Transit increased service hours over 100 percent and boarding over 120 percent over what would have been provided under in-house operation of the dominate regional operator, LACMTA.

Internationally, center-left and center-right countries in Europe have embraced competition much more extensively then in the United States. For example:

- In London, 6,500 buses almost three times LACMTA and double NYCMTA are competitively tendered;
- Five LRT systems in greater London are competitively tendered; and
- The Stockholm, Sweden transit system comprising metro rail, light rail, and bus and commuter rail is under a competitive tender.



There are no consequences if a noncompetitive transit system fails to control costs or fails to meet the highest standards of service. Services that are competitively procured must meet numerous service quality standards and performance failures can lead to liquidated damages including cancellation of a contract.

Unnecessary Expansion of Special Labor Protection Provisions § 5333(b)

The Job Access and Reverse Commute (JARC), through a more predictable funding source, and the President's New Freedom Initiative, have the potential to provide more mobility for those that need access to jobs and serve those that go beyond ADA service requirements.

However, these programs should not be subjected to outdated labor protection provisions ostensibly to protect collective bargaining rights. State laws and the National Labor Relations Act now provide full collective bargaining rights for employees. The original intent of "13(c)" in the 1960's was to provide employees collective bargaining rights in the absence of State laws protecting such activities. This is no longer the case.

First, there is a great need to reform this section to correct past abuses. Historically, the certification process under 13(c) has been misused to favor one side in management employee relations. Local transit managers were forced to accept certain provisions favorable to national union interests that would not have been agreed to if critical Federal funding had not been unacceptably delayed. These actions violated not only NLRA, but also the private sector participation statutes in Title 49 CHAPTER 53. Although some minor reforms have been instituted like time constraints, there are ways to frustrate the process. Further, the number of years of protections should be reduced in line with labor protect reforms achieved by small railroad carriers.

Competitive Contracts Could Help Avoid Big VTA Service Cuts

By Jim Cunneen and Dave Fadness

Service cuts proposed by the Valley Transportation Authority would unfairly punish those who desperately rely on public transit the most: working families. VTA's budget predicament is not their fault.

Falling sales tax receipts are blamed. But VTA's costs are equally at fault; they are spiraling out of control.

From 2001 through 2004, 29 percent of transit service will be cut, but the cost per hour of service over the same period will increase 47 percent. Meanwhile, VTA's farebox revenue, in part due to heavily subsidized fares, compares poorly to similar operators in other metropolitan areas.

To solve the problem, however, decision makers are focusing too narrowly on the revenue side, proposing new taxes and higher fares as the first order of business. Instead, they should place first emphasis on cutting any and all costs that do not directly produce transit service. Why? Because VTA can control costs to a far greater degree than it can revenue. Before going to the voters to ask for more revenue, VTA must do everything possible to assure the community that it has done all it can to improve efficiency and control spending.

Is there a way to stem the red ink in VTA's budget while retaining (or improving) services, before raising fares or taxes?

Competition, may provide an important part of the answer. Experience in the Bay Area and throughout California proves that public/private transit partnerships work in the public's best interest, delivering more transit service at less cost. It is time for VTA to give it a try. Here are a few examples:

- The City of Los Angeles and 21 San Gabriel Valley cities operate more than 475 buses under competitive contracts. The San Gabriel cities' joint powers agency, Foothill Transit, cut operating costs 30 percent while increasing bus service hours 100 percent;
- San Diego competitively contracts more than 36 percent of its bus service—totaling $44 million annually. Since 1979, its inflation-adjusted cost per hour of service has decreased 34 percent. VTA's has increased more than 18 percent; and
- In the San Francisco Bay Area, five major transit agencies contract out all of their transit systems; SamTrans contracts out part. Even Caltrain is a competitively contracted system.

VTA is cutting service 29 percent. If VTA reduced its per-hour bus costs by the same percentage, its costs would still be high, but its projected 2006 deficit of $50 million would evaporate.

How would competitive contracting work? California transit agencies that outsource typically provide some or all of the equipment. They require contractors to provide the labor force to pay local competitive wages and benefits and to maintain high standards already demanded by VTA.

Although contractors use a smaller workforce to perform the same amount of service, they usually use organized labor and are subject to damage payments for poor or missed service.

In most cases, the public agency also bids for the service contracts, encouraging cost efficiencies and improved service by both public and private sectors.

VTA's goal should be to minimize proposed service cuts and job losses. We suggest that it start now, boldly taking advantage of this opportunity to competitively contract high-subsidy bus routes, requiring contractors to give preference in hiring to VTA employees. We believe the resulting savings would protect jobs and diminish service cuts.

Competitive contracting should also be considered for the management of VTA. The 1984 Measure A Traffic Authority is a local example of how effective this approach can be: a $1.2 billion multiyear project was successfully managed by only five people. Huge savings could result from improvements in management efficiency, effectively making more of existing revenue available to serve transit riders.

That should be VTA's goal. We can avoid dramatic tax increases and fare increases by embracing new approaches. Other California transit operators are doing it with great success, relying on the same powerful model that makes our economy the world's strongest: competition.

Jim Cunneen is president and CEO of the San Jose Silicon Valley Chamber of Commerce and a member of the VTA's Ad-Hoc Financial Stability Committee; Dave Fadness is the former vice chair of the Measure B Citizen's Watchdog Committee.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR REED FROM NORMAN Y. MINETA

Security and Terrorism

Q.1. If the Department of Homeland Security is the appropriate agency to address this issue, do you think the fiscal year 2004 budget request provides sufficient funding to address the significant threats facing our transit systems?

A.1. The Transportation Security Administration in the Department of Homeland Security (DHS) has primary responsibility for transportation security. The Department of Transportation plays a supporting role to assist DHS in meeting its mandates. Since September 11, the Federal Transit Administration (FTA) has continued to provide technical assistance, training, and research. Just as it has done with safety and crime prevention, FTA's homeland security activities work to integrate security into all aspects of transit operations, from planning, design, and construction to operations and maintenance. FTA activities are coordinated with TSA, to ensure that they augment and compliment DHS strategies as this new agency comes fully online. Through close cooperation and coordination of DOT and DHS programs and activities, we are working to ensure that resource allocation reflects the risks and the requirements of each mode of transportation.

Q.2. What was the Department of Transportation's rationale for not signing the expected memorandum of understanding on transit security with the Department of Homeland Security?

A.2. The Department of Homeland Security's (DHS) Transportation Security Administration (TSA) has primary responsibility for transportation security policy. The Department of Transportation (DOT) plays a supporting role, assisting DHS with implementation of its security policies. As DHS forms Federal transportation security policy, both TSA and DOT have committed to broad and routine consultations through numerous formal and informal mechanisms operating at all levels within the two organizations. These consultative mechanisms are working, and both departments will continuously evaluate how to promote effective cooperation.

The principles of this cooperation are laid out in several interagency memoranda of understanding signed by TSA and DOT, and most importantly, by the exchange of letters between Secretary Mineta and TSA Administrator Jim Loy in February 2003. At Secretary Mineta's request, Deputy Secretary Michael Jackson has served since March 1 as DOT's liaison to Administrator Loy for the coordination of all nonroutine policy issues, intelligence analysis, public and transportation industry communication, and operational planning. In addition, Secretary Mineta has designated the Office of Intelligence and Security as the official point of contact between DOT and TSA. At this time, DOT does not see an immediate need for additional legal mechanisms to coordinate responsibilities between the two agencies. As TSA works to strengthen its capabilities beyond aviation, and after consultation with Administrator Loy, DOT has continued for now a few of our preexisting programmatic efforts. For example, we continue to work with transit operators and State transportation executives to inform and educate them regarding security awareness and best practices to enhance security. These efforts are not policymaking activities. Instead, they are intended during the transition to augment and complement TSA's work, as the new agency continues to grow its staff, programs, and experience in working with diverse transportation sectors. In the months ahead, DOT's role in such security educational efforts will likely decrease.

"One DoT" Policy

Q.3. Mr. Secretary, you have often espoused a "One DoT" policy to describe your view that DoT is truly intermodal and does not favor one mode over another. Could you reconcile this "One DoT" policy with the decision to flat line the FTA's budget, end the guarantee of the transit's General Fund resources, and increase the State match required for new transit systems?

A.3. Our reauthorization proposal does not favor one mode of transportation over another mode. In fact, under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA), transit funding would increase to $46 billion over the 6-year authorization period—a 28 percent increase over the $36 billion authorized in TEA–21. Highway funding under SAFETEA grows 18 percent compared to its funding under TEA–21. So we do not believe we shortchanged transit at the expense of highways.

Our SAFETEA proposal continues the policy established in TEA–21 to "firewall" or "guarantee" spending from the Mass Transit Account of the Highway Trust Fund, just as funds for highways from the Trust Fund are guaranteed. Approximately, 80 percent of FTA's funding comes from the Mass Transit Account. In fact, transit has been the only Federal program to enjoy "guaranteed" General Funds.

With regard to the proposed maximum Federal New Starts share of 50 percent, there is no evidence to suggest that a 50–50 share requirement will deter transit project development. In fact, the overall Federal New Starts share today is 49 percent, so we are, to a certain extent, simply codifying existing practice. Furthermore, an additional 30 percent of project costs can be funded with other Federal funds, such as from the Congestion Mitigation Air Quality program or the Surface Transportation program. States and communities already take advantage of this flexibility as seen by the more than $9 billion transferred from these two highways programs to support transit projects. In fact, we believe that imposing a 50 percent Federal New Starts share maximum will help level the playing field among communities seeking New Starts funding. Combined with other SAFETEA changes, such as making nonfixed guideway projects eligible for New Starts funds, this proposal will give more communities the opportunity to pursue major capital transit projects.

Elderly and Disabled Riders

Q.4. The Administration has proposed a "New Freedom Initiative" for disabled riders. What is the rationale for this new program and why wouldn't it be more appropriate to simply increase funding for the existing and successful Elderly and Disabled transit program?

A.4. The Department of Transportation's program is part of the President's broader New Freedom Initiative (NFI), which is intended to help Americans with disabilities by increasing access to assistive technologies, expanding educational opportunities, increasing the ability of Americans with disabilities to integrate into the workforce, and promoting increased access into daily community life.

The NFI is also building on the Supreme Court's 1999 Olmstead decision in order to promote maximum independence and facilitates integrating individuals with disabilities into community life. Transportation can be a particularly difficult barrier to work and other community activities for Americans with disabilities. The lack of adequate transportation remains a primary barrier for people with disabilities, as evidenced by the fact that one-third of people with disabilities report that inadequate transportation is a significant problem.

The New Freedom program for transportation addresses these significant remaining transportation barriers not addressed by the Americans with Disabilities Act (ADA). The ADA addresses the accessibility of existing transportation services and facilities. It does not address the service gaps that continue to exist for persons with disabilities who experience a seventy percent unemployment rate.

The New Freedom funding is directed at providing additional transportation services that can provide persons with disabilities new transportation connections to jobs and essential community services and activities needed to foster independence and integration into the community.

The existing Section 5310 Elderly and Disability Program provides funding to assist primarily nonprofit entities in acquiring vehicles to provide special transportation services. This transportation is frequently associated with the delivery of a particular human service program for the elderly or individuals with disabilities. Section 5310 funding is often used for replacement vehicles to continue existing special human service transportation services. The proposed New Freedom program moves beyond existing specialty human service programs to address a broader range of transportation service gaps that exist for persons with disabilities. Therefore, under the NFI, services may be provided by public transportation, private transportation, and/or nonprofit organizations. The program funds will be used for activities identified in a local coordinated plan developed by stakeholders in the local community served.

The program will provide operating, as well as capital, funding to achieve these purposes. For example, the New Freedom funding could be used by a community to deliver additional paratransit services to persons with disabilities living beyond the three quarter mile limit covered by the ADA complementary services, or to provide funding to help purchase accessible taxicab vehicles, so that persons with disabilities can more easily avail themselves of this travel option. In many communities, accessible taxis provide a quick-response, real-time service to places and during times not served by existing transit and special human service transportation operators.

Q.5. In discussing SAFETEA with advocates for the disabled, they have voiced concerns with the New Freedom Initiative. While the disabled community supports resources that would allow the development of innovative transportation services for people with disabilities, these advocates are concerned because the Administration's reauthorization proposal is woefully underfunded, and there is no additional money to pay for this new initiative. It also appears that the proposal would allow a State to transfer funds from this initiative to other transportation programs. Given the fiscal crises most States face, the lack of adequate funding in the Administration's proposal, and the chance a State could transfer "New Freedom" dollars to other transportation programs, where is the assurance that funds will actually be used to provide transportation services to people with disabilities?

A.5. While the SAFETEA proposal includes the ability to transfer funds for the purpose of reducing the administrative burden on grantees, it also ensures that, if funds are transferred to other programs, the funds must continue to be used for the originally identified purpose. Therefore, if New Freedom funds are transferred, for example, to the FTA Section 5311 nonurbanized area program, these transferred funds must be used to support New Freedom transportation purposes. The transfer of these funds to other FTA programs affords grantees the opportunity to file a consolidated application, rather than multiple applications for New Freedom, JARC, Section 5310 funding. In addition, SAFETEA provides for further assurance that the transportation needs of persons with disabilities are met by requiring communities to address the needs of persons with disabilities, in addition to the elderly and low-income individuals, through a locally developed, coordinated public transit-human services transportation plan.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SARBANES FROM NORMAN Y. MINETA

Q.1. I understand that the Administration is proposing an incentive tier in the formula programs, to be awarded to transit agencies that increase ridership. Why does the Administration believe such an incentive is necessary for large urbanized areas, given that the formula for these areas already includes passenger miles traveled as a factor in its distribution of funds, rewarding areas with higher ridership? Also, there are some transit agencies which already carry a large percentage of local residents and have limited ability to increase ridership without significant additional funding to increase their carrying capacity. How does the Administration respond to their concerns that they will, in effect, be precluded from participating in this incentive program?

A.1. The performance incentive funds in the urbanized area formula program (Section 5307) would be apportioned using an administrative formula based on the percentage increase in ridership and accounting for the size of the community. The formula may also take into consideration efficiency of service in the urbanized area. In order to qualify for the incentive, transit systems would have to ensure that levels of ridership among elderly individuals, individuals with disabilities, or low-income persons are not negatively affected. Because not all systems currently collect data on ridership among these specific populations, a portion of the incentive funds will be made available for enhanced data collection in the initial years of the authorization period.

Performance incentive funds will also be available to nonurbanized areas. Since nonurbanized or rural transit systems tend to focus their services largely on "transit dependent" populations (the elderly, individuals with disabilities, and low-income persons), the incentive funds for rural areas will be distributed based on increases in overall ridership. The incentive formula may also take into consideration efficiency of service in rural areas. The entire amount available for incentives in fiscal year 2004, and a portion of the funds available during the subsequent 2 years, will be made available to the States to establish data collection systems, since States are not currently required to report ridership data for nonurbanized areas to FTA's National Transit Database.

FTA plans to consult broadly and seek public comment on options and plans to implement the performance incentive program, so that concerns about such issues as capacity can be appropriately considered.

Q.2. Mr. Secretary, in your testimony you state that 40 percent of counties in this country have no public transportation. On what do you base that figure?

A.2. In the mid-1990's, the Community Transportation Association of America (CTAA) compiled an inventory of rural transit systems funded by the Federal Transit Administration. This study found that approximately 40 percent of the nonmetropolitan counties in the United States had no public transit system. This figure has been widely used as an indicator of the unmet need for rural transit services. A subsequent update of the inventory, published in 2000, did not provide comprehensive county data, but did indicate that the significant increases reported in rural transit ridership and vehicle revenue miles were primarily a result of improved levels of service offered by existing transit providers, rather than an expansion of the network of providers.

Q.3. Mr. Secretary, in your testimony you state that SAFETEA, "projects requesting less than $75 million (would) be subject to a simplified New Starts process. We would utilize the same evaluation criteria established by Congress for projects seeking more than $75 million in funding from New Starts, but reduce the number of New Starts hurdles and simplify the evaluation process for these projects." How do you plan to simplify the evaluation process? What hurdles are you referring to, and how would you reduce their number?

A.3. FTA has not fully defined its development and evaluation process for projects seeking less than $75 million in New Starts funds, and will not do so without close consultation with the transit community. However, we believe that there are a number of areas with potential for simplification. For example, FTA will explore ways to speed its project approval process for these projects. Currently, proposed New Starts investments must be approved by FTA to enter into the preliminary engineering and approved again in order to enter into the final design phase of project development. Projects requesting less than $75 million in New Starts funds could be subject to a single approval and/or reduced requirements. In developing any simplified evaluation process, FTA will take a common sense approach to speed project delivery, while ensuring continued stewardship of Federal tax dollars.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR DOLE FROM NORMAN Y. MINETA

Q.1. Mr. Secretary, I am concerned that applications for Full Funding Grant Agreements (FFGAs) under the New Starts process originating from the same State may be subjected to a prejudice in awarding multiple FFGAs within the same State and same fiscal year that would delay the progress of these projects. Can you please confirm this is not the case?

A.1. The number of Full Funding Grant Agreements (FFGAs) in a State is not a factor in evaluating proposed New Start projects for new FFGAs. In 2001, FTA awarded four FFGAs in a single year to grantees in Illinois: One to the Chicago Transit Authority for its Douglas Branch reconstruction, and three to the commuter rail operator in suburban Chicago (the Regional Transportation Authority, Metra) for construction of its extensions in the North Central, Southwest, and Union Pacific West corridors. In 2000, FTA awarded two FFGAs to the New Jersey Transit Corporation: One for the second minimum operating segment of the Hudson-Bergen light rail, the other for the first minimum operating segment of the Newark-Elizabeth light rail. In 1997, FTA awarded three FFGAs to grantees in California: One to the Los Angeles County Metropolitan Transportation Authority for the North Hollywood branch of the Metro Rail Red Line, one to the Bay Area Rapid Transit District for its rapid rail extension to San Francisco International Airport, and one to the Sacramento Regional Transit District for its light rail extension in the South corridor.

Q.2. Mr. Secretary, I am also concerned that the Federal Railroad Administration (FRA) is attempting to assert jurisdiction over rail transit systems that share a corridor, but not tracks, with operating freight railroads. I do not believe that this has ever been done before for any other mass transit project and would greatly add costs to the operation of a transit project. Can you describe the Department of Transportation policy as to this question of what projects would and would not be subject to FRA jurisdiction?

A.2. Under the Federal railroad safety statutes, as amended in 1988, FRA's safety jurisdiction extends to rapid transit operations that are connected to the general railroad system. Those laws define "railroad" very broadly to include "any form of nonhighway ground transportation that runs on rails or electromagnetic guideways." 49 U.S.C. 20102. Specifically included within the definition are high-speed rail systems that connect metropolitan areas and "commuter or other short-haul railroad passenger service in a metropolitan or suburban area." The only railroads excepted from FRA's jurisdiction are "rapid transit operations in an urban area that are not connected to the general railroad system of transportation." Congress was referring here to subways and street railways.

In recent years, many communities around the Nation have begun to use, or consider using, conventional railroad tracks or corridors to provide commuter or rapid transit service using light rail vehicles. FRA and the Federal Transit Administration (FTA) issued a joint policy statement in July 2000, explaining how they would apply their respective safety jurisdictions in these situations. 65 Fed. Reg. 42526. FTA has residual safety jurisdiction, which it implements through its State safety oversight program, over rail fixed guideway mass transportation operations that are "not subject to regulation by the Federal Railroad Administration." 49 U.S.C. 5330.

On the day the joint FRA/FTA policy statement was issued, FRA issued its own statement of agency policy on the shared use of the general system by light rail and conventional rail operations. 65 Fed. Reg. 42529. In that statement, FRA stated its interpretation and policy with regard to rapid transit connections to the general system sufficient to warrant exercise of its jurisdiction. FRA made clear that rapid transit operations that share track with conventional operations are fully subject to FRA's safety regulations, but explained that waivers of many rules would be likely if the transit operations are conducted at separate times of day from the conventional operations. This "temporal separation" addresses the enormous risk inherent in shared use, for example, that a light rail vehicle and conventional vehicle could collide. The transit vehicles are simply not designed to withstand such a collision with the much more heavily constructed conventional rail vehicles, and such a collision would likely be catastrophic. FRA's willingness to grant necessary waivers of rules not designed for application to rapid transit will help ensure that the rapid transit systems face no unnecessary costs.

With regard to rapid transit operations that do not share track with conventional railroads but do have other connections to the general system, FRA noted that three types of connections posed sufficient safety hazards to warrant FRA's exercise of jurisdiction over the transit line to the extent it is connected: Railroad crossings at grade, joint control of trains in the same corridor (for example, a shared movable bridge), and highway-rail grade crossings in a shared corridor. All of these types of connections pose significant dangers and call for uniform regulation of the connected operations. For example, FRA noted that the safety of highway users can best be protected if they receive the same signals warning of the presence of a rail vehicle at a crossing regardless of the type of rail vehicle. We believe the safety of employees and the public depends on a consistent regulatory approach with regard to operations at these points of connection. Please note that FRA does not regulate the entire rapid transit system that has such limited connections; FRA regulates the rapid transit system only as necessary to ensure safety at the points of connection. This very limited regulation will have minimal costs, which could possibly be further reduced where a waiver is appropriate.

Under the railroad safety statute, of course, a commuter railroad is fully subject to FRA's jurisdiction regardless of its connections to other railroads. However, Congress did not define "rapid transit operations in an urban area" or "commuter or other short-haul railroad passenger service in a metropolitan or suburban area," the terms used in the statute. Therefore, FRA has attempted to provide guidance on how it will make the distinction between these types of operations in its July 2000 policy statement. FRA looks at factors such as a system's primary purpose, the area that it serves, the equipment that it uses, and the frequency of its service. Railroads that have doubts about their proper categorization can seek FRA's opinion, as the Triangle Transit Authority (TTA) in North Carolina's Research Triangle area recently did concerning the regional railroad planned for that area. FRA provided TTA a legal opinion in January 2003, concluding that the regional system will be a commuter railroad or other short-haul railroad passenger service, but will not be rapid transit. TTA has challenged that decision in the U.S. Court of Appeals for the Fourth Circuit, where the case is being briefed.

Q.3. Mr. Secretary, several communities around the Nation will be ready to sign FFGAs and proceed to construction this calendar year. In the event that reauthorization of the surface transportation law is delayed, will it be possible for applicants in the pipeline who are recommended and/or highly recommended to receive a contingent commitment from the Department of Transportation to enable them to proceed under an extension of TEA–21?

A.3. The effects of a delay in the reauthorization of the Nation's Surface Transportation Act would depend upon the exact nature of any Congressional action taken to extend TEA–21. In the absence of specific legislative language, the effect of such an extension on applicants in the New Starts pipeline would be pure speculation.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM WILLIAM MILLAR

Q.1. Your testimony indicates your support for continuing the funding guarantees which were included in TEA–21, covering both Trust Fund and General Fund resources. Can you suggest any way in which the program could be made more predictable while still giving Congress a way to adjust program levels in the future should circumstances require it?

A.1. APTA strongly urges Congress to maintain the funding guarantees provided under TEA–21 when it develops the new authorizing law for Federal transit and highway programs. Funding guarantees included in TEA–21 made Federal funding for transit in the annual appropriations far more predictable over the last 6 years than had ever been the case in the past. Predictable funding for transit over the life of the 6-year authorizing law helped to facilitate the long-term capital planning and budgeting that is needed for transit agencies to make the most efficient use of limited resources. Since the Federal transit program became primarily a capital program under TEA–21, and because transit capital programs are multiyear in nature and depend on State and local funding matches, agencies can do a better job maintaining and replacing their capital plant, at less cost, if they know how much Federal support to expect from year to year. Guaranteed funding also ensures that the Federal Government invests in both our transit and highway infrastructure. In the years prior to the guarantees in TEA–21, Congress actually funded highway programs far closer to the funding levels set in authorization bills than it did with transit programs.

According to a December 2002 study by Jeffrey A. Parker entitled *The Benefits of TEA–21 Funding Guarantees,* the guarantees have "stretched scarce Federal dollars for public transit further and produced additional spin-off benefits by accelerating construction and leveraging new sources of State and local matching funds." Regarding funding predictability for new rail starts, the report goes on to note that the "flexibility to borrow against Full Funding Grant Agreements has allowed the total number of projects participating in the Section 5309 New Starts Program to increase in recent years."

In short, APTA urges Congress to maintain the funding guarantees for both the Trust Fund and General Fund portion of the Federal transit program when it develops new authorizing law. We note, however, that TEA–21 provided Congress with funding flexibility by authorizing additional General Fund resources in excess of Trust Fund and General Fund guaranteed funding, and that Congress used this resource to adjust the program above the guaranteed program level in fiscal year 1999.

Q.2. Your testimony opposes elimination of the bus discretionary program. The Administration claims that providing these funds would make the prograin more predictable, enhancing local planning. You have said that predictability is important in supporting continuing the funding guarantees, so why isn't it just as important in bus funding? What examples can you provide about the kinds of discretionary funding makes more sense.

A.2. While APTA supports predictable Federal funding that helps transit agencies plan multiyear budgets, it did recommend that the Discretionary Bus and Bus Facilities Program be preserved as a separate discretionary program and not folded into the formula program and the New Starts Program as proposed by the Administration.

We made these recommendations for a number of reasons. First, the existing program structure has worked very well, even though funding for each of the individual transit programs falls short of addressing identified needs. Although current funding does not adequately address the demand for replacement of vehicles and bus facilities, APTA believes that increased funding for the existing Discretionary Bus and Bus Facilities Program, and the creation of a new program to replace overage vehicles, is a better way to address these needs.

Moving half of the existing bus program funding into the formula program as proposed by the Administration would simply spread too little resources across too many agencies to effectively address the existing need for vehicles and facilities. Vehicle and facility replacement or purchases at transit agencies tends to come in cycles, and not on a regular, year-to-year basis. APTA believes that these needs are best met with discretionary funding available at the time when equipment should be replaced or purchased. Whether an agency is building a bus garage, replacing a portion of its bus fleet, or building a new rail system, these purchases are essentially long-term, one-time major capital investments which have been funded for more than 20 years under discretionary programs.

Q.3. Your organization supports continuing the present requirement that New Starts projects must have a "fixed guideway" component while the Administration proposes relaxing this requirement to increase the flexibility of the program to address certain Bus Rapid Transit projects. Don't the present limit[ations] on eligiblity have the potential to bias local decisions toward projects which are eligible for funding, even when a nonfixed guideway project might be the better choice in a community? How can projects like this proceed if they need funding from [for] more than 1 year, and the only way to get a multiyear commitment is from the New Starts Program? Is it really practical to assume that these projects could be funded from the Bus program, which typically supports a very large number of projects with an average of only about $1 million per year per project?

A.3. APTA would like to emphasize that Bus Rapid Transit (BRT) systems which have exclusive rights of way or other fixed guideway designs are currently eligible for funding under the New Starts Program. Indeed, APTA's TEA–21 reauthorization recommendations call for statutory language making clear that such projects are eligible for New Start funding.

APTA believes that agencies that want to develop bus service without any fixed guideway characteristics should continue to be able to do so using a combination of formula funds and discretionary bus funds. We note that current demand for Federal funds to build fixed guideway New Starts and extensions, including BRT projects, far exceeds available resources, and we are concerned that funding nonfixed guideway BRT systems from New Starts resources would only exacerbate the existing shortfall. We would add that many communities seeking funds for fixed guideway systems are already exceeding the required State and local match, and observe that if communities wanting nonfixed guideway BRT systems provided similar local matching funds it would be possible to fund even more such systems.

While the average grant award under the Discretionary Bus Program may be only about $1 million per year, we note that there were a substantial number of projects funded in fiscal year 2003 in excess of that amount. In fact, one of the fiscal year 2003 bus grants provided almost $8 million for BRT-related costs in Hawaii, which was in addition to almost $7 million for other bus projects in Hawaii. While there is currently no commitment process for multiyear bus projects, multiyear funding in the appropriations process can presumably be provided if a project is widely supported by a State's congressional delegation.

Q.4. The Administration proposes to combine Fixed Guideway Modernization Funding with urbanized area formula funds into a single allocation to each urbanized area which can then be used flexibly for any transit purpose. The funding formulas would stay the same. Your testimony opposes this idea. Why does APTA believe it is such a bad idea to provide local areas [with the ability] to decide how to allocate these funds? If the funding levels are the same, why would you recommend not providing this flexibility?

A.4. APTA generally supports flexibility in the use of Federal transit funds, but we believe it would be a mistake to fold the Fixed Guideway Modernization Program into the urban formula program and permit the use of such funds for any transit purpose. As stated in our written testimony, the program "was designed to ensure the proper modernization of the Nation's older rail systems, and it helps ensure that as Federal New Start investment projects age they can be modernized." Our testimony also expresses APTA's concern that diverting these funds from Fixed Guideway Modernization, where needs far exceed available resources, would only exacerbate unmet modernization needs and potentially result in the deterioration of some of the Nation's most valuable capital assets.

The bottom line for APTA is that modernization needs cannot, and should not, be deferred. We believe that the current system, which provides Fixed Guideway Modernization Funds directly to operators of fixed guideway systems, for only fixed guideway modernization purposes, makes sense. Since other urban formula funds go to a designated recipient in a community that may have multiple transit operations in need of capital funds for a variety of purposes, it would be quite likely that Fixed Guideway Modernization Funds might be directed to other purposes. While APTA supports giving localities flexibility in how they use transportation funds, it was the consensus of all of our member organizations to seek the preservation of the existing Fixed Guideway Modernization Program based on the large and growing need for modernization of these facilities.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR REED FROM WILLIAM MILLAR

APTA's Reauthorization Proposal

Q.1. Mr. Millar, could you explain in greater detail APTA's proposals to address the needs of smaller urban communities?

A.1. APTA's reauthorization proposal includes a number of recommendations that address the needs of smaller urban areas. Among the recommendations that directly or indirectly benefit smaller urban areas are the following:

Increased Formula Funding for Small Urban Areas

APTA's proposal calls for an 87 percent increase in formula funding for small urbanized areas. It would increase funding for the program from $334 million in fiscal year 2003 to $626 million in fiscal year 2009.

High Intensity Small Urbanized Area Formula Program

APTA's proposal recommends the creation of a new "High Intensity Small Urbanized Area Formula Program" that would provide formula funding—in addition to funding under the current small urban formula program—that would be distributed among those small urban areas that provide service above the average level of service in larger urban areas. The proposed program would be funded at $35 million in fiscal year 2004 and grow to almost $54 million in 2009.

This is intended to provide formula funding under the small urban program which reflects higher levels of service provided by transit agencies in separate communities with similar population and density. Under the current small urban formula program, funding is provided strictly on the basis of population and population density. Unlike the large urban formula program, which includes a service level factor, agencies in small urban areas that provide higher levels of service get the same amount as agencies which provide less service in small urban areas with similar population and density factors. Under this APTA proposal, agencies in similar size communities that run more buses, carry more passengers, or provide more frequent service would receive more Federal formula funding than those in comparable size communities that provide less service. The proposal is modeled on the recommendations from a Federal Transit Administration (FTA) study of transit formula funding mandated under Section 3033 of the Transportation Equity Act for the 21st Century (TEA–21).

Aging Bus Replacement Program

APTA's proposal recommends the creation of a new Aging Bus Replacement program for urban areas of less than one million people and in rural areas. Under the program grants would be provided to replace vehicles—buses and vans—that exceed 150 percent of the FTA recommended age for replacement. The proposed program would be funded at $100 million in fiscal year 2004 and grow to almost $156 million in fiscal year 2009.

This program would benefit rural areas and medium-size urban areas, as well as small urban areas. It is intended to focus on the need to replace overage vehicles—one of the most basic capital needs for public transportation service—in communities that have been unable to obtain sufficient funding for vehicle replacement under the Discretionary Bus and Bus Facilities Program or existing formula programs. It is meant to help modernize the fleet of public transportation vehicles in every community, reduce maintenance costs associated with operating overage vehicles, and attract riders with the newer vehicles.

Transitional Authorily for UZA's Going over 200,000 Population

APTA's proposal would permit urbanized areas that grow from less than 200,000 people to more than 200,000 or which were added to urbanized areas of more than 200,000 people as a result of the 2000 Census, to annually use an amount of Federal transit formula funds equal to the amount they were allowed to use for operating purposes in fiscal year 2002 for operating purposes through fiscal year 2009.

Current law permits transit providers in urbanized areas of less than 200,000 people to use Federal formula funds for either capital or operating purposes. Many transit agencies in this category use a significant portion of Federal funds for operating purposes. This change would provide transit agencies that transition from "less than" 200,000 population to "more than" 200,000 with the flexibility to use Federal formula funds for operating or capital purposes as needed.

Other Benefits

In addition to the proposals cited above, APTA's recommendations would provide increased flexibility under drug and alcohol testing programs and charter bus regulations, both of which directly benefit transit operators in small urban areas. APTA's proposal also calls for improved coordination or combining of Federal reviews and audits to avoid duplication, and the establishment of Federal requirements that agencies administering TANF and the Job Access and Reverse Commute (JARC) programs coordinate with local transit agencies in the provision of transportation services. Finally, APTA's proposal would allow transit grant recipients to procure vehicles and other products from the GSA Schedule, which would help small transit agencies which have limited ability to negotiate, to save money in the purchase of vehicles and other capital items.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SARBANES FROM WILLIAM MILLAR

Q.1. Administrator Dorn testified last year before this Committee that, "The guaranteed funding commitment, in terms of the Administration's point of view, has been one of the key successes of ISTEA and TEA–21. Most importantly, in our view, it has leveraged State and local investments in transit and in transportation generally." Do you agree with that statement? What do you believe would be the practical effect on your members if TEA–21's guarantees around the entire transit program were not continued in the next bill?

A.1. I agree very strongly with Administrator Dorn's statement that guaranteed funding for public transportation has been one of the key successes of TEA–21. In fact, maintaining the funding guarantees in the reauthorization of TEA–21 is one of APTA's three key recommendations for the reauthorization of TEA–21. As Administrator Dorn correctly points out, the funding guarantees created in TEA–21 enable transit systems to leverage Federal investments and lower project costs, develop public/private partnerships, implement long-range plans, and operate in a business-like fashion. It is critical that the funding guarantees be retained in the reauthorization effort.

I should note, however, that ISTEA did not include funding guarantees for public transportation. Between fiscal year 1992 and fiscal year 1997 under ISTEA appropriated funding for the Federal transit program equalled only 77 percent of authorized funding and varied year to year. This level of transit funding under ISTEA and lack of predictable funding under ISTEA only confirms the importance of the TEA–21 guarantees. Furthermore, appropriated funding under ISTEA probably would have been less than 77 percent of authorized levels if not for the fact that the 1992 authorization was concluded after the fiscal year 1992 appropriations bill was completed. The fiscal year 1992 authorization level was therefore written to conform with the previously enacted appropriations level.

We believe that the guaranteed funding provided by TEA–21 has stretched scarce Federal dollars for public transportation further and produced additional benefits by accelerating construction and leveraging new sources of State and local matching funds. For example, Congress is now able to spread its commitments to New Start fixed guideway projects over a longer time frame than the construction period. The flexibility to borrow against Full Funding Grant Agreements has allowed the total number of projects participating in Section 5309 New Starts Program to increase in recent years. In that regard, we are pleased to have shared with the Committee and its staff a recent report that demonstrates just how important the guarantees are, "The Benefits of TEA–21 Funding Guarantees" by Jeffrey A. Parker.

Higher levels of guaranteed Federal support under TEA–21 are attracting even higher levels of stable, reliable nonfederal matching funds. During the 1990's Federal outlays for transit capital investment grew at an average of 5.0 percent per year, while local expenditures climbed at an average annual rate of 11.7 percent.

We believe that the practical effect on our transit members if guaranteed funding were not continued in the next bill is that the long-term viability of the transit program would be threatened. Our members and private financial institutions have come to rely on the stable and predictable funding provided under the guarantees. In the absence of the guarantees, the private financial markets would be unlikely to make longer-term commitments when faced with the uncertainty of the annual appropriation process. The ability to leverage funds and to make long-term commitments would be seriously impaired. It is for this reason that I strongly urge the Committee to keep guaranteed funding as part of the reauthorization of TEA–21 legislation.

Q.2. The Administration has proposed to merge the Fixed Guideway Modernization Program into the Urbanized Area Formula Program, and to allow those funds to be used for any purpose eligible under the formula program, not just for fixed guideway modernization. Given your experience in the transit industry, I would like to understand, first, why the Fixed Guideway Program was created, and second, whether you believe that its original purpose has been fulfilled. In your view, would the Administration's proposal further the purpose for which this program was created?

A.2. The Fixed Guideway Modernization Program was originally created to help modernize aging fixed guideway systems that were built without Federal assistance prior to the establishment of a Federal transit program. Over the years, it has developed into a program to assist with modernization needs of fixed guideway systems, built with or without Federal assistance, that require upgrading and rehabilitation of aging infrastructure, as well as other technology improvements that permit the movement of an increasing number of passengers through existing systems. In addition to installing equipment that did not exist when these systems were built or previously modernized, the program helps address mandates and needs not envisioned when these systems were built, including state of the art security equipment and accommodations for people with disabilities.

In short, modernization, whether it is based on new addressing new technology, safety, security, efficiency, and increased passenger capacity, or basic infrastructure upgrading, is a necessary and ongoing part of running these systems.

APTA questions the Administration proposal to distribute Fixed Guideway Modernization Funds under the urban formula program and to permit the use of Fixed Guideway Modernization Funds for nonfixed guideway modernization purposes. As noted, the Fixed Guideway Modernization Program was designed to ensure the proper maintenance of the Nation's older rail transit and fixed guideway systems, and it helps ensure that as Federal New Start investment projects age they can be modernized. Rail systems in large metropolitan areas carry millions of passengers each year and their ridership has grown substantially in recent years. Many of these systems are approaching capacity constraints. These funds also help systems address this growth in ridership and ensure that passengers can use these systems safely and efficiently. The Administration proposal would allow these funds to go to an urbanized area and be used for any transit purposes, not just modernization. We are concerned that diverting these funds from Fixed Guideway Modernization, where needs far exceed available resources, would only exacerbate unmet modernization needs and potentially result in the deterioration of some of the Nation's most valuable capital assets. Again, the Fixed Guideway Modernization Program has been a critical component of the Federal transit program structure since 1982, and it is a great success.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM JEFF MORALES

Q.1. I understand that AASHTO continues to support the funding guarantees in TEA–21. How would you reconcile the goals of providing predictability for transit agencies while not tying the hands of future Congresses to deal with current fiscal situations? Can you suggest any way in which the program could be made more predictable while still giving Congress a way to adjust program levels in the future should circumstances require it?

A.1. I believe that the tools for that adjustment already exist in the current appropriations process and through obligation authority limitations. California is supportive of extending RABA provisions to the Mass Transit Account provided that Congress can create a mechanism that can dampen the impact of financial downturns.

Q.2. What are AASHTO's views with respect to use of various Federal bonding proposals to finance the transit program? Do you support continued allocation of 2.86 cents to the Mass Transit Account as a base from which any program increases should be taken?

A.2. AASHTO supports maintainig the existing balanced approach to addressing highway and transit needs. It has adopted principles for reauthorization that recognize that the current funding structure under TEA–21, in which Highway Trust Fund revenues are split with 80 percent credited to the Highway Account and 20 percent credited to the Mass Transit Account is working well and should be retained. The Federal transit program needs a stable source of guaranteed funds from the Mass Transit Account of the Highway Trust Fund and the General Fund in order for decision makers to commit to expensive transit solutions. The current arrangement under TEA–21 provides a stable, more predictable environment for planning, programming, and constructing these key transit projects.

Q.3. As we have heard, 40 percent of rural counties have no public transportation at all and many with transit have very, very limited service. Do you support the Administration's proposal to increase rural funding? What has been the States experience managing this program?

A.3. Certainly more funds are needed for rural transportation systems. Rural operators tend to keep vehicles in service significantly beyond Federal useful life standards because of fund needs. As you point out, there is a large proportion of rural America that does not have the benefit of transit service. However, over 80 percent of our population lives in urban areas and many urban transit systems face similar challenges. It is clear that the only way that we can address this diversity of needs is to make sure that there are sufficient resources available. The goal is not to increase the size of one program at the expense of others, which is a zero sum game, but to increase the amount of resources to accommodate all needs.

A good example of California's experience with rural transit programs is Governor Gray Davis' program to provide shuttle services for farm laborers to work sites. Rural areas offer few job opportunities and in some counties, available jobs are concentrated in the seasonal agricultural sector where the demand for labor fluctuates monthly. In the Southern San Joaquin Valley, workers were being killed riding to work in unsafe vehicles. Governor Davis' rural transit program uses Federal funds to augment existing transit services and to add safe transit shuttles to move laborers to their work. This helps case labor costs for farmers and provides laborers with a safe, low-cost transportation option. It is one example of where a well designed rural transportation system can link labor to jobs.

Q.4. The Administration proposes requiring States to consult with intercity bus operators if they wish to certify that all intercity bus needs have been met, and that there is no need to spend the full 15 percent intercity bus set aside for that purpose. What has been your experience with the intercity bus program? Don't you agree that intercity bus operators should be consulted before a State certifies that it does not need to spend all of the funds?

A.4. California uses the full 15 percent set aside for its Intercity Bus Program. This program funds public transit projects that serve the intercity travel needs of Californians in nonurbanized areas. We invite public and private operators to propose projects and award funds on a competitive basis. Our criteria for selection includes consideration of the proposal's ability to meet State and Federal program objectives, local support and operator commitment, and sustainability of the project. In California's case, needs outpace funding and the proposal process functions as a consultation mechanism.

Q.5. The Administration is proposing to use the current State warranty approach to labor protection for all of the State managed programs. What has been your experience with the State warranty in the 5311 Nonurbanized Program? Currently, the 5310 Program is exempt from the labor protection provisions because subrecipients are private nonprofit organizations which do not normally provide transit service. The Administration is instead proposing a case-by-case waiver for nonprofit organizations. Would this approach be workable?

A.5. State warrantees for the 5311 program work well in California. However, we believe that the 5310 program could be greatly impacted by the implementation of a case-by-case waiver for non-profit organizations. The 5310 program does contract with many private nonprofit agencies, whose operations are very reliant on a large volunteer workforce. Case-by-case waivers would pose additional administrative burdens that could become onerous for recipients and States and could dilute the effectiveness of the program.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR REED FROM JEFF MORALES

Funding Guarantees

Q.1. Would California end certain transit projects, if Congress adopts the Administration proposal to guarantee only a portion of the Transit Bust Fund?

A.1. That decision would lie with their sponsors and the Metropolitan Planning Organizations that are responsible for cobbling funding together. There is no question that losing a funding guarantee would create uncertainty over the long-term financing of a project, and very likely lead to the termination of some. That presents a very untenable position for us for several reasons. First, because we are increasingly dependent on transit as part of our overall transportation system, and the inability to move forward would have mobility consequences throughout the State. Second, in most cases, transit projects are a strong component of achieving air quality conformity. If those projects were unable to proceed, conformity could be jeopardized, and other Federal transportation funding would be at risk.

Finance Committee Bonding Contract

Q.2. Some in the Senate have proposed using the transit share of the gas tax to increase highway spending and start a bonding program to meet the Nation's transit needs. If the shoe was on the other foot, do you think you would support a proposal to subject all highway spending to an untested bonding scheme without guarantees?

A.2. We do not support that shoe on either foot. One of the great advances in the last two reauthorizations was the push, not yet complete, to break down the barriers between modes of the transportation. The reality is that California, like other States, needs both transit and highways, and needs to be able to evaluate them without bias. We would oppose any measure that moves backward in that area, whether it is the bonding proposal you mention, or the Administration proposal to subject New Starts to a different cost-sharing formula than every other transportation program.

RESPONSE TO A WRITTEN QUESTION OF SENATOR SARBANES FROM JEFF MORALES

Q.1. Administrator Dorn testified last year before this Committee that, "The guaranteed funding commitment, in terms of the Administration's point of view, has been one of the key successes of ISTEA and TEA–21. Most importantly, in our view, it has leveraged State and local investments in transit and in transportation generally." Do you agree with that statement? What do you believe would be the practical effect on your members if TEA–21's guarantees around the entire transit program were not continued in the next bill?

A.1. Yes, I agree with Administrator Dorn's statement. The original intent of the very first surface transportation program Acts was to encourage States and local communities to step forward to leverage their dollars with Federal funds. It is an intent that has continued through to TEA–21, and it has been successful. In California, Governor Gray Davis made an unprecedented $6 billion commitment of State funds to transit and highway transportation projects in the first years of his administration. Almost all of those projects utilize the State funds as match to Federal and local dollars in a partnership framework. According to FHWA, nationally, the distribution of highway user revenues is almost two-to-one local and State governments to Federal. Clearly, the intent of the program is being realized.

The latest landmark in the highway and transit programs is the guaranteed funding provisions of TEA–21. This funding stability provision made possible long-term financial planning for both highways and transit and made increased leveraging of future program dollars much more feasible. Should these provisions be repealed, it would require more funding to be devoted to debt service because of greater perceived risk on the part of the financial community. This could lead to termination or delay for some projects, and increase costs for others. The unintended consequence of such a delay in project delivery would be failure to meet air quality attainment and conformity targets (which may jeopardize regional transportation improvement programs) and increased congestion, which are counterproductive to the goals of the national transportation program.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM ROBERT MOLOFSKY

Q.1. As with other members of the panel, your testimony opposes elimination of the Bus Discretionary Program. The Administration claims that providing these funds would make the program more predictable and would enhance local planning. You have said predictability is important in supporting the continuation of the funding guarantees, so why isn't it just as important in bus funding? What examples can you provide about the kinds of projects where discretionary funding makes more sense?

A.1. Mr. Chairman, thank you for your question. We indeed support the guaranteed funding provisions under TEA–21 because of the predictability and stability they have brought to the industry. But when we allude to the importance of predictability, we are referring to the firewalls that guarantee funding for the *entire* program. *Within the program itself*, however, the current breakdown between formula and capital programs has worked well, and there is no reason to change it.

ATU supports retention of the Discretionary Bus Capital Program for a number of reasons. Most importantly, transit systems have periodic bus replacement and facility needs that simply cannot be met from the formula program alone. The role of the Discretionary Bus Program is to address those needs. We believe that eliminating this crucial program would only mean that too little funding would be spread too thinly to provide safe and efficient bus service throughout the United States, especially with the drastic cuts in overall guaranteed funding levels proposed in SAFETEA.

Therefore, in answer to your question regarding the kinds of projects that would be best served by discretionary funding, we suggest that the TEA–21 structure has worked well. Under TEA–21 Capital Investment Programs, funds are restricted in their distribution to transit agencies or government entities that meet specific criteria. Funds are distributed by allocation for New Start projects and Bus Capital projects, and by formula to qualifying areas for Fixed Guideway Modernization projects. Other programs, such as Planning, Research, and Job Access and Reverse Commute (JARC) are independent, and they do not come under either the Formula or Capital Investment category. Under this model, funded at increasing, guaranteed levels, the Federal transit program has increased transit ridership in the United States to the highest levels in more than 40 years.

And finally, the earmarking of the Bus Program has been the main reason for the expansion of the Federal transit program from what was once an urban-only program. Through the earmarking process, lawmakers from both sides of the aisle in the House and Senate—from rural and small urban areas—have sought to introduce public transportation into their communities to complement the highway system. This process has served to generate a great deal of interest in the transit program, and as a result, the largest growing transit areas in the United States today are located in the southern and western parts of the Nation. Had the discretionary Bus Program not been in existence, many of those communities would have never been able to experience the benefits of public transportation because the formula program alone would not have been adequate to steer badly needed funds toward our Nation's rural and small urban areas. The bulk of the money would have instead gone toward funding general transit needs in the Nation's "traditional" transit areas.

In summary, TEA– 21's funding structure has worked quite well, and we see no reason to change the current system.

Q.2. The Administration proposes a modest new incentive tier in the urbanized and nonurbanized programs. You do not support this proposal. You indicate that part of your reason for opposing this change is that it comes with limited overall growth in the program, and thus would reduce basic predictable funding in the later years as the incentive takedown increases. Would you have supported the concept if the overall program grew enough that basic funding was growing?

A.2. ATU supports, and has always supported, efforts to increase public transportation ridership. Our locals have engaged in numerous initiatives nationwide throughout recent years that have focused on this crucial issue. However, it has been our experience that such efforts are best performed at the local level, where consideration of individual routes and travel patterns may be examined in greater detail.

Therefore, we endorse the *principles* of the Administration's ridership incentive concept. The Federal Transit Administration (FTA) should be commended for attempting to address this important issue. However, we believe that there is little the Federal Government can actually accomplish toward this worthy goal in the manner proposed. Specifically, there is no direct connection between potential Federal incentive grants and public transportation patronage. Transit ridership is determined by a number of factors, including quality of service, convenience, availability, and especially, the economy. As we have seen in recent months, when unemployment is high, fewer people take the bus or the train to work. Furthermore, although the FTA has stated that urbanized areas that experience a "significant" decline in public transportation patronage would not be eligible for so-called performance awards, it is difficult to imagine how any transit system could achieve ridership increases in a poor economy without cutting or significantly reducing service to our most vulnerable citizens.

TEA–21 has proven that the best way for the Federal Government to accomplish its goals in the ridership area is to continue to provide record levels of funding to meet transit infrastructure needs. Indeed, as indicated by the chart below, the annual Federal investment in the transit program, beginning with ISTEA and continued by the budgetary firewalls under TEA–21, has had a direct affect on public transportation ridership.

	Transit Funding (fiscal year) (Billions)	Transit Ridership (Calendar Year) (Billions)
1996	$4.1	7.9
1997	$4.4	8.4
1998	$4.8	8.8
1999	$5.4	9.2
2000	$5.8	9.4
2001	$6.3	9.5

Therefore, even if the whole program grows enough so that takedowns are rendered insignificant, we still believe the best way for the Federal Government to increase ridership is to provide increased funding under the existing capital and formula programs.

Finally, as mentioned above, the most expedient way to increase transit ridership is to get people working again so that they have a job to travel to. We hope the Committee recognizes that the reauthorization of the highway/transit bill is an opportunity to create thousands of good paying jobs. Every penny that is deposited into the Highway Trust Fund generates approximately $1.5 billion, and creates nearly 50,000 jobs.

Q.3. The Administration is proposing to adopt in law the current State warranty approach to labor protection for all of the State managed programs. What has been your experience with the State warranty in the 5311 nonurbanized program? Currently, the 5310 program is exempt from the labor protection provisions because subrecipients are private nonprofit organizations which do not normally provide transit service. The Administration is instead proposing a case-by-case waiver for private nonprofit organizations. This would appear to be an expansion of labor protection to a whole class of recipients and to a whole program which is now exempt in practice. Why is this appropriate? Further, the Administration would apply this to the New Freedom and National Parks Legacy Programs. Why is this appropriate when these are completely new programs, and new services?

A.3. *First, with regard to the Section 5311 Program,* nonurban projects must currently satisfy the employee protection requirements of 49 U.S.C. 5333 (b), formerly Section 13(c). However, under this section, grants are labor certified without a referral using the Department of Labor's (DOL) specially designed Warranty arrangement. Although the Secretary may also waive application of 13(c), this has never been done, and the Warranty has been routinely applied. The Administration proposes to allow 5311 grants to be subject to the requirements of 5307, but only "to the extent the Secretary considers appropriate." Section 13(c) would apply, provided that the DOL utilizes the expedited warranty procedure, which as you have noted, is current practice. However, DOT could waive the applicability of the special warranty for private nonprofit subrecipients on a case-by-case basis.

There is no justification for changing the grant requirement language of 5311. In answer to your question, under this program, the warranty has worked well, and *there is no basis for the waiver.* In fact, to reflect current practice, the current language allowing for the waiver should be deleted.

The waiver first arose under the Elderly and Disabled (5310) Program and was based on an early 1970's Department of Transportation (DOT) decision that the waiver should apply to private nonprofits. The primary reason for the decision was that the program was very small in size, and the role of such private nonprofits was quite limited. Clearly, this justification no longer applies.

Your second question asks about the Elderly and Disabled Program, but your statement actually misstates the present-day application of 13(c) to the 5310 program. Currently, under Section 5310, grants to State and local governmental authorities are covered by 13(c), but grants to private nonprofit corporations (passing through the State) are covered by 13(c) only to the extent the Secretary considers appropriate. As mentioned above, since 1974, DOT has deemed that 13(c) shall not apply to private nonprofit grant recipients under 5310. Such decision was based on the limited size of the program at the time (approximately $15 million) and the limited role of private nonprofits.

The Administration proposes to apply Section 5310 grant requirements to all requirements of a grant under Section 5307, but only "to the extent the Secretary considers appropriate." This amounts to a possible waiver of 13(c) for the *whole* 5310 program—grants to State and local governments and grants to nonprofits. Therefore, while your question suggests that there would be an *expansion* of labor protection, the bill would actually *remove* 13(c) coverage because it would repeal current 5310 subsection (a)(1), which subjects grants to State and local governments to all requirements of a grant or loan under Section 5309.

The Section 5310 program is now funded at nearly $100 million annually. Denying labor protection on the basis of the size of the program, therefore, is no longer appropriate. As with all 5311 grants, Section 13(c) should now apply to the entire 5310 program, whether such grants are allocated to States, local governmental authorities, or private nonprofits.

Next, with regard to 13(c) coverage for the proposed New Freedom and National Parks Legacy Programs, as we stated in our testimony, every surface transportation reauthorization bill enacted since 1964 has been linked to a strong labor policy that provides employee protections for public transit workers. Today, as in the past, ATU's support for reauthorization will be contingent on the continuation of those policies and their application to any new programs or innovative finance mechanisms created through the new bill.

There is a strong precedent for attaching labor protections to new Federal transit programs. For example, the highly successful JARC Program, established in 1998, was enacted on the condition that grants would be subject to all of the terms and conditions of a grant made under Section 5307. The value of this historic link between a strong transportation bill and sensible labor policy has been clearly recognized by the Administration, which has recommended the application of 13(c) to the new programs.

A grant under the *New Freedom Program* would be subject to the requirements of 5307, but only "to the extent the Secretary considers appropriate." Section 13(c) would apply, provided that the Secretary of Labor utilizes the special warranty. However, DOT would be authorized to waive the applicability of the warranty for private nonprofit subrecipients on a case-by-case basis as the Secretary deems appropriate.

As we mention in our testimony, the warranty could work here if the New Freedom Program was folded into the JARC program. (As discussed below, JARC grants to applicants serving populations under 200,000 are labor certified without a referral using the DOL specially designed warranty arrangement). However, again, the *waiver option should be removed.* The Administration would authorize $145 million for this program in the first year alone, and $162 million annually by the end of the reauthorization. A waiver for a program of this size is certainly not appropriate.

Finally, ATU supports the Administration's proposed National Parks Legacy Project. Labor protections are appropriate here for a number of reasons. First, the program would establish new service in only some instances; there are a number of parks that are already running bus service. Second, as with all other elements, if there is no impact on existing employees, the protections remain dormant. Third, this program would be open not only to federally owned or managed parks, but also refuges, and recreational areas, which are located in urban, suburban, and rural areas. Therefore, the waiver option should not be available under this program.

Q.4. Currently, many recipients in the Job Access and Reverse Commute program are either small rural transit operators or private nonprofit organizations. Yet each JARC grant is treated as if it were being made to an urbanized area transit agency. Thus a private nonprofit agency providing rural service is subject to three different processes for labor protection if they get rural, elderly, and disabled persons and JARC funds. Why shouldn't a rural transit operator be able to get a JARC grant and be covered by the current State warranty? And why shouldn't a private nonprofit organization that gets grants under the elderly and disabled persons program and thus is exempted not also be exempted under the JARC program?

A.4. Your first question asks: Why shouldn't a rural transit operator be able to get a JARC grant and be covered by the current State warranty? Actually, since the new guidelines were established in 1999, that is *exactly* how DOL has processed JARC grants. Under the regulations, grants to rural and small urban operators serving populations under 200,000 are labor certified without a referral using the DOL specially designed warranty arrangement. The regular 13(c) process applies to JARC grants in areas with a population above 200,000.

But despite the success of the new 13(c) regulations for the JARC Program, SAFETEA would substantially alter the application of 13(c) under this program by using the warranty and waiver option for all JARC grants (regardless of the size of the population served). The Administration proposes to allow the Secretary to waive the applicability of the special warranty for private nonprofit subrecipients on a case-by-case basis as the Secretary deems appropriate.

There is no support or justification for changing the grant procedures under this program. Since the 1999 regulations were released, and the separate procedures were set for applicants based on population, there have been no problems regarding this program. The new time limits are working perfectly, and no JARC grants have gone unfunded because of 13(c). The current coverage should be maintained without a new waiver option.

Finally, you ask why shouldn't a private nonprofit organization that gets grants under the elderly and disabled persons program and thus is exempted not also be exempted under the JARC program? As we stated in answer to question #3, because 5310 has grown substantially since 1974 (when the 13(c) waiver was first instituted for nonprofits), labor protections should now apply to the entire 5310 program, whether such grants are allocated to States, local governmental authorities, or private nonprofits. Therefore, we would of course object to the possibility of JARC grants being exempted in the same manner. And, we again note that JARC grants to applicants serving populations under 200,000—where the majority of nonprofit organizations operate—are labor certified without a referral through the warranty arrangement. History shows that this process has worked well, and there is no reason to change the system.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR REED FROM ROBERT MOLOFSKY

Funding

Q.1. Mr. Molofsky, I appreciate your willingness to not only seek more money for transit but also propose a source for such funding, namely the gas tax. Do other nontransportation unions support this position?

A.1. Organized labor stands united in the effort to raise the Federal gas tax. ATU and the Transport Workers Union (TWU) are working closely with the American Federation of State, County, and Municipal Employees (AFSCME), the International Association of Bridge, Structural, Ornamental, and Reinforcing Ironworkers, the International Union of Operating Engineers, the Laborers' International Union of North America, and the United Brotherhood of Carpenters and Joiners of America to deliver the message that investing in America's transportation infrastructure through a nominal gas tax increase is the best way to stimulate the economy.

Also, in an effort to secure additional resources, the AFL-CIO's Transportation Trades Department (TTD), made up of 34 unions, has endorsed using the interest earned in the Highway Trust Fund for trust fund purposes and transferring the 2.5 cents of the tax on ethanol that currently flows into the General Fund to the Highway Trust Fund.

ATU supports raising and indexing the Federal gas tax as recommended by leadership of the House Transportation and Infrastructure Committee. This proposal would provide the revenue stream necessary to double the annual Federal investment in highways—to $60 billion—and public transportation—to $14 billion—as called for in ATU's comprehensive plan, "Next Stop, Real Choices," released last summer. ATU also supports bipartisan proposals to draw down reserves in the highway trust fund, and collect the interest on fund reserves.

Each penny of the motor fuels excise taxes currently yields over $1.7 billion per year, generating more than 80,000 jobs in the transportation industry, with about $1.4 billion being deposited into the Highway Account of the Highway Trust Fund and $350 million deposited into the Mass Transit Account. A two-cent gas tax increase, for example, would cost the average driver a mere $12 per year, or six cents per day. The Federal motor fuels tax is currently 18.4 cents, and has not been raised since 1993.

With unemployment at an 8-year high and nearly two million workers unemployed for more than 6 months, President Bush and the Congress should approve a plan that will create jobs in our communities and ensure that our future transportation needs are met. As a bipartisan group of 43 United States Senators recently stated in a letter to President Bush, "A robust public transportation infrastructure is vital to continuing America's economic growth."

Security

Q.2. In reviewing your testimony, I was struck by your comment that a recent survey of ATU members showed that 80 percent of respondents reported that they had not received any security training from their employer. As one who believes this is a vital issue that must be addressed in the reauthorization, I would be interested to learn if the ATU has any specific legislative proposals or funding levels to ensure that transit employees, who are our eyes and ears in keeping transit systems and riders secure, have the training they need?

A.2. Again, Senator Reed, thank you for your question and for your continuing efforts to address the pressing security concerns of the transit industry. The ATU firmly believes that in order to *ensure* that all frontline transit employees, including vehicle operators and maintenance employees, receive the necessary security training, there must be a specific legislative and regulatory requirement that all transit systems develop and implement, through a security committee composed of an equal number of employee representatives and management representatives, a comprehensive, system-specific, security training program that includes regularly scheduled reviews and update sessions and new employee training. Failure to meet the training requirement should result in the withholding of FTA funds in an amount determined by the Secretary.

In addition to training, all transit systems should be required to adopt a safety and security plan as a condition of receiving FTA funding. Currently, only rail fixed guideway transit systems are required to have such a plan. There is no similar requirement for transit bus systems. In today's new reality, all transit systems, bus and rail, should adopt a security plan, again, to be overseen and implemented by a security committee, including both management and employee representatives. Minimum standards for such plans should be set by the FTA after thorough consultation with industry security experts, the Transportation Security Administration (TSA), the transit industry and transit labor organizations.

As I mentioned in my testimony, a lack of funding is the number one obstacle for transit agencies attempting to address security needs right now. In order for these agencies to meet the minimum training and planning requirements discussed above, Congress must dedicate a source of funding for these purposes. At a minimum, $15 million a year should be authorized from the general fund to assist transit agencies in meeting these requirements.

In order to address the immediate concern for training, the ATU is currently calling on the Department of Homeland Security (DHS) and TSA to dedicate funding for frontline transit employee security training. Further, in the House, we have endorsed and are seeking passage of H.R. 1148, *The Public Transportation Systems Vulnerability and Reduction Act of 2003,* introduced by Representatives Juanita Millender-McDonald (D–37th/CA) and Mike Ferguson (R–7th/NJ). H.R. 1148 would authorize $8 million (of the necessary $15 million) solely for frontline transit employee security training. We are currently seeking a sponsor for a companion bill in the Senate.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SARBANES FROM ROBERT MOLOFSKY

Q.1. Administrator Dorn testified last year before this Committee that "The guaranteed funding commitment, in terms of the Administration's point of view, has been one of the key successes of

ISTEA and TEA–21. Most importantly, in our view, it has leveraged State and local investments in transit and in transportation generally." Do you agree with that statement? What do you believe would be the practical effect on your members if TEA–21's guarantees around the entire transit program were not continued in the next bill?

A.1. Senator Sarbanes, thank you for your question. We certainly agree with Administrator Dorn's statement on the importance of TEA–21's firewalls. Without question, the new programs, planning rules, and increased levels of funding for transit adopted under ISTEA and TEA–21 have changed the nature of America's transportation policies. However, the change in United States surface transportation law that has had the greatest impact on improving the quality and delivery of transit services has been the guaranteed funding levels for transit; between fiscal years 1998–2003, $36 billion was set aside for public transportation purposes by a unique budgetary firewall erected between transit funds and other programs funded from the United States domestic discretionary budget.

Under TEA–21's budget structure, funds taken from the transit program are not eligible for any other Federal discretionary program. This unique transit firewall, designed to ensure the funding of FTA programs at specific annual guaranteed levels, has worked exactly as designed; since 1998, the Congress and two separate Administrations have honored TEA–21's firewalls by recommending funding of the Federal transit program at the guaranteed levels.

As a result of this predictable, increased funding, transit agencies have been able to engage in long-term planning, enabling them to expand service through the more than 360,000 highly skilled transit professionals who provide safe, top quality public transportation. The guaranteed funding levels have provided a unique sense of stability in the public transportation industry, which is reflected in the recent ridership surge.

ATU supports maintaining the funding guarantees included in TEA–21, especially given the proven ability of systems to rely on the guaranteed funds and leverage future Federal funding via the use of grant anticipation financing. Such financing has generated a record number of bus and rail projects during the 6 years of TEA–21, creating thousands of new jobs in the public transportation industry. As a result, ATU membership now stands at an all-time high of 180,000, up from approximately 155,000 in the year preceding TEA–21.

Therefore, given the Administration's past recognition of the importance of TEA–21's guaranteed funding provisions, we cannot understand why SAFETEA proposes to guarantee only a *portion* of the program, rather than the *entire* program, as carried out under TEA–21. In fact, for fiscal year 2004, the Administration is proposing a guaranteed level of only $5.9 billion for the Federal transit program, which is a $1.3 billion cut from the current fiscal year. The guaranteed funding level in SAFETEA for fiscal year 2004 is 17.9 percent less than the guaranteed funding level in TEA–21 for fiscal year 2003. In fact, under SAFETEA, the Administration would not even reach the current level of spending by the end of the reauthorization period. Guaranteed public transit funding would be 8 percent less in fiscal year 2009 than it is in fiscal year 2003!

For our members specifically, the discontinuation of the firewalls would mean the loss of jobs. In addition to leveraging significant investment from the States, the TEA–21 firewalls have also been the driving force behind many of the transit ballot measures that have passed at the local level in recent years. ATU has participated in many of the campaigns for these local transit initiatives (attached), many of which passed only because of the promise of guaranteed Federal funds to match local dollars. In many of these local campaigns, a loss at the ballot box would have meant a significant reduction in fixed route services, loss of man hours, and layoffs.

The Congress must ensure that the guaranteed Federal funding levels under TEA–21 are preserved and that the next surface transportation bill maintains these crucial firewalls so that we may continue to provide the highest quality, safest possible level of transit service.

Q.2. The ATU has proposed an incentive program to encourage States to make more resources available for transit. Why did you choose this model rather than a direct mandate? What are the potential benefits of this proposal? Are there any other examples in Federal law of incentive programs like this?

A.2. Thank you for the opportunity to discuss the ATU's proposed Flexibility Incentive Grant (FIG) Program, which is designed to provide incentives that would encourage States to establish new sources of revenue for transit projects and services and to reward States for creating more flexibility in the use of their existing transportation funds. Attached please find draft legislative language creating such a program.

Despite record levels of Federal investment and the undeniable will of local jurisdictions to tax themselves for the purposes of increasing the level and quality of public transportation services, State funding for public transportation has been grossly inadequate in recent years. As a result of this and other factors, we are currently experiencing widespread fare increases, service cuts, and massive layoffs in the transit industry.

The FIG Program is designed to encourage States to think twice before they cut transit funding by providing "bonus" Federal transportation dollars to those States that increase public transportation funding or take steps to increase funding. Significantly, States could use funds derived under the FIG Program for any *highway* or *transit* projects eligible for assistance under Title 23 or Chapter 53 of Title 49. Moreover, the program would be funded out of General Funds and therefore would not put further pressure on the Federal Highway Trust Fund.

Under the proposed FIG Program, the Secretary of Transportation would be authorized to allocate $5 million annually to each State that increases transit expenditures by at least 10 percent as compared to the previous fiscal year. If a State is already expending more than $1 billion on public transportation, the Secretary would be authorized to allocate $10 million to such State if it increases transit expenditures by at least 1 percent.

In addition, States would be eligible for grants on the condition that they create new dedicated sources of revenue for public transportation. Such sources may include the dedication of new State motor fuels taxes, sales taxes, interest on existing highway funds, motor vehicle excise taxes, tolls, loans to be made out of highway funds, or other sources of funding.

Finally, in order to encourage flexibility in the spirit of ISTEA, as continued under TEA–21, the FIG Program would authorize the Secretary of Transportation to reward States for amending their existing statutes or constitutions to allow funds that are currently restricted for highway purposes only to be eligible for transit projects and services as well as highway purposes.

We chose the framework of a bonus program rather than a direct mandate because the intent of the FIG Program is not to penalize States for failing to invest in transit; it is to encourage them to use their existing transportation resources in a more efficient manner. In today's fiscal climate, State legislatures, facing huge deficits, in many cases have little choice but to freeze or cut funding for many important programs, including transit services. Penalizing States for such actions would be not only unfair, but it would also put further stress on State budgets and transportation systems. Therefore, the FIG Program is modeled as a "bonus" program to be awarded in addition to any funds States receive through Title 23 or Chapter 53 of Title 49, and it would not affect existing formulas under which States receive Federal transportation funds.

This proposal has many potential benefits. It seeks to unlock billions of dollars in State resources, each year, for public transportation, community and rural transportation, and ADA services. While some States are heavily investing in public transportation, others are struggling to meet their transportation needs simply because their archaic laws prevent them from using gas tax receipts for any purpose other than highway use. Due to State constitutional or statutory provisions, in 34 States, all highway user tax distribution funds must be used solely for highway purposes. The Federal Government realized that such a policy was no longer efficient in 1982 when it carved out a small portion of the Federal Highway Trust Fund for transit. If the States did the same with their own transportation dollars, when combined with Federal dollars, perhaps the United States could finally approach the more than $40 billion annual level that is needed for our Nation's transit systems.

Of course, the proposal is aimed at much more than changing State constitutions. Essentially, it seeks to encourage State legislation similar to Arkansas Senate Bill 581, now Act 949 of 2001, which created a permanent, dedicated source of revenue for transit through the establishment of a rental car tax. The State's new Public Transit Trust Fund is used to provide expanded public and community transportation throughout Arkansas. Similarly, Maryland in 2001 approved a $500 million transit initiative that has increased public transportation services in every corner of the State, from St. Mary's County to Baltimore. The FIG Program would reward States such as Arkansas and Maryland for dedicating a significant portion of their revenue toward public transportation, and it would encourage other States to take similar action.

Finally, with regard to examples of similar incentive programs under Federal law, there are currently two incentive programs in the transportation sector which served as the model for the proposed FIG Program. Both programs attempt to encourage certain behavior on the part of the States in connection with transportation policies. First, there is the TEA–21 created program that provides "Safety incentive grants for use of seat belts" (23 U.S.C. 157, TEA–21 Section 1403). This program requires the Secretary to determine which States had, for each of the previous calendar years and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year. The program authorizes DOT to make grants to those States that have reached a certain level of seat belt usage and States that have implemented innovative projects to promote increased seat belt use rates. Similarly, 23 U.S.C. 163 (TEA–21 Section 1404) authorizes "Safety incentives to prevent operation of motor vehicles by intoxicated persons." Under this Section, the Secretary is authorized to make a grant to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

PUBLIC TRANSPORTATION BALLOT MEASURES – PASSED
November 7, 2000

AREA	SUBJECT	RESULT
California		
	Alameda County - 20 year extension of half-cent sales tax. $1.4 billion plan to improve transit. Required 2/3 approval.	**PASSED** (by 2/3)
	Santa Clara - VTA plan. 30 year, ½-cent sales tax to begin when current tax expires in 2006. Would bring BART to San Jose, and expand other transit projects. Required 2/3 approval.	**PASSED** (by 2/3)
Colorado		
	Denver - Whether RTA may keep $5.9 million in surplus taxes from 1999 and spend the funds on mass transit and affordable housing.	**PASSED** 55% in favor
	Aspen Area - Whether to form a Rural Transportation Authority, and fund it with a .04-cent sales tax. RTA proposes to take over Roaring Fork Transit Agency, the valley bus system. Voters also decided on whether to approve $10.2 million in transit bonds.	**PASSED** (RTA & transit bonds)
New Jersey	**Statewide** - State Constitutional Amendment to dedicate gas and sales tax to the state Transportation Trust fund.	**PASSED** 63% in favor
North Carolina	**Greensboro** - Voters decided on various bond proposals. Package includes $72 million for road improvements and $2 million for new bus shelters and computer equipment for Greensboro Transit Authority.	**PASSED**
Ohio	**Toledo** - Voters decided whether to approve a 1-mill replacement levy for the Toledo Area Transit Authority to keep up with inflation. TARTA would expect a 27% increase in annual revenue.	**PASSED**
Rhode Island	**Statewide** - $62.5 million transportation bond plan. $2.5 million for new buses at RIPTA.	**PASSED**
Washington	**Seattle** - King County proposed 0.2% sales tax increase to restore bus service cut as a result of I-695.	**PASSED** 53% in favor
	Seattle - I-53. Would require City of Seattle to use $6 million to have the Elevated Transportation Company prepare a citywide monorail plan. Would also require city to reserve up to $200 million in bonding capacity for construction of such monorail if such plan is approved.	**PASSED** 58% in favor

PUBLIC TRANSPORTATION BALLOT MEASURES – PASSED 2001

AREA	SUBJECT	RESULT
Arizona	**Glendale** - Proposition 402. Half-cent sales tax proposal for $1 billion transportation package, establishing regional connections to Phoenix's planned light rail system. Calls for expanded bus service, and a transit center to support light rail and express bus service.	**Nov. 6.** **PASSED** 64%-36%.
Maine	**Statewide** - $61 million bond issue for improvements to highways, bridges, airports and public transit. $4 million for intermodal facilities to connect rail, transit, marine and park-and-ride areas. $1.7 million to buy buses for urban and rural transit programs.	**Nov. 6.** **PASSED** 74%-26%.
Texas	**Statewide** - Proposition 15. Constitutional amendment creating the Texas Mobility Fund, authorizing grants and loans of money and issuance of obligations for financing the construction, reconstruction, acquisition, operation and expansion of state highways, turnpikes, toll roads, toll bridges, **and other mobility projects.**	**PASSED**
	Houston - Dueling light-rail initiatives, one pro, one anti-rail. The first would require the MTA of Harris County to tear up its work on the 7.5-mile Main Street line. Another would require an election before any light rail expansion beyond that already under construction.	**Nov. 6.** By 74%, voters adopted a City Charter amendment that allows work to continue on the MTA's Main Street light rail line. The alternative measure, which called for a referendum that could halt the project, was opposed by 54% of voters.
Washington	**Snohomish County** - Measure to increase taxes by three cents on every $10 purchase for the purpose of increasing transit services. The new tax is projected to draw in up to $19 million a year. Community Transit now plans to restore Sunday service, expand its park-and-ride facilities and buy more van-pool vehicles. Had the measure failed, deep service cuts were expected, including elimination of all Saturday bus routes and dial-a-ride van runs.	**Sept 18.** **PASSED 53%**

PUBLIC TRANSPORTATION BALLOT QUESTIONS
2002

PASSED

STATE	CITY	SUBJECT	DATE/COMMENT
CA	Statewide	**Proposition 42 -** Amends state constitution to permanently dedicate gas tax revenues to transportation expenditures. Estimated $1.2 billion annually; 40% for the State Transportation Improvement Program, 40% for roads, and 20% to the Public Transit Account.	MARCH 5 **PASSED**
	Alameda and Western Contra Costa Counties	**Measure AA** - AC Transit sought voter approval for a five-year, $24 annual parcel tax in the northern half of the 400-square mile district. Would raise $7.5 million a year, enough to avert cuts to night and weekend service between Hayward and San Pablo.	NOV 5 **PASSED**
	Riverside County	**Measure "A"**– Whether to extend the half-cent sales tax for roads and transit for another 30 years. Expected to reap $4.6 billion for road construction, improvements and other transit programs.	NOV 5 **PASSED**: 69% *Required 66.6% - two-thirds - to pass.*
FL	Miami-Dade	Half-penny increase in the local sales tax, from 6.5 cents per dollar to 7 cents, to pay for extensive improvements in Metrobus service and construction and operation of a network of new rail lines that is to eventually reach every quadrant of the county.	NOV 5 **PASSED**
ME	Statewide	Question 3 - Whether to amend the Constitution of Maine to allow the State to issue short-term debt in limited amounts that must be repaid with federal transportation funds within 12 months to facilitate the development of	NOV 5 **PASSED**: 55%

STATE	CITY	SUBJECT	DATE/COMMENT
		highways, bridges and other transportation projects.	
MI	Detroit	SMART – 0.60 property tax millage – up from 0.33 mill – for bus service in Wayne County, Oakland County and Macomb County. The ballot proposal represented a renewal of the 0.33 mills that had been levied since 1995 and an increase of 0.27 mills.	AUG 6 **PASSED**: In Oakland, the millage passed with 65% of the vote. In Macomb, it passed with 57%, and in Wayne it passed with 54%. *Bus operations will continue in Metro Detroit's suburbs after a make-or-break tax proposal easily prevailed in Wayne, Oakland and Macomb counties. Backers had feared a sour economy and revolt over higher taxes would doom the 0.6-mill proposal to continue SMART buses rolling for four years. A defeat at the polls would have ended operations in early September. Will raise $45 for SMART, which intends to replace its aging fleet of buses, improve services and make up for declines in state funding.*
	Niles	Dial-A-Ride bus service 0.5-mill levy. Millage requested for a two-year period. For the owner of a $100,000 home, that amounts to $25. A mill is a $1 tax on every $1,000 of state equalized value.	AUG 6 **PASSED**: 2-1 margin
	Lansing	Additional property millage of .82 to support Capital Area Transportation Authority. Added to existing tax level of 1.4 mills.	AUG 6 **PASSED**: 58%
NV	Clark County (Las Vegas)	Whether to support increases in three different taxes and reallocation of a fourth to raise $2.7 billion for road projects, transit systems and air quality programs over 25 years. Under the advisory measure, the revenue would come from tax increases on developers, aviation fuel and retail sales. The money would fund additional street and highway projects, new transit systems, more transit for senior citizens and air quality improvements.	NOV 5 **PASSED**: 53% *The measure was advisory in nature – it still requires legislative approval to become law.*

STATE	CITY	SUBJECT	DATE/COMMENT
	Reno (Washoe County)	Advisory measure asked whether Washoe County should seek legislation to fund a variety of highway, street and mass transit improvements proposed in a 30-year plan prepared by the RTC. Funding options include raising the sales tax by one-eighth of a cent, increasing the gasoline tax at a rate indexed to inflation and increasing road impact fees paid by developers, also adjusted to inflation. Over 30 years, about $820 million would be raised, closing a funding gap in the RTC's $5 billion 2030 plan, which proposes a variety of improvements, including widening of freeways, and tripling use of mass transit.	NOV 5 **PASSED**
ND	Bismarck	Whether to use city sales tax to pay for startup costs for a scheduled, fixed-route bus system and whether to tax themselves an extra mill of property tax for on-going support of the bus system, the city's first since 1969.	MAR 19 **PASSED** *New bus system will be run by Bis-Man Transit, which operates the current advance-reservation system for the elderly and handicapped.*
OR	Statewide	Whether to increase the state's cigarette tax by 60 cents a pack, to $1.28. Require that $2 million, and an additional 0.7 % of the revenue raised by the increase, be spent on stop- smoking programs. Cities, counties and disabled transportation programs to receive 1.4% of the money from the increase.	SEPT 17 **PASSED**
RI	Statewide	Question 3: Bonds ($63,500,000 to match federal funds for improvements in the state's highways, roads, and bridges; replace and repair transportation maintenance facilities and purchase buses and/or rehabilitate existing buses for the Rhode Island Public Transportation Authority's fleet).	NOV 5 **PASSED**: 3-1 Margin
SC	Charleston	Half-cent sales tax increase. Seventeen percent of the sales tax money would go to the Charleston Area Regional Transportation Authority (CARTA). Without this measure, the system was set to shut down.	NOV 5 **PASSED**: 51%
TX	Denton County	Whether to create a regional transportation authority to	NOV 5

STATE	CITY	SUBJECT	DATE/COMMENT
		oversee mass transit projects. The Denton County Transportation Committee asked Denton's six cities to approve a resolution to hold an election seeking a quarter-cent sales tax and making the board a permanent government agency. The tax revenue would finance a $281.4 million revenue bond issue that would pay for a light-rail line connecting Denton to Dallas. A law approved by the 2001 Texas Legislature allows counties near major metropolitan areas to create authorities with the power to levy taxes and issue revenue bonds to pay for transportation projects.	**PASSED** *The authority will now decide the amount of sales tax needed to run the mass transit systems. Another public vote will be held in which each city's residents will decide whether their city would participate in the authority.*
WA	Pierce County	0.3% sales tax increase to add more bus shelters, increase vanpools from 200 to 300, and add 850 new park & ride stalls. Designed to increase ridership by 6%. If measure failed, Pierce Transit planned to dramatically cut public transportation. Operating hours would have reverted to 1980 level of 250,000 annual service hours – as opposed to 500,000 service hours it currently operates.	FEB 5 **PASSED**: 54%
	Seattle	A proposal to expand the Seattle monorail. Lead by the Elevated Transportation Company. Light rail advocates are skeptical, as they fear the monorail could actually hurt chances to get enough federal funds for Sound Transit's completion of the approved (but scaled back) light rail project.	NOV 5 **PASSED**
	Hanford, West Richland, Prosser, Benton City	Voters considered Ben Franklin Transit's request to increase sales taxes. The district was seeking voter approval of a 0.3% sales tax increase, to double its share of local sales taxes to 0.6%. The State Motor Vehicle Excise Tax (MVET) was repealed in 1999. The MVET provided about 45% of the transit agency's revenues.	MAR 12 **PASSED**
	Olympia, Lacey, Tumwater, Thurston County	**Proposition 1** - Intercity Transit Authority proposal asking voters to consider an increase in the local sales tax to fund public transportation improvements. Taxes would increase by .3%, equal to a 3-cent increase on a $10 purchase.	SEPT 17 **PASSED** *Voters in Olympia, Lacey, Tumwater, and*

STATE	CITY	SUBJECT	DATE/COMMENT
			Yelm approved the 0.3% sales tax increase to support area public transportation services. As a result of the vote, Intercity Transit is beginning work to improve service and restore some of the transit service lost over the past several years.
WV	Huntington, Cabell County	Levy for continuation of The Transit Authority bus service.	MAY 14 **PASSED**
	Kanawha County (Charleston)	Levy to support Kanawha Regional Transit Authority, police, and fire department. Generates $12 million per year.	NOV 5 **PASSED**: 60%

TTD

TEA-21 REAUTHORIZATION AND JOBS FOR A FAILING ECONOMY

With unemployment levels at their highest in a decade, workers are hurting as America's anemic economy continues to sputter. Congress must respond by passing a real jobs bill and the reauthorization of the landmark Transportation Equity Act for the 21st Century (TEA-21) presents lawmakers with exactly that opportunity. Unfortunately, the President's FY 2004 budget sends a clear message that Congress, and not the Administration, will need to take the lead to ensure that TEA-21 reauthorization legislation fully invests in our transportation system and creates the type and number of jobs so desperately needed.

Transportation labor is deeply concerned with the early signals from the Bush Administration. Earlier this month, Mitch Daniels, director of the White House Office of Management and Budget, issued a veto threat on the FY 2003 omnibus appropriations legislation that objected to, among other things, fully funding Amtrak and federal highway programs. Congress should not be deterred by these warnings and should move ahead with a multi-year TEA-21 bill that funds the nation's growing surface transportation needs and supports real job creation. We are heartened by early signals from leading lawmakers on both sides of the aisle who are committed to completing this legislation in the 108th Congress.

Enacted in 1998, TEA-21 has invested more than $200 billion in highways, transit systems, bridges, intermodal terminals, safety enhancements, and bikeways and recreation. For transportation and construction workers and other employees in the private and public sectors, TEA-21 has been the foundation for an expansive pool of jobs in many skilled and specialized trades and crafts. Overall, the economy has benefitted tremendously from TEA-21 as an estimated 9.4 million workers have secured good paying jobs that in today's economy are becoming more and more scarce.

Furthermore, TEA-21 has greatly enhanced our transportation system, allowing people and goods to move more efficiently and safely. Because of TEA-21, Americans have more transportation options and barriers to travel and commerce are being torn down in all areas of the country. Annual funding increases have enabled communities with means to cope with unprecedented traffic congestion and rural and smaller communities have been better able to meet their mobility needs.

Adequate public investment in our state and federal highway system dramatically affects the over-the-road transportation of consumable and durable goods, which has a significant impact on U.S. industries. We seek to work collaboratively with industry to foster real economic and job growth and added efficiency in our surface transportation system.

America's shaky economy cannot afford a step backward in transportation spending. In an effort to secure additional resources, we support using the interest earned in the Highway Trust Fund for trust fund purposes. Furthermore, the 2.5 cents of the tax on ethanol that currently flows into the General Fund should be transferred into the Highway Trust Fund.

Transportation Trades Department, AFL-CIO

As we push for maximum funding levels, we will strongly support funding guarantees and budget "firewalls" that provide state and local officials the certainty they need to plan, finance and implement their programs. At the same time, transportation labor will make the case to lawmakers that the resources to finance the nation's long-term surface transportation needs can be obtained without sacrificing the historic balance between highway and transit program needs or revising funding formulas and federal/state match requirements in ways that disadvantage certain states. We will also oppose proposals that have recently surfaced to use Mass Transit Account gas tax resources for highway purposes. We strongly believe that Congress should focus on the need for new resources to support increased investment in both highways and transit rather than fighting over allocation of existing revenues and in the process risking mass transit investments.

Transportation labor will insist that TEA-21 legislation requires compliance with federal labor standards and worker protections that have always been a part of the program. Laws such as Section 13(c) and Davis-Bacon have been instrumental in maintaining labor-management cooperation, managing multi-billion transportation projects, protecting the collective bargaining rights of transit employees and ensuring job and wage stability for construction workers. The fact is that every major highway/transit reauthorization bill enacted in the last 50 years, including the 1998 TEA-21 legislation, has recognized the need to protect the interests and rights of employees. We will insist on nothing less in the 2003 legislation.

In pushing for increased funding, we recognize the expanding role of private investment in our transportation infrastructure and the desire to advance "innovative" finance mechanisms. However, new policies must not be designed or implemented in a way that results in selling off – through privatization and contracting out schemes – our surface transportation system at the expense of workers and services while producing suspect and largely unrealized "cost savings." If Congress wants to improve productivity in an era of scarce resources, it should consider investments to better train workers in new technologies and related maintenance requirements. It should also provide long-term funding in career ladder and job skills programs designed to prepare workers for the surface transportation industry of the future.

We will also continue to scrutinize innovative finance proposals, such as the State Infrastructure Banks (SIBs) pilot program established in TEA-21. Transportation and financial industry interests are pushing to expand this program to all states and to grow the funds needed to implement them. We will insist that SIBs and any other financing innovations live up to their promise and honor longstanding worker rights and protections. Any transportation projects funded (directly to recipients or to subsequent generation recipients) by SIBs or other mechanisms that may be established, must comply with longstanding federal standards, especially those that protect the jobs and rights of workers.

Transportation labor will also push for safety and security measures that reflect the reality of this industry and the nation in the wake of 9/11. This means Congress and the President must do everything possible to protect against the use of our transportation system to carry-out acts of brutal terror. First and foremost, we will oppose industry attempts to roll back or weaken federal safety requirements such as hours of service rules and hazmat worker protections. TEA-21 should mandate safety and security plans by transit systems and require transit formula grant recipients to spend adequate resources on serious security measures and worker training. Existing labor-management cooperation programs should also be continued and expanded. Intrastate commercial vans transporting nine or more passengers should be required to meet commercial drivers licensing and drug and alcohol testing requirements. And if, over our objections, cross-border truck and bus movements increase at the Mexican border, our government must ensure adequate resources for inspection personnel and facilities, and enforcement of U.S. laws and regulations.

Transportation labor will support TEA-21 reauthorization legislation that:

- provides multi-year funding increases that meet the nation's needs;

- mandates funding guarantees and budget "firewalls";

- restores the interest collected on the Highway and Mass Transit accounts to the Highway Trust Fund and transfers to the Highway Trust Fund the 2.5 cents of ethanol tax collected that currently flows into the General Fund;

- applies 13(c) collective bargaining rights and Davis-Bacon prevailing wage protections throughout all TEA-21 programs including innovative finance mechanisms such as State Infrastructure Banks;

- maintains the historic balance between highway and transit program funding levels;

rejects federal requirements to force or encourage privatization;

- improves motor carrier and highway safety and security and rejects proposals to roll back safety standards and protections;

- invests in worker training programs;

- grants transportation worker representatives a mandatory voice and vote within Metropolitan Planning Organizations, or MPOs;

- raises transit tax-free benefits to the level allowed for parking benefits; and

- invests in transportation research programs by increasing funding for University Transportation Centers.

THEREFORE, BE IT RESOLVED, THAT TTD AFFILIATED UNIONS WILL:

- ❑ Advance a unified TEA-21 agenda embodied in this policy resolution before the key Senate and House authorizing committees;
- ❑ Push the Bush Administration to support TEA-21 reauthorization that funds the nation's surface transportation needs, honors workers' bargaining and prevailing wage protections, enhances motor carrier and highway safety and security, and rejects ill advised privatization initiatives;
- ❑ Activate transportation workers nationwide to speak out on this critical jobs bill.

Resolution No. W03-03
Adopted February 23, 2003

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(Original Signature of Member)

108TH CONGRESS
1ST SESSION

H. R. ____

IN THE HOUSE OF REPRESENTATIVES

Ms. CARSON of Indiana introduced the following bill; which was referred to the Committee on ______________________________

A BILL

To amend title 49, United States Code, to provide for the establishment of a flexibility incentive grant program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FLEXIBILITY INCENTIVE GRANT PILOT PROGRAM.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by adding at the end the following:

"§ 5339. Flexibility Incentive Grant Pilot Program

"(a) PURPOSE.—The purpose of this section is to provide incentives to encourage States to establish new sources of revenue for transit projects and services and to reward States for creating more flexibility in the use of their existing transportation funds.

"(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a flexibility incentive grant pilot program in accordance with this section.

"(c) SELECTION PROCESS AND CRITERIA.—Not later than 90 days after the date of enactment of this section, the Secretary shall establish a process and criteria for selecting States to participate in the pilot program. Any State may apply under the process to participate in the pilot program.

"(d) SELECTION OF PARTICIPATING STATES.—The Secretary shall select States to participate in the pilot program under the selection process, and based on the selection criteria, established by the Secretary.

"(e) DETERMINATIONS BY THE SECRETARY.—Not later than September 1 of each of calendar years 2004 through 2009, the Secretary shall determine which of the States selected to participate in the pilot program increased the aggregate amount of State funds (excluding funds from Federal sources) that the State expended on transit projects and services from the State's second fiscal year preceding such September 1 to the State's first fiscal year preceding such September 1, the amount of such increase, and the percentage of such increase over the State's second preceding fiscal year.

"(f) GRANTS FOR INCREASED TRANSIT FUNDING.—

"(1) STATES WITH AN INCREASE OF 10 PERCENT OR MORE.—Subject to paragraph (2) and subsection (h)—

"(A) the Secretary shall make a grant for each of fiscal years 2006 through 2010 to each State selected to participate in the pilot program whose percentage increase in expenditures for transit projects and services over the preceding fiscal year of the State was 10 percent or more, as determined by the Secretary under subsection (e); and

"(B) the amount of the grant shall be equal to the increase in the aggregate amount of State funds (excluding funds from Federal sources) that the State expended on transit projects and services from the second preceding fiscal year of the State to the first preceding fiscal year of the State, as determined by the Secretary under subsection (e); except that the amount of the grant may not exceed $5,000,000.

"(2) LARGE STATES WITH AN INCREASE OF 1 PERCENT OR MORE.—Subject to subsection (h), for each of fiscal years 2006 through 2010, the Secretary shall make a grant of $10,000,000 to each State selected to participate in the pilot program whose percentage increase in expenditures for transit projects and services over the preceding fiscal year of the State was 1 percent or more, and whose aggregate expenditures for such projects and services in the State's preceding fiscal year was more than $1,000,000,000, as determined by the Secretary under subsection (e).

"(g) STATES CREATING FLEXIBLE TRANSPORTATION FUNDS.—

"(1) NEW DEDICATED SOURCE OF REVENUE.—

"(A) IN GENERAL.—Subject to subsection (h), for each of fiscal years 2004 through 2010, the Secretary shall make a grant of $10,000,000 to each State that implemented in the first preceding fiscal year of the State a dedicated source of revenue for carrying out only transit projects and services that the Secretary—

"(i) determines was not in effect in the second preceding fiscal year of the State; and

"(ii) projects will result in an increase of 10 percent in State funds available for expenditure on such projects and services within 2 years after the date of such implementation.

"(B) DEDICATED SOURCE OF REVENUES DEFINED.—For purposes of this paragraph, the term 'dedicated source of revenue' may include the dedication of a State motor fuels tax or sales tax, interest on existing highway funds, motor vehicle excise tax, tolls, loans to be made out of highway funds, and such other sources of revenue as the Secretary determines.

"(2) UNRESTRICTED USE OF HIGHWAY FUNDS.—Subject to subsection (h), for each of fiscal years 2004 through 2010, the Secretary shall make a grant of $10,000,000 to each State that in the preceding fiscal year of the State amended State law or the State constitution to allow funds that were restricted for highway purposes only to be used for transit projects and services as well as highway purposes.

"(h) LIMITATION FOR STATES ELIGIBILITY FOR MULTIPLE GRANTS.—If the Secretary determines that a State is eligible for a grant under more than one of subsections (f)(1), (f)(2), (g)(1), and (g)(2) for a fiscal year, the Secretary may only make the grant to the State that is for the greatest amount the State is eligible for under such subsections.

"(i) USE OF GRANTS.—A State may obligate funds granted to it under this section for any project or activity eligible for assistance under title 23 or chapter 53.

"(j) GRANT REQUIREMENTS.—Except as otherwise provided in this section—

"(1) a grant under this section being used for a transit project or activity shall be subject to all of the terms and conditions to which a grant made under section 5307 is subject; and

"(2) a grant under this section being used for a highway project or activity shall be subject to all of the terms and conditions that would be applicable to such project or activity if such project or activity were being carried out under title 23, United States Code.

"(k) FEDERAL SHARE.—The Federal share of the cost of a project or activity funded under this section shall be 100 percent.

"(l) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section for each of fiscal years 2004 through 2010 $80,000,000. Such sums shall remain available until expended.

"(m) PROGRAM EVALUATION.—Not later than 5 years after the date of enactment of this section, the Secretary shall—

"(1) conduct a study to evaluate the pilot program authorized by this section; and

"(2) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a report describing the results of the study.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"5539. Flexibility incentive grant pilot program.".

The Benefits of TEA 21 Funding Guarantees

Prepared on Behalf of the
American Public Transportation Association
Washington, DC

By Jeffrey A. Parker
Chilmark, MA

TABLE OF CONTENTS

Executive Summary

The guaranteed funding provided by the Transportation Equity Act for the 21st Century - TEA 21 - has stretched scarce federal dollars for public transit further and produced additional spin-off benefits by accelerating construction and leveraging new sources of state and local matching funds.

Congress is now able to spread its commitments to New Start fixed guideway projects over a longer time frame than the construction period. The flexibility to borrow against Full Funding Grant Agreements has allowed the total number of projects participating in the Section 5309 New Starts Program to increase in recent years.

Although not directly within the scope of the current research effort, documentation examined thus far confirms that the TEA 21 "firewalls" are yielding similar benefits in the federal highway program, allowing future apportionments to be programmed on an accelerated basis through advance construction and grant anticipation financing.

By contrast, the year-to-year funding allotments to specific projects under the Section 5309 Bus Discretionary Program have not produced as big of a "bang for the buck." Even though the Discretionary Bus Program receives guaranteed funding, the absence of a mechanism for assuring multi-year allocations to grantees has precluded leveraging opportunities.

Similarly, as the fall in federal highway program budget forecasts resulting from the Revenue Aligned Budget Authority formula has demonstrated, year-to-year budget fluctuations in national infrastructure programs can trigger additional costs, disruption to contracting plans, construction industry job losses and delays to work in progress.

Continuing the transit funding guarantees strengthens the case for innovative finance and will allow the maturity of grant anticipation debt eventually to be extended. The longer stable appropriations for transit continue, the perceived risk of reauthorization will decline and encourage more favorable credit reviews and interest rates.

Perhaps most significantly, higher levels of guaranteed federal support under TEA 21 are attracting even higher levels of stable, reliable non-federal matching funds. Even as federal support for public transit sets new records each year, the federal share of capital investment has dropped from 58 percent in 1990 to 47 percent in 2000. During the 1990's federal outlays for transit capital investment grew at an average of 5.0 percent per year, while local expenditures climbed at an average annual rate of 11.7 percent. Almost half of this local support is now in the form of taxes dedicated to public transportation and is here to stay.

The examples and statistics reviewed in this study confirm that the funding guarantees under TEA 21 are not about receiving a steady paycheck, they are all about increasing the value created from the limited federal dollars available for public transit. Guaranteed dollars are more valuable because they can be leveraged further, planned better and managed more efficiently. Best of all, they attract even higher levels of state and local support. As the experience under TEA 21 demonstrates, when adequate investment supports high quality service, the public will choose to ride transit.

Overview

Public transportation systems across the United States rely on TEA 21 guaranteed funding levels to underwrite their capital investment programs. The benefits from the funding guarantees are realized in many ways:

- Billions of dollars of capital investments needed for expansion and state of good repair are being accelerated,
- More New Start projects have been initiated than would have been possible in the pre-TEA 21 era of annual funding uncertainty,
- More stable and reliable federal funding has leveraged more stable and reliable state and local matching revenues,
- Communities large and small have been able to plan capital programs with more certainty and focus management attention on project delivery,
- Contracting efficiencies have cut costs and minimized inconvenience to the public during construction,
- Investments in transit assets have been protected by assuring regular funding for maintenance and capital renewal, and
- More stable capital funding is allowing manufacturers and suppliers to better meet the public transit industry's specialized needs arising from accessibility standards, air quality initiatives and other federal mandates.

With transit ridership increasing at an annual average rate of 4.5% since 1997, bringing about the highest transit ridership levels in 40 years, the amount of investment required to sustain growth, avoid overcrowding, and offer an attractive alternative to highway congestion is expanding. TEA 21's funding guarantees provide the stability and predictability necessary to reduce the backlog of deferred maintenance and deliver consistent service levels. The public has responded by increasing transit usage over the past six years at almost twice the growth rates of highway and domestic air travel.

Transit and highway investments tend to be large and lumpy – whether replacing a fleet of buses, building a fixed guideway system, or constructing maintenance facilities. The outlays for these projects occur over many years and must be carefully budgeted in advance. As the formula-driven proposal to reduce Federal Highway Administration resources under Revenue Aligned Budget Authority (RABA) demonstrated this year, annual budget fluctuations wreak havoc with projects carried out under multi-year work programs.

What Are The TEA 21 Funding Guarantees?

Funds for the federal transit and highway programs are *authorized* by Congress for five or six year periods. Annual appropriations are then required to make the authorized funds available. Prior to TEA 21 it was not possible to anticipate how much of the authorized funding levels would actually be *appropriated* each year. The significance of TEA 21 is that it authorized $41 billion for transit programs between FY 1998 and FY 2003 ***and*** established a "funding guarantee mechanism" that assured a minimum of $36 billion would be appropriated.

The $36 billion was divided annually and allocated to individual transit programs. For formula grants such as Section 5307 Urbanized Area, Section 5311 Non-Urbanized Area and Section 5309 Fixed Guideway Modernization, the annual guaranteed amounts allowed individual transit agencies to plan their future capital programs with an unprecedented amount of certainty.

How does the guarantee mechanism work in practice? Uniquely, Title VII of TEA 21 provides "offsets" in discretionary spending, which mean that the guaranteed annual levels are already "paid for" under congressional budgetary rules.

Each year since enactment of TEA 21, Congress has honored the funding guarantees. This study shows just how important funding guarantees have been in providing safe, reliable and high-quality public transportation services that help communities increase accessibility, improve highway performance, upgrade air quality and enhance urban and rural environments.

Source: TEA 21 A Summary of Transit-Related Provisions, APTA

How can guaranteed funding help to fill the gap between growing demand for transit investment and scarce federal resources?

The guaranteed funding provisions of TEA 21 have created a new phenomenon – from a financial perspective, a "guaranteed" dollar offers more value than a non-guaranteed dollar.

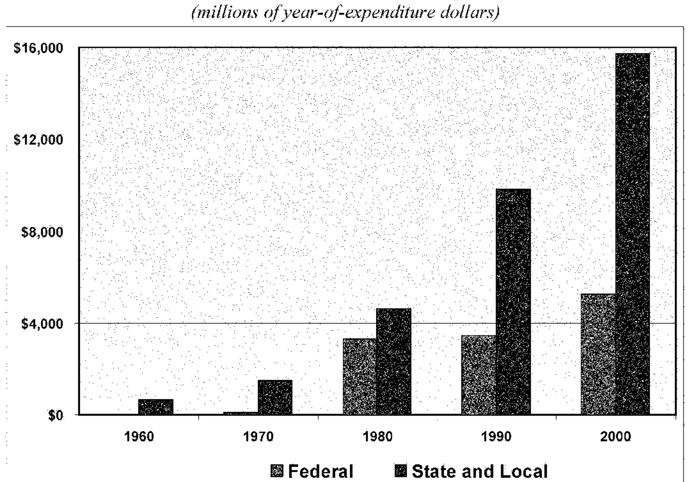
> ***To maximize the "bang" for each "buck" of available transportation funding, states and public transit agencies are collaborating with the U.S. Department of Transportation to implement innovative financing strategies. The ability to leverage guaranteed funding under TEA 21 allows Congress to manage Trust Fund resources within difficult budget constraints and still undertake large, complex capital programs. The key to making these finance strategies a success, and expanding them in the future are the firewalls and funding guarantees established in TEA 21.***

Funding guarantees allow the private financial markets to make scarce federal dollars go even further. Even as TEA 21 increased federal transit resources at an average rate of nine percent per year, the financial markets used the funding guarantee provisions to produce an even bigger "bang for the buck." The guarantees have allowed Section 5307 Urban Area formula grants, Section 5309 Fixed Guideway Modernization grants and Section 5309 New Starts funding to serve as collateral for loans that have accelerated construction and reduced project costs. Thanks to the TEA 21 guarantees, the use of Section 5307 Urban Area Formula assistance to make lease payments for bus and railcar purchases is helping to stabilize fleet replacement cycles for transit systems of all sizes.

As the confidence of the financial markets in multi-year federal transit commitments grows, the benefits of guaranteed funding will continue to increase. Continuation of TEA 21 funding guarantees can help extend lease terms for facilities and rolling stock over longer time frames and encourage lower interest rates.

> ***Not only are federal funds being leveraged in the financial markets, more stable and reliable federal funding is attracting even higher levels of stable and reliable non-federal funding.***

Funding Levels for Public Transportation
(millions of year-of-expenditure dollars)



Source: National Transit Data Base

As federal transit appropriations for capital investment increased at a rate of 5.0 percent per year between 1990 and 2000, local funding for capital was growing at ***11.7 percent per year***. The federal share of transit capital projects has declined from 58 percent in 1990 to 47 percent in 2000. Overall federal funding for public transportation grew 60 percent between 1980 and 2000, while non-federal funding leaped ***240 percent***. With almost one-half of non-federal funding derived from dedicated taxes, stable, reliable federal appropriations are attracting even larger commitments of stable, reliable non-federal matching support.

The following chapters provide examples of these successes under TEA 21:

- Guaranteed Funding Facilitates the New Starts Program,
- Guaranteed Funding Helps Leverage Federal Formula Funding,

- Guaranteed Funding Helps Attract Higher Levels of State and Local Matching Funds, and

- Guaranteed Funding Increases Capital Budgeting Efficiency.

Guaranteed Funding Facilitates the New Starts Program

A recent APTA analysis calculated that completing the 155 New Start fixed guideway projects that have received discretionary Section 5309 appropriations will require almost $70 billion between FY2004 - 2009. Even maximizing the non-federal and non-New Start funding shares for this "pipeline" of Congressionally-endorsed projects still leaves a large funding gap when considering the entire Section 5309 New Start pool in TEA-21 is only $1.2 billion per year.

Assuming that only one-half of the remaining funding comes from the Section 5309 New Start pool, about $7 billion per year over the next five-year authorization period would be required to build the current pipeline – which does ***not*** include the 53 additional projects authorized under TEA 21 (but not yet appropriated) that total almost $28 billion.

In order to increase the number and diversity of projects receiving New Start support, Congress and the Federal Transit Administration have spread the multi-year funding commitments made under Full Funding Grant Agreements over longer time frames. Today, the annual New Start appropriation to projects typically do not correspond to the actual obligation and pay-out schedules for the projects they fund – in fact, the last federal dollars may be obligated years after a project enters revenue service. This delay creates a mismatch of cash flows with construction schedules.

If federal appropriations matched the rate of optimal construction expenditures, the number of New Starts projects that could be funded in any given year would be reduced. On the other hand, if the pace of construction were slowed to match the rate of appropriations, the resulting cost escalation would be extraordinary and disruption to traffic and businesses from construction would be magnified. The guaranteed funding levels for Section 5309 New Starts allow Full Funding Grant Agreement commitments to serve as collateral for loans that bridge the gap between appropriations and construction cash flow requirements.

By contrast, there is no comparable experience in leveraging future federal assistance to accelerate projects or increase program capacity under the Section 5309 Bus Discretionary Program. This program is guaranteed in TEA 21 at more than $3.0 billion over six years but lacks the equivalent of a Full Funding Grant Agreement or a formula distribution mechanism that can offer contingent commitments on a multi-year basis.

How does all of this work in practice?

Table 1 lists the 18 Full Funding Grant Agreements that have been signed under TEA 21.[1] The average duration of a TEA 21 FFGA is 6.4 years, with the Salt Lake City Medical Center LRT having the shortest scheduled duration, three years, and the Southeast Corridor (T-Rex Project) in Denver the longest scheduled pay-out, ten years. There is a strong correlation between the scale of the federal commitment and the duration of the pay-out schedule – the Salt Lake City Medical Center LRT is the smallest commitment under TEA 21 at $53.6 million, while the Denver Southeast Corridor LRT is the largest at $525 million.

TABLE 1
TEA 21 Full Funding Grant Agreements

TEA-21 Project	FFGA Total	Scheduled Duration of Payments (Fiscal Years)*	Average Annual Pay-Out
Tri-County Commuter Rail Upgrade (Florida)	$110,500,000	5	$22,100,000
San Diego Mission Valley East LRT	$329,958,000	8	$41,244,750
NJ - Newark Rail Link (MOS-1)	$141,950,074	7	$20,278,582
NJ Hudson-Bergen LRT (MOS-2)	$500,000,000	9	$55,555,556
Portland, OR Interstate MAX	$257,500,000	5	$51,500,000
Denver Southeast Corridor	$525,000,000	10	$52,500,000
Memphis Medical Center Extension	$59,667,818	5	$11,933,564
Dallas North Central LRT Extension	$333,000,000	8	$41,625,000
Pittsburgh Stage II LRT	$100,200,000	6	$16,700,000
Minneapolis Hiawatha LRT	$334,277,500	7	$47,753,929
DC/Maryland Largo Extension	$260,300,000	5	$52,060,000
Baltimore Central LRT Doubletrack	$120,000,000	7	$17,142,857
Chicago Douglas Branch Line	$320,100,000	8	$40,012,500
Chicago Union Pacific West	$80,762,000	6	$13,460,333
Chicago Southwest	$103,018,670	6	$17,169,778
Chicago North Central	$135,319,330	6	$22,553,222
Salt Lake City CBD to University LRT	$84,600,000	4	$21,150,000
Salt Lake City Medical Center LRT	$53,633,400	3	$17,877,800
Subtotal, TEA-21	$3,849,786,792	6	$602,575,324

Source: Federal Transit Administration, June 2002; Average Estimates - Jeffrey A. Parker

* All "Prior" treated as one additional year

> ***Final design and construction of modern rail projects is typically a four - five year undertaking, with even more rapid deployment possible. However, the average FFGA duration is 6.4 years, and eight of the 18 TEA 21 projects receive funds over a seven – ten year period.***
>
> ***If the $3.85 billion of TEA 21 commitments were disbursed over 4.5 years instead of the average 6.4 years, the average annual pay-out to existing commitments would grow from about $600 million per year to $850 million per year. Under this example, funding available for projects in the New Start "pipeline" but not yet covered by Full Funding Grant Agreements would have to be reduced by $250 million per year.***

In fact, many of the TEA 21 New Start projects are scheduled to receive their final allotments of Section 5309 funding one to two years ***after*** they enter revenue operation. Table 2 compares the last year of the scheduled pay-out under each TEA 21 Full Funding Grant Agreement with the revenue operation date the grantee is required to meet. As of the end of Federal FY 2002, seven of the projects will be in revenue service 12 months or more before their final Section 5309 dollars are obligated.

To avoid having the extended FFGA pay-out schedules slow the pace of construction and increase cost penalties for inflation and overhead, the TEA 21 funding guarantees have allowed grantees to use their FFGAs as collateral for construction loans. ***These securities are unique because they are now backed solely by federal New Start funds due under a Full Funding Grant Agreement.***

TABLE 2

Scheduled New Start Pay-Out Compared to Revenue Operation Date

TEA-21 Projects	FFGA Signed	Last Scheduled Year of Pay-Out (Federal FY)	Revenue Operation Date (ROD)	FTA Forecast Final Payment (Federal FY)	Projected Last Grant Payment (6 Mos After Federal FY)	Projected Lag Between ROD and Last Grant Payment (Months)
Tri-County Commuter Rail Upgrade (Florida)	May-00	2003	31-Mar-05	2004	April-04	
San Diego Mission Valley East LRT	Jun-00	2005	31-Dec-05	2006	April-06	3
NJ - Newark Rail Link (MOS-1)	Aug-00	2004	30-May-05	2005	April-05	
NJ Hudson-Bergen LRT (MOS-2)	Oct-00	2008	31-Dec-05	2008	April-08	27
Portland, OR Interstate MAX	Sep-00	2004	16-Mar-04	2005	April-05	12
Denver Southeast Corridor	Nov-00	2008	30-Jun-08	2009	April-09	9
Memphis Medical Center Extension	Dec-00	2003	16-Mar-04	2004	April-04	
Dallas North Central LRT Extension	Oct-99	2004	31-Dec-03	2005	April-05	15
Pittsburgh Stage II LRT	Jan-01	2004	2-Jun-04	2005	April-05	10
Minneapolis Hiawatha LRT	Jan-01	2005	31-Dec-04	2006	April-06	15
DC/Maryland Largo Extension	Dec-00	2005	31-Dec-04	2006	April-06	15
Baltimore Central LRT Doubletrack	Jul-01	2005	31-Dec-06	2006	April-06	
Chicago Douglas Branch Line	Jan-01	2006	31-Jan-05	2007	April-07	26
Chicago Union Pacific West	Nov-01	2006	31-Dec-06	2007	April-07	3
Chicago Southwest	Nov-01	2006	31-Dec-06	2006	April-06	
Chicago North Central	Nov-01	2006	31-Dec-06	2007	April-07	3
Salt Lake City CBD to University LRT	Aug-00	2003	15-Nov-02	2004	April-04	17
Salt Lake City Medical Center LRT	May-02	2004	15-Dec-04	2004	April-04	

Source: FFGA data provided by Federal Transit Administration, Sept-02. Estimates by Jeffrey A. Parker

Case Study: State of New Jersey Grant Anticipation Notes

New Jersey Transit has issued two series of FFGA-backed Grant Anticipation Notes for the Hudson-Bergen Light Rail System and one for the Newark-Elizabeth Rail Link, totaling $845.7 million. The $452.2 million in notes for the MOS-2 portion of Hudson-Bergen demonstrate the importance of funding guarantees and stable, reliable federal commitments in creating a "win-win" situation for grantees, Congress and the U.S. Department of Transportation.

New Jersey Transit is building the Hudson-Bergen Light Rail System under a Design-Build-Operate-Maintain agreement. The Grant Anticipation Notes permitted the agency to sign a $1.2 billion contract for the MOS-2 portion of the Project. The DBOM contractor has guaranteed the cost and completion date for the Project and will operate and maintain it for fifteen years.

Even though the FFGA was signed on October 31, 2000, the first payment under the $500-million Section 5309 New Starts commitment is not due until FY 2003. In November 2000, New Jersey Transit issued $452.2 million of Grant Anticipation Notes to advance the New Start funding expected under the contingent commitment schedule

(Attachment 6) in the FFGA. ***The Notes permitted construction to begin three years prior to the receipt of the first New Start payment due under the FFGA.***

The initial portion of the Hudson-Bergen Light Rail Transit System's MOS-2 is scheduled to be revenue-ready on September 4, 2003 and achieve a Guaranteed Completion Date of June 3, 2005. The FFGA Revenue Operation Date is December 31, 2005. According to the FFGA pay-out schedule, only 10 percent of the federal New Start funding commitment will be appropriated when the Project is substantially complete and only 50 percent will have been appropriated when the full extension is operational. The final payment is not due until FY 2008.

According to PaineWebber Incorporated, the senior managing underwriter for these transactions:

> *"All prior financings secured by federal grants under an FFGA required some additional source of security to overcome the risk of non-appropriation or delays in appropriation of the grants by Congress...*
>
> *The implementation of this structure allows New Jersey Transit to eliminate the need for its "double-barrel" pledge of security for its grant anticipation notes while capitalizing the future grant receipts under their current FFGA. The issuance of the 2000A Notes and the simultaneous release of the New Jersey Transportation Trust Fund (NJTTF) deficiency agreement restored the NJTTF with $350 million in borrowing capacity."* [2]

Moody's rated the underlying credit for the NJTransit Capital Grant Anticipation Notes for MOS-2 and the Newark-Elizabeth Light Rail Link at A3, and AAA with municipal bond insurance provided by AMBAC. In reaching this rating Moody's evaluated the TEA 21 firewall and guarantee structure:

> *"...for these two projects, at least one year of funding is subject to program reauthorization, but the authority to collect the revenues to support the grants already exists. Moody's believes that the reauthorization risk is minimal,* ***given that the Trust Fund cannot be redirected to other federal purposes.***" [3] [Emphasis added]

FitchRatings assigned a BBB+ rating to the NJTransit FFGA-backed transactions, noting:

> *"Strengths of the FFGA program include the contractual nature of the FTA's funding obligation, a comprehensive screening process for transit projects (which includes project approvals at both the local and federal levels and completed environmental reviews), and a local financial commitment...Weaknesses of the program are largely political in nature. The FTA's contractual obligation is subject to congressional appropriation, and congressional intervention at the project level can significantly affect the timeliness of grant payments. In addition, all federal surface transportation funding is subject to reauthorization cycles; TEA 21, the current transportation funding cycle, runs through 2003. Finally,*

there has been a slight timing discrepancy between committed and received grant funds."[4]

Case Study: San Francisco Bay Area Rapid Transit (BART) Grant Anticipation Notes

Subsequent to the NJTransit transaction, PaineWebber closed $485.4 million of Capital Grant Anticipation Notes for BART's $1.48 billion San Francisco Airport (SFO) Extension using the FFGA established under ISTEA as the sole source of security. Outstanding commercial paper that was being used to advance construction of the SFO Extension totaling $300 million was refunded and defeased with the note proceeds. BART is building this Project using large, design/build contracts.

When the Project opens for revenue service later this year, BART will have received approximately one-half of the $750 million Section 5309 funds committed under the FFGA, with the balance of the revenue scheduled to be paid by FY 2006 – almost four years after the SFO Extension begins revenue service.

BART's FFGA was signed on June 30, 1997, yet it has been receiving appropriations under the New Start program since Federal FY 1992. FTA anticipates that the last Section 5309 grant to BART under this FFGA will occur in FY 2007 – 16 years after the first budget allocation. The FFGA commitment schedule is "back-end loaded" with almost $460 million anticipated between Federal FY 2002 and 2007 (compared to $290 million between Federal FY 1992 and 2001). ***Had this project been funded over a typical five-year construction cycle, annual average appropriations of $150 million would have been required, rather than the $47 million annual average that will result from the 16-year pay-out.***

According to Scott L. Schroeder, Controller/Treasurer of BART:

"BART previously financed this project with Commercial Paper and a supporting Letter of Credit that required a back-up pledge of the District's financial resources. The back-up pledge was very detrimental because it limited BART's financial capacity. The Letter of Credit also was costly and had a floating interest rate pegged to LIBOR, making it difficult to gauge the future financing cost to the Project. The breakthrough for replacing the Letter of Credit with "stand-alone" Grant Anticipation Notes came when AMBAC agreed to insure bonds without a backstop pledge."[5]

Moody's analysis of the BART FFGA-backed transaction indicated that TEA 21 firewalls and funding guarantees are an important element of making this financial structure viable:

"The total federal contribution, and the requirements to receive the contribution, are laid out in the FFGA. The total amount provided under all FFGAs cannot exceed the amount provided for in the New Starts program. TEA 21 lays out the

> *multi-year spending authorization for transportation projects through 2003, while [C]ongress has further authorized the collection of revenues of the Highway Trust Fund through 2005. The final year of funding for this project under the FFGA is 2006. Thus, three years of funding is subject to program reauthorization and collection of one year's revenues is not authorized. Moody's believes that the reauthorization risk is minimal, given historic funding levels, popular support for the transportation programs,* ***and the dedicated Trust Fund established for both highways and transit programs that cannot be redirected to other federal purposes.***"[6] [Emphasis added]

As the New Jersey and BART transactions demonstrate, the TEA 21 funding guarantees and firewalls are permitting Congress to "leverage" future appropriations committed under Full Funding Grant Agreements in the capital markets, allowing pay-out schedules to be extended and more projects to receive assistance from limited New Start funding.

Additional Costs Incurred When New Start Funds Are Not Guaranteed

Grant anticipation financing measures create interest expense for grantees and add complexity to the financial packages, all of which are affected when the FFGA pay-out schedule is not met by Congressional appropriations. This is the downside of ***not*** having a funding guarantee on individual commitments. The appropriations shortfalls for individual TEA 21 and ISTEA projects in progress are provided in Table 3 and total $343.6 million.[7]

As an example, Denver's Southeast Corridor, known locally as T-REX, has not received $22.6 million out of the $83.5 million that was due under the Full Funding Grant Agreement through FY 2002. The Denver RTD issued sales tax revenue bonds one year earlier than its financial plan anticipated to make-up the shortfall. T-REX is scheduled to open for revenue service in FY 2008. FTA currently anticipates that the last Section 5309 New Starts appropriations will not be received until FY 2009. The cost of the delay in funding thus far is estimated to be an additional $4 million in interest that will be borne by RTD.[8]

TABLE 3

Summary of FFGA Shortfalls By Project

TEA-21 Projects	(Shortfall) Surplus Through 2002
Tri-County Commuter Rail Upgrade (Florida)	($18,410,000)
San Diego Mission Valley East LRT	($39,393,955)
NJ - Newark Rail Link (MOS-1)	($294,287)
NJ Hudson-Bergen LRT (MOS-2)	$0
Portland, OR Interstate MAX	($39,209,339)
Denver Southeast Corridor	($22,577,350)
Memphis Medical Center Extension	($9,247,588)
Dallas North Central Extension	($1,925,127)
Pittsburgh Stage II LRT	($2,179,764)
Minneapolis Hiawatha LRT	($499,346)
DC/Maryland Largo Extension	($8,119,456)
Baltimore Central LRT Doubletrack	($5,246,218)
Chicago Douglas Branch Line	($2,577,071)
Chicago Union Pacific West	($3,609,600)
Chicago Southwest	$1,522,385
Chicago North Central	($5,580,800)
Salt Lake City CBD to University LRT	($1,158,531)
Salt Lake City Medical Center LRT	$0
Subtotal, TEA-21	($158,506,047)
ISTEA Projects Still In Progress	
San Juan Tren Urbano	($113,845,813)
Atlanta - Northline Extension	($999,173)
Los Angeles - North Hollywod (MOS-3)	($40,488,590)
San Francisco - BART to SFO	($6,435,835)
Salt Lake City South LRT	($718,006)
St. Louis - St. Clair County, IL Extension	($3,368,056)
NJ Hudson Bergen (MOS-1)	($19,198,678)
Subtotal, ISTEA	($185,054,151)
Total (Shortfall) Surplus Through 2002	**($343,560,198)**

Source: Federal Transit Administration, June 2002

* All "Prior" treated as one additional year

The rating agencies recognize that despite the delays, Congress' track record for honoring Full Funding Grant Agreements is positive, as demonstrated in this statement from Standard and Poors regarding New Jersey Transit's capital anticipation notes:

> *"While every approved project has received the scheduled amount of federal funds (with the exception of two canceled projects), the money has not always been received as scheduled, pursuant to the FFGA."*[9]

The $6.1 billion of guaranteed funding for Section 5309 New Starts under TEA 21 permits innovative financing transactions that accelerate delivery of new rail systems years faster than the pace of federal appropriations otherwise would permit. By allowing the federal share to be paid-out over an extended time frame, more projects have been able to enter the funding "pipeline." The benefits are: reduced construction costs, more geographically balanced programs from transit appropriations, and allowing taxpayers to ride these new systems years ahead of schedules driven by pay-as-you-go spending. On the other hand, shortfalls in Congressional appropriations against Full Funding Grant Agreements increase interest costs for grantees to cover the cash flow gaps, reduce credit ratings, and complicate the "financial engineering" required to issue grant anticipation debt.

The next example reviews the benefits of TEA 21 funding guarantees on maintaining a state of good repair at existing public transportation systems through federal formula assistance programs.

Guaranteed Funding Helps Leverage Formula Assistance

New Jersey Transit has issued approximately $1 billion of Certificates of Participation (COPS) to fund the acquisition of 1,244 buses, 200 passenger rail cars and 24 electric locomotives. The order placed with Motor Coach Industries funded by the COPS is reportedly the largest bus purchase ever made in the U.S.

The Certificates of Participation are a mechanism that permits New Jersey Transit to lease the buses and rail equipment. The lease payments will be made from Section 5307 Urban Area Formula Assistance. No other credit is pledged.

Why did FitchRatings give these transactions an "A" credit rating?

According to FitchRatings, TEA 21 funding guarantees:

- *"Low variability of federal funding levels for transit through 2003.*
- *Money allocated to transit cannot be reallocated for any other purpose without repealing the Transportation Equity Act for the 21st Century (TEA 21)."*[10]

In addition to New Jersey Transit, nine California transit systems, including the Los Angeles Metropolitan Transportation Authority have issued similar Section 5307-backed securities, although other revenue sources were also pledged in these cases. In evaluating the California credits, Moody's notes the TEA 21 funding guarantees:

> *"Moody's ratings incorporate legislative risk associated with the reauthorization and the annual re-appropriation of Section 5307 funding. The current federal authorizing legislation, the Transportation Equity Act for the 21st Century (TEA 21), which was enacted in 1998 and expires in FY 2003, authorizes $41 billion in federal funding for mass transit of which $36 billion is guaranteed."*[11]

The Florida Department of Transportation has helped local transit systems accelerate bus purchases with loans from its State Infrastructure Bank (SIB) to PalmTran, LeeTran and other transit operators. The SIB debts are backed by a pledge of future formula assistance that is, in turn supported by TEA-21's guaranteed funding provisions.

Fleet replacement and modernization is one of the most costly aspects of running public transport systems. It is a recurring need and the use of leases and certificates of participation to spread payments out over the life of the vehicles is a well-established practice in the financial markets.

According to APTA, since 1997, the average age of buses in service at transit systems across the United States has declined from 8.7 to 6.9 years, of light rail vehicles from 21.8 to 17.9 years and of vanpool vehicles from 3.3 to 2.3 years. These gains are directly linked to the stable, reliable funding provided under TEA 21.

In many respects, borrowing against future Section 5307 block grants is analogous to Advance Construction and GARVEE financing structures in the federal highway program. Assured funding for highways in TEA 21 has permitted nine states[12] to issue over $4.1 billion in grant anticipation debt to accelerate major capital projects.

Examples of projects being accelerated using these techniques include:

- Denver's Southeast Corridor, or T-REX Project, is being advanced with GARVEE bonds and includes over $1 billion of highway and light rail transit investment in a common corridor;

- The 120-mile reconstruction of New Mexico's Highway 44 was implemented in three years, rather than over two decades, using GARVEE bonds backed by guaranteed funding under TEA 21;

- Arizona's $50 million Grant Anticipation Notes accelerated improvements to the massive Interstate 10 interchange;

- Ohio used $70 million of GARVEE bonds to accelerate improvements to I-760; and

- California has applied $750 million of Advance Construction Authority to accelerate improvements to the Caldecott Tunnel, provide Golden Avenue/SR 125 sound walls and seismic retrofits, and replace 1,300 bridges.

FitchRatings recently described the implications of TEA 21 funding guarantees in an analysis of grant anticipation debt backed by federal transportation grants:

> *"The ability to achieve a quasi-securitization of federal surface transportation grants is predicated upon a number of important considerations. While these include the established nature of federal surface transportation grants to the states and state legislative authority to leverage these funds, equally important are budgetary firewalls for highway and transit under TEA 21."*
>
> *"..the elimination of budgetary firewalls for transit, however, could significantly reduce the margins of protection under New Jersey Transit Corporation's Certificates of Participation which are secured by FTA's Section 5307 formula funds... the current "A" rating level assumes the continuation of budgetary firewalls, the absence of which could have negative consequences for this credit."*[13]

By staying the course and continuing TEA 21's funding guarantees for formula-based programs, Congress will give comfort to the rating agencies regarding reauthorization risk, potentially allowing longer maturities and reduced interest costs. These benefits are also likely to be enjoyed in the federal highway program by broadening acceptance of grant anticipation financing, such as GARVEE bonds.

Smoothing cash flow and procurement cycles through guaranteed funding also stabilizes the often precarious financial condition of domestic bus and rail car suppliers. TEA 21's funding guarantees provide transit industry suppliers with an important incentive to invest in new products and technologies that will improve the quality, safety and cost effectiveness of public transportation, while helping agencies comply with federal mandates for Buy America, clean air and access for the disabled.

An important example identified in research thus far involves a major bus manufacturer:

> *"NABI has spent about $10 million in research and development to date on its CompoBus program. It is a revolutionary product incorporating a composite unitized body and chassis taken from the FTA-funded Advanced Technology Transit Bus Project. While the company has been very high on this project, NABI would not have undertaken the aggressive development had it not been for the stable and healthy funding levels TEA 21 has guaranteed. Such stability and predictability is critical to assessing the business risk of undertaking R&D projects in any industry, but particularly in U.S. public transport where it has been so lacking for so many years."*[14]

TEA 21 funding guarantees are providing new tools to assure timely fleet replacement and capital renewal in the public transportation industry. Formula assistance programs are the bedrock of federal grants for public transportation and the guarantees have provided a stable, reliable base of revenue for implementing asset maintenance and replacement programs.

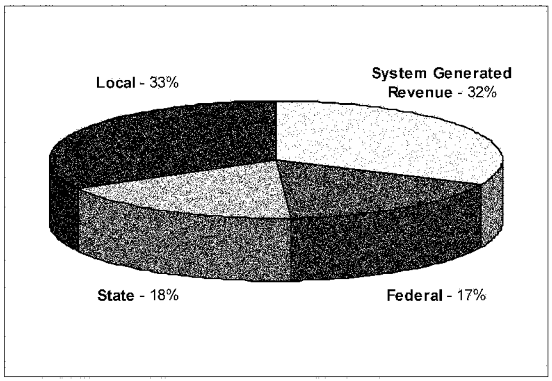
The following chapters examine how the TEA 21 funding guarantees have helped to attract new sources of stable, reliable state and local funding, and to make the capital planning and budgeting process more efficient. Not only are the TEA 21 guarantees allowing federal funds to be leveraged in the financial market, they are increasing cash flows through higher levels of non-federal matching funds and efficiencies in implementing capital programs.

Guaranteed Funding Leverages Additional Non-Federal Funding

Stable, reliable federal funding is attracting even higher levels of stable, reliable non-federal funding, largely in the form of dedicated sales taxes at the local level.

Public transportation in the United States is supported by four revenue sources – federal funds (about 17 percent), state funds (about 18 percent), local funds (about 33 percent) and system-generated income, such as fares, concessions, advertising, and real estate development (about 32 percent).[15]

CHART 1
All Sources of Transit System Revenue – 2000



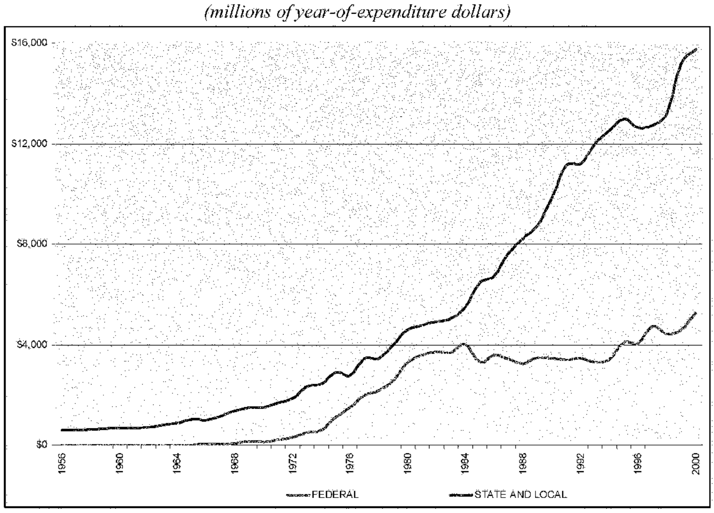
Source: National Transit Data Base

The current distribution of transit funding between federal, state and local governments was not always the case. Federal funds comprised 43 percent of public grants to mass transit systems in the early 1980's when about $8.5 billion in external support was provided. By 2000, the level of subsidies to the nation's transit systems had grown to $21 billion, but the federal share had ***declined*** to 25 percent.

Chart 2 shows the historic trend in funding for public transportation from federal and non-federal sources. The data demonstrates that federal grants for public transit have been matched to an increasing extent by state and local revenues.

When the focus of analysis is narrowed to capital investment programs, a similar picture emerges. In 2000, about 31 percent of transit outlays were for capital investment and the balance were applied to operations. Federal grants represented over 58 percent of capital revenues for public transportation in 1990; however, by 2000 the federal share had declined to 47 percent.

CHART 2
Federal and Non-Federal Funding for Public Transportation
(millions of year-of-expenditure dollars)



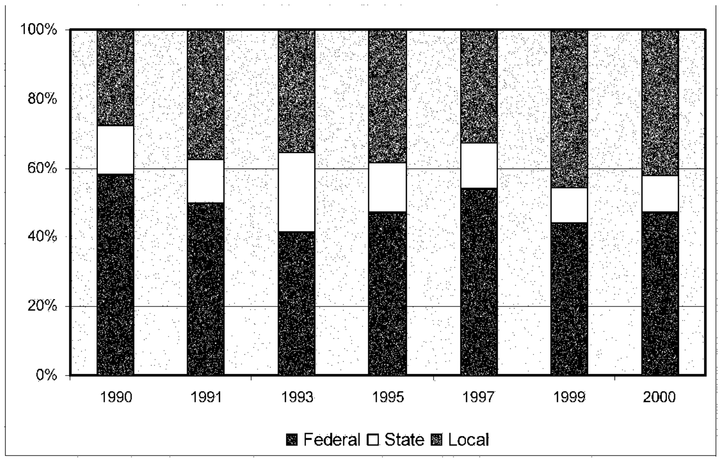
Source: National Transit Data Base and FY 2003 Federal Budget

Between 1990 and 2000, the Federal Transit Administration estimates that federal capital funding for public transportation grew at an average annual rate of 5.0 percent. Over the same time period state funding increased by an annual average of 4.2 percent, while local contributions climbed by ***11.7 percent per year.***

Chart 3 confirms that the rapid increase in federal support for capital investment in the transit industry has been more than matched by non-federal revenues – local revenues have increased their share of capital funding from about 28 percent in 1990, or about $1.25 billion, to 42 percent, or $3.8 billion in 2000.

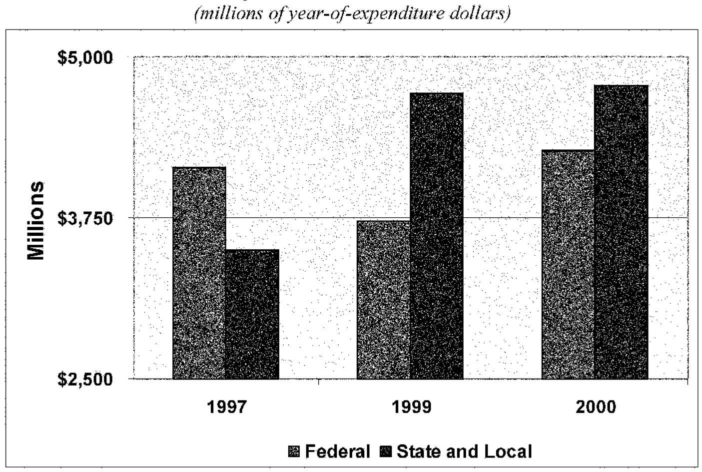
For data covering the TEA 21 authorization period, between 1997 and 2000 local funding for public transit capital programs jumped from $2.5 billion to over $3.8 billion, while federal commitments increased about $137 million and state outlays were virtually unchanged. The net results of these shifts are shown in Chart 4.

CHART 3
Funding Shares for Transit Capital Investment



Source: National Transit Data Base

CHART 4
Transit Capital Commitments Since TEA 21
(millions of year-of-expenditure dollars)



Source: National Transit Data Base

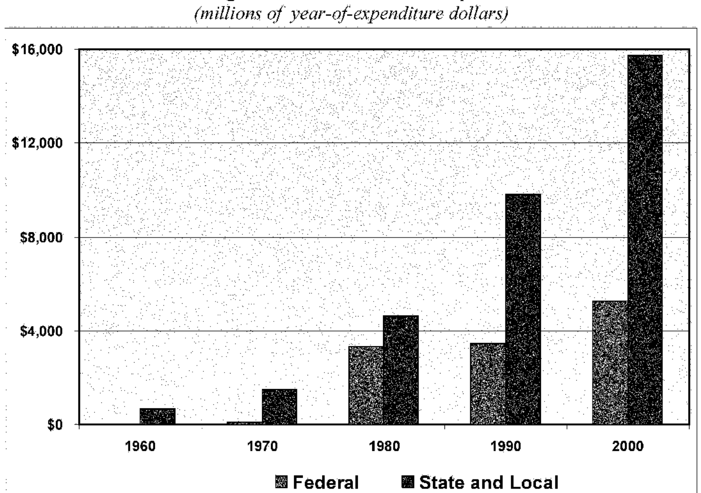
Perhaps most importantly, these trends are unlikely to change because the bulk of local revenues are derived from dedicated sources. Sales taxes alone represented over 40 percent of local funding for public transit in 2000. Dedicated sales taxes for transit generated $4.8 billion in 2000, compared to total federal support of $5.3 billion.[16]

Even as federal appropriations for public transportation increased under ISTEA and TEA 21, the federal share of all public transportation outlays has ***declined*** from 43 to 25 percent over the past 20 years. While federal support grew almost 60 percent in year-of-expenditure dollars over the past two decades, state and local support for transit operations and capital investment has grown ***240 percent.***

The ability of stable, reliable federal funding to leverage even larger increases in matching grants is one of the true success stories of TEA 21.

Chart 5 summarizes this discussion by taking snapshots of total federal and non-federal transit funding levels at the start of each decade since 1960.

CHART 5
Funding Levels for Public Transportation
(millions of year-of-expenditure dollars)



Source: National Transit Data Base

The next example shows how the guaranteed capital funding provided under TEA 21 is able to increase efficiency and cut costs through better management and planning of transit capital investment programs.

Guaranteed Funding Fosters Multi-Year Capital Programming

To prevent back-logs of deferred maintenance, public transit systems must constantly reinvest in their rolling stock and fixed facilities. The Section 5307 Urban Area Formula Assistance and Section 5309 Fixed Guideway Modernization formula programs are the funding base for these efforts.

Previously, annual federal funding fluctuations made it difficult for agencies to develop multi-year programs that sequenced capital projects efficiently in order to minimize cost, as well as inconvenience to customers during construction. Large, complex programs frequently had to be broken down into small components in order to fit available budget resources, stretching-out implementation periods and increasing costs. In some cases, grant resources had to be "warehoused" for several years in order have sufficient cash in hand to let the necessary contracts.

TEA 21's multi-year funding guarantees are revamping past practices. Comprehensive asset inventories are being undertaken and periodic renewal programs are being let according to the most time and cost-efficient schedules, rather than being constrained by the annual budget process. Contracts are being managed to take advantage of windows of opportunity in the marketplace.

The New York Metropolitan Transportation Authority (MTA) has used multi-year capital plans developed in partnership with the State of New York and the Federal Transit Administration for over two decades. The MTA studied the benefits of multi-year capital programming compared to year-to-year budgeting and reached the following conclusions:

> *"Multi-year capital programs facilitate development of a strategic financial plan, better operating budgets and will support management attention to customer service, rather than constant budget revisions in a climate of crisis. Stable, multi-year capital funding envelopes enable agencies to:*
>
> - *Protect previous investment in the transportation network;*
> - *Respond to regional and national conditions, such as changing mobility needs, economic incentives, environmental policies and new technology;*
> - *Balance their investments and address state-of-good-repair, normal replacement and system improvement needs on a scheduled basis, instead of focusing solely on emergencies;*
> - *Advance related projects concurrently, even though some may be lower priorities than others, in order to achieve economies of scale and to minimize construction-related service disruptions. Such clustering makes economic sense and minimizes inconveniences to passengers;*
> - *Have confidence that investments in major new capacity will neither be at the expense of necessary rehabilitation work nor end up as incomplete projects;*

- *Evenly schedule project awards throughout the year, which ensures a more competitive bidding climate and better contract prices;*
- *Incorporate long term cash management strategies which in turn generate additional resources to support the capital program; and*
- *Provide the financial markets with certainty that promised capital investments will be delivered, thus supporting higher bond ratings and lower borrowing costs."*[17]

The following case studies drawn from experiences in Pittsburgh, PA and Washington, DC underscore the benefits of guaranteed, multi-year capital programming recognized by the New York MTA.

Case Study: Port Authority of Allegheny County's Light Rail Construction

Pittsburgh's Port Authority of Allegheny County, programmed more than ten years of its Section 5309 Fixed Guideway Modernization funds in support of a $127-million reconstruction of the existing light rail system and a $386-million restoration of a former light rail corridor.

Almost $130 million, or one-third of the funding for the Stage II Light Rail System, is drawn from commitments of Section 5309 Fixed Guideway Modernization formula grants. Only 26 percent of this New Start project is funded from the Section 5309 New Starts program.

After the Stage II light rail system moves into revenue service, Section 5309 Fixed Guideway Modernization grants may be used to make debt service payments on bonds issued by the Port Authority of Allegheny County for fixed guideway improvements. The bonds are currently backed by Pennsylvania's Act 26 dedicated revenues. Freeing the future Act 26 funds will open new options for investing Port Authority's dedicated revenue streams in bus replacement and additional rail car modernization.

The Port Authority's dedicated revenue bonds are advancing almost $65 million of Section 5309 New Starts and Section 5309 Fixed Guideway Modernization funds to permit completion of the Stage II Light Rail Project by June 2004 – 22 months before the last federal New Starts grants are now anticipated.

Pittsburgh's Section 5309 Fixed Guideway Modernization grants are also underwriting over 70 percent of the modernization costs for the existing, Stage I system, including: electrical power distribution, signalization and a $70 million overhaul of the existing fleet of rail cars. The ability to integrate the Stage I Rehabilitation and the Stage II Light Rail programs financially and programmatically through the TEA 21 funding guarantees has allowed contracts to be let on a system-wide basis that have reduced costs, avoided future compatibility issues and permitted increases in capacity on lines that are standing room-only today. At the same time, the funding package enables all of this work, including the rail car overhaul, to be scheduled with no disruption of vital rail service to 25,000 weekday riders.

Case Study: Washington Metropolitan Area Transit Authority

On a more massive scale, the Washington Metropolitan Area Transit Authority (WMATA) is undertaking a 10-year, $2.3 billion capital renewal program to maintain a state of good repair as assets reach the end of their expected lives. These programs include bus replacement and overhauls, escalator and elevator replacement, tunnel and station maintenance, bus garage and rail shop improvements, track and structure rehabilitation and systems upgrades. WMATA's engineering analysis showed that if the program could be enlarged in the first few years to include purchase of new rail vehicles and the overhaul of existing rail cars, service levels could be improved and procurement costs reduced because of economies of scale.

Accelerating the rail car elements required over $600 million of additional funding in the early years of the program to let the contracts and meet cash flow requirements. WMATA was able to draw on its experience building the system to devise a financing strategy for the needed funding.

To complete construction of the original, 103-mile system WMATA undertook a Fast Track Program based upon an optimal construction schedule, rather than letting contracts according to projected year-to-year appropriations. At that time, a $600 million line of credit from commercial banks was arranged to support the accelerated schedule. Fast Track ultimately permitted fifteen years of construction to be compressed into less than eight years. The remaining segments were originally budgeted at $2.7 billion and the accelerated schedule was projected to reduce construction costs to $2.1 billion. The financing allowed WMATA to take advantage of favorable conditions in the construction market during the mid-1990s and to complete the necessary work at a greater savings than even the revised budget anticipated.

To support accelerating the renewal program now underway, WMATA secured a $600 million loan guarantee under the TIFIA Program created in TEA 21. The TIFIA loan structure is built upon TEA 21's guaranteed funding levels for Section 5307 Urban Area Formula Assistance block grants, Section 5309 Fixed Guideway Modernization formula funds, TEA 21 flexible funding transfers, and related matching funds from the local jurisdictions. Benefits from economies of scale, improved service levels and lower financing costs are anticipated.

TEA 21's guaranteed multi-year funding has permitted transit systems across the United States to better plan and implement their capital programs. The benefits are increased efficiency, reduced costs from contract timing and packaging, an improved balance between state of good repair and capacity enhancement projects, and less inconvenience for riders during construction.

Notes

[1] This list does not include the $500 million Full Funding Grant Agreement for the Seattle Central Link LRT that was suspended pending revisions.

[2] Memorandum from Gene Spinelli, Paine Webber, Inc., April 8, 2002

[3] Moody's Rating – *New Jersey Transit Corporation Capital Grant Anticipation Notes, Series 2000B and 2000C*, Moody's Investors Service, November 8, 2000

[4] FitchRatings – *New Jersey Transit Corporation, Capital Grant Anticipation Notes, Series 2000B and 2000C*, FitchRatings, November 9, 2000

[5] Correspondence from Scott L. Schroeder, March 18, 2002

[6] Moody's Rating – *BART SFO Extension Bonds (FTA Capital Grant) 2001 Series A*, Association of Bay Area Governments, CA, Moody's Investors Service, February 15, 2001.

[7] Approximately $154 million of the shortfall is attributable to the Los Angeles North Hollywood and the San Juan Tren Urbano projects which have encountered implementation difficulties.

[8] *Engineering News Record*, Project Financing – Bonds Shore Up Denver Megajob, April 8, 2002, page 14

[9] Standard and Poors Rating – *New Jersey Transit Corporation Capital Grant Anticipation Notes, Series 2000A*, Standard and Poors, September 5, 2000, page 2

[10] FitchRatings – *New Jersey Transit Corp Certificates of Participation Series 2000B,* FitchRatings, September 20, 2000, page 2

[11] *Section 5307 Transit Financings in the State of California: Update 2000*, Moody's Investor Services, November 2000, page 3

[12] Arizona ($185 million), Arkansas ($360 million), Colorado ($1.1 billion), Massachusetts ($1.2 billion), Michigan ($400 million), Mississippi ($200 million), New Mexico ($119 million), Ohio ($190 million) and Virginia ($400 million) – Source: FitchRatings

[13] *GARVEEs: Popularly Leveraging Federal Transportation Grants*, William Streeter and Cherian George, FitchRatings, April 30, 2002, page 10

[14] Correspondence from Cliff Henke, NABI, March 27, 2002

[15] National Transit Data Base, 2000 data

[16] National Transit Data Base, 2000 data

[17] Internal Memorandum provided by Gregory S. Kullberg, Director, Capital Program Budgets & Administration, New York Metropolitan Transportation Authority, undated