S. HRG. 110–1192

OVERSIGHT OF THE U.S. DEPARTMENT OF TRANSPORTATION

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

OCTOBER 18, 2007

Printed for the use of the Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

78–189 PDF WASHINGTON : 2013

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) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

DANIEL K. INOUYE, Hawaii, *Chairman*

JOHN D. ROCKEFELLER IV, West Virginia	TED STEVENS, Alaska, *Vice Chairman*
JOHN F. KERRY, Massachusetts	JOHN MCCAIN, Arizona
BYRON L. DORGAN, North Dakota	TRENT LOTT, Mississippi
BARBARA BOXER, California	KAY BAILEY HUTCHISON, Texas
BILL NELSON, Florida	OLYMPIA J. SNOWE, Maine
MARIA CANTWELL, Washington	GORDON H. SMITH, Oregon
FRANK R. LAUTENBERG, New Jersey	JOHN ENSIGN, Nevada
MARK PRYOR, Arkansas	JOHN E. SUNUNU, New Hampshire
THOMAS R. CARPER, Delaware	JIM DEMINT, South Carolina
CLAIRE MCCASKILL, Missouri	DAVID VITTER, Louisiana
AMY KLOBUCHAR, Minnesota	JOHN THUNE, South Dakota

MARGARET L. CUMMISKY, *Democratic Staff Director and Chief Counsel*
LILA HARPER HELMS, *Democratic Deputy Staff Director and Policy Director*
CHRISTINE D. KURTH, *Republican Staff Director and Chief Counsel*
PAUL NAGLE, *Republican Chief Counsel*

CONTENTS

WITNESSES

APPENDIX

OVERSIGHT OF THE U.S. DEPARTMENT OF TRANSPORTATION

THURSDAY, OCTOBER 18, 2007

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

The Committee met, pursuant to notice, at 10:08 a.m. in room SR–253, Russell Senate Office Building, Hon. Frank R. Lautenberg, presiding.

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

Senator LAUTENBERG. Senator Inouye is detained, and we want to, with his suggestion, get this hearing started. And so, we'll do just that. The starting time is not necessarily the significant time, it's the finishing time that is most important to him. We've got business to do and things to take care of.

I want to open the hearing. Welcome, Secretary Peters. I'm going to begin by saying that I am disappointed that President Bush continues to pour his energy into ideology instead of taking the steps necessary to solve our country's transportation problems. It seems clear that this administration wants to raise taxes on travelers and widen the divide between those who can afford to pay more for their travel and those who can't. For example, we know that the skies over the New Jersey and New York region are crowded with flights, but, instead of transportation—the Department of Transportation using its authority to require realistic flight schedules to reduce delays, the administration wants to charge travelers more money to fly during certain times. This scheme is called "congestion pricing." Should just be called "higher fares," and then everybody understands exactly what we're talking about.

Now, we saw this same ideology this past summer, when the Secretary offered New York City $355 million in Federal funding if they would increase tolls on people entering the city. Now, a couple of things. For people who commute from my state, who have to drive because they don't have, or choose not to use public transportation, can't find convenient times to travel there, the costs for parking are enormous. And now, to suggest that we're going to charge these people higher tolls, it doesn't really—make a lot of sense, nor is it, frankly, possible.

Charging higher tolls with gas prices at record levels is not in the best interest of families who need to commute to work. From our bridges to our airports to our railroads, we've got real transportation problems. The holiday travel season is almost upon us. After

last year's debacle at the airports, I'm concerned about our aviation system. Delays at our airports are atrocious, and customer service has reached new lows. The Department of Transportation needs to do a better job in responding to travelers who have complaints. Now, I've worked on the Appropriations Committee to include funding in next year's budget to do precisely that.

Also, instead of preparing for the mass exodus of retiring air traffic controllers by hiring and training new ones, this administration is showing them out of the door—shoving them out of the door—by imposing new working conditions instead of bargaining with them.

Our highway and bridge funding needs are enormous. We received a tragic reminder of the condition of our bridges after the collapse of the I–35W Bridge in Minneapolis this summer, and we've got to adequately fund our transportation infrastructure in the next highway bill.

Both the House and Senate recently passed a strong transportation appropriations bill, but the President has threatened to veto it. Now, along with improvements to our roads, bridges, and aviation system, any long-term transportation system must also improve passenger rail. Senator Lott and I have a bill that would do just this. And, once again, the administration has offered ideology in this debate on the future of our rail system, and has tried to bankrupt Amtrak. Over a 3-year period, there was a specific design to bankrupt Amtrak. And we have 24 million people a year who are using Amtrak. Are we going to tell them to go out and hitchhike? The highways are too crowded. You can't get a ride; and it's too slow, if you do. We are anxiously awaiting our bill coming to the Senate floor.

So, it's time for President Bush to put the money and the resources where the problems are and offer practical and meaningful solutions to the transportation problems that have increased under his watch.

And, with that, I'd call on the Senator from Alaska, the Ranking Member of the Commerce Committee. Welcome.

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

Senator STEVENS. Well, thank you very much. Sorry to be slightly late.

Madam Secretary, I do thank you for being here today, and I want to congratulate you on what you've done in such a short period of time. We do have some substantial problems in our transportation systems, as you have indicated. The decline of our transportation systems is apparent. The aging of America is upon us because of so many things happening at the same time. I look forward to your comments today, and your prepared statement.

Let me point out that we have some substantial problems in our state, not the least of which is that we have fewer roads than Vermont. Vermont has 2 percent of the land that we have in Alaska, and yet, they have more roads than we do. We have a substantial problem with airports. We still have some airports in the northern part of Alaska that do not have runway lights, and yet, that's the only means of egress and access to those small villages.

And, in the wintertime we've had to improvise in many ways to get medevac planes into those places. We also have half the shoreline of the United States, and we have fewer ports I think, than my friend here has in his——

Senator LOTT. Seems fair to me.

Senator STEVENS.—in his state.

[Laughter.]

Senator STEVENS. Clearly, the problem is that we are an enormous State with enormous transportation problems. So, we look forward to working with you. My dream is to, before I leave the Senate, extend the Alaska Railroad over to Canada, so I'd like to take you up sometime to show you that 200 miles is left before we hook up the railroad systems of the northern part of this continent.

I see the Chairman's here. I'll ask that my statement be printed in the record in full.

Mr. Chairman?

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

The CHAIRMAN [presiding]. Without objection, so ordered.

[The prepared statement of Senator Stevens follows:]

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

Thank you Chairman Inouye for holding today's hearing. We have not had Secretary Peters before the Committee since her nomination hearing and I am glad she could join us today.

The State of Alaska has a unique transportation infrastructure system along with transportation challenges that most in the Lower 48 do not have to address.

To understand the infrastructure challenges it is important to take into account Alaska's size and environment. Alaska's land mass is 591,004 square miles, which is more than twice the land area of Texas. East to west, Alaska crosses what would normally be four time zones. North to south, Alaska stretches approximately the distance from the Gulf Coast to the Canadian border.

Environmentally, the State contains 17 of the 20 highest mountain peaks in the U.S. Much of the State is designated wet lands and this along with the long winters makes for a short and challenging construction season.

While Alaska is the largest state in land area, it only has approximately 14,000 miles of public roads, which is equivalent to the miles of road in Vermont, a state with less than 2 percent of the land area in Alaska.

Furthermore, over 70 percent of Alaska's communities are not connected to a land highway system. This lack of highway infrastructure creates a situation where commuter and air taxi flights routinely serve as the traditional road system, making aircraft essential for personal, commercial, cargo, and mail transportation to most Alaskan communities.

Alaska lies under 20 percent of the airspace in the National Airspace System (NAS). Alaska ranks sixth in the total number of airports with 583, including heliports and seaplane bases, a number that equals approximately 3.5 percent of the total number of airports in the U.S. These figures do not include the many places pilots land where there is no constructed facility or published airport.

According to the FAA, each year air carriers in Alaska transport the equivalent of four times the state's population, compared to about 1.7 times the U.S. population carried by air operators in all other states.

Proudly, because of its unique obstacles, Alaska has become a major test bed for new transportation systems and technology. The State has done well by innovating out of necessity. It is important the Department understands these challenges and makes a concerted effort to work with this Committee to improve the states' transportation infrastructure, rural access and construction challenges.

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

The CHAIRMAN. I, too, will place my opening statement in the record.

[The prepared statement of Senator Inouye follows:]

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

Transportation fuels our economy and improves the quality of our lives. It permits industry to move goods and people to travel both across our Nation and globally. Transportation is an economic catalyst that drives our Nation's prosperity.

While the U.S. transportation system is first-rate, it is facing substantial challenges that threaten to gridlock commerce. Many of our highways, bridges, and tunnels, built in the middle of the last century, are nearing the end of their design life and must be rebuilt or replaced.

The tragic Minneapolis bridge collapse this past August highlighted a growing problem across the entire nation, and serves as a wake-up call to the crisis facing all of our transportation modes and their essential infrastructure.

Simply replacing aged infrastructure will not be enough to meet the needs of our Nation in the coming century. We also must expand the capacity of our transportation systems to accommodate growing commerce and an ever-increasing population. The growing daily congestion, whether on our highways or railways, or in our ports or airspace, is problematic for the public and American businesses, and is steadily becoming worse. More highway, aviation, and port infrastructure must be built, more railway tracks must be upgraded and laid, more intermodal connections must be developed, and the entire system must be managed and maintained more efficiently.

In addition to addressing the improvement of the mass transportation modes, Congress is on the verge of addressing fuel economy standards for the first time in several decades. The opportunity to address our growing dependence on foreign oil and reduce our greenhouse gas emission is here, and I look forward to partnering with the Members of the House of Representatives and with the Department of Transportation (DOT) to have the fuel economy provisions the Senate included in H.R. 6 sent to the President and signed into law.

Improving safety, of course, is as important as taking action to improve capacity and efficiency, and the two must proceed hand-in-hand.

In some areas, the DOT has made good progress on this mission. The Federal Aviation Administration (FAA) has achieved an unprecedented safety record over the past several years, and the Federal Railroad Administration (FRA) has helped reduce railroad accidents. But the safety of other areas of our transportation system has not seen as much progress. Highway and truck fatalities have either risen or remained stubbornly high in recent years, and efforts by the Federal Motor Carrier Safety Administration (FMCSA), in particular, appear not to be achieving the safety improvements that we expect and that the driving public deserves. While the National Highway Transportation Safety Administration (NHTSA) has been executing the rulemakings mandated by SAFETEA–LU, there are questions about the efficacy of the rules, especially in the areas of roof crush and occupant safety.

I hope to hear from Secretary Peters that the DOT will redouble its efforts to improve safety and remain vigilant in maintaining the safety improvements we have achieved so far.

Finally, scarce fiscal resources compound the challenge of efficiently replacing and expanding our aged infrastructure. The Congressional Budget Office projects the Highway Trust Fund will be depleted by the end of this decade, and the Government Accountability Office has raised questions about the ability of the Airport and Airway Trust Fund to sustain needed funding for the FAA and pay for the modernization of the air traffic control system.

The DOT must act now to avoid catastrophic breakdowns across all transportation modes in the system. Congress must find the resources to fund new capacity and safety programs, and provide diligent oversight to ensure goals are met. I look forward to the testimony of Secretary Peters and Inspector General Scovel today and plan to work closely with my colleagues in the Senate to ensure the challenges our transportation system faces are met.

The CHAIRMAN. The only comment I have is that, like Senator Stevens, I do a lot of traveling, and it gets a bit tiring when you have to sit around. My last trip to New York City took me 5 hours going and 6 hours coming back. Of the 5 hours, I spent 3 hours on the tarmac.

Senator LAUTENBERG. Mr. Chairman, without interrupting, try Amtrak.

[Laughter.]

Senator LAUTENBERG. Oh—to New York? I thought you were talking about from New York to here.

The CHAIRMAN. New York, yes. Maybe I should. But they get delayed, also.

Senator LAUTENBERG. You're the Chairman, sir.

Senator STEVENS. I do interrupt. What you should do is join me in asking the airlines to assign their pilots and crew to be in the city they're going to fly out of on the night before. All of these delays I've faced all summer have been because the pilots or other members of the crew have been in some other city.

Pardon me.

The CHAIRMAN. Would you support us, Madam Secretary?

Secretary PETERS. Mr. Chairman, I certainly understand the challenges with air traffic, and we are taking definitive steps to deal with the congestion and the delays in air travel.

The CHAIRMAN. I have just one question before I call someone else. I have a shoulder replacement, and it's been there with me for many years now. When I received the surgery, they gave me a card, and said, "Just show it to the airline people and they'll let you go through." That card is no longer in use, because, whenever I show it, that's when I get the full inspection.

So, with that, may I now recognize——

Senator STEVENS. She hasn't made her statement.

The CHAIRMAN. Who?

Senator STEVENS. She hasn't made her statement.

The CHAIRMAN. Oh, I'm sorry. Please.

Senator LOTT. Mr. Chairman?

The CHAIRMAN. Yes?

Senator LOTT. Before our special witness here today makes her statement, I would like to just make a very brief opening statement please, because I'm anxious to hear her statement, too.

The CHAIRMAN. Oh, please. Yes.

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

Senator LOTT. But, Madam Secretary, thank you for being here. Thank you, Mr. Chairman, for having this hearing. I think it's very important that we do this.

I think you're doing a great job as our Secretary, and I want you to do more, I want to empower you to do more. I am firmly convinced that one of the areas where the Federal Government really does have a key role is in the transportation area. Lanes, trains, planes, ports, and harbors are absolutely critical and essential for our future economic development. But I do think that you, as our Secretary, and this administration should be more proactive. We need less, you know, response or reacting to what we're doing. You should be pulling us, but we're pulling you. When it comes to the highway bill, when it comes to Amtrak, when it comes to aviation, we're pushing the envelope. And I wish y'all would get out ahead of us and challenge us more and get the White House and the administration to give a higher priority to transportation.

I don't mean that to be as critical as it sounds, but if you don't act, we will do it, eventually. And these things, like the New York

airspace, I know that's complicated. It's not easy to do. But we've got a problem there. You're going to have to deal with it. Cross-border trucking, I supported you on that, but we haven't pulled that off. But those are small pieces of a bigger picture. And I just wish that you would really, really push a lot more and help. We need an Amtrak bill. The Senator from New Jersey and I have been working on this for, I don't know, 5 years, and we've got a commitment for it to come up, but we need you to help us get Amtrak the flexibility it needs, the reform it needs, and the money it needs. I'm not a guy to get huge benefit from Amtrak in my State, but it makes common sense that we have this form of transportation available in America. Planes and lanes can only do so much. So, I challenge you to be aggressive. And if you'll be aggressive, we will help you.

Meanwhile, thank you for what you do. We appreciate the fact that you get around the country, you don't just stay holed up in the Ivory Tower over there at the Department. And we want you to do more.

Thank you, Mr. Chairman.

[The prepared statement of Senator Lott follows:]

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

Mr. Chairman, thank you for holding this hearing. I have long believed that an efficient transportation system is vital to our Nation's prosperity. I also believe that improving transportation is vital at the State and local level to promote economic development. That is why I was especially pleased when the President nominated a former state transportation secretary to be the Federal Secretary of Transportation.

Madam Secretary, the challenges you and the Department of Transportation face are difficult and multi-faceted. And you also have plenty of folks second guessing you and looking over your shoulder. So I want to commend you for the effort you have made to reach out to this committee when working on many of these issues.

Over the summer a great deal of attention was placed on the aviation congestion and delays in New York. I think we all realize that something has to be done before next summer to ensure we don't see a repeat. But I hope that whatever you do for next summer is not seen as a permanent solution. I think that the long term solution for New York is increased capacity and a more modern air traffic control system. For example, you have completed a redesign of the New York airspace that the Department estimates will increase capacity by 20 percent. I would urge you to implement that design as quickly as possible. I have heard estimates of as long as 5 years to get all of the benefits—that's really too long.

As the Department studies this problem, I hope that you consider the effects of any solution on: consumer choice; ticket prices; and service to smaller communities. For better or worse, small communities are dependent on the hub and spoke system. If we start constraining capacity at hubs rather than increasing capacity, the first flights that will be dropped will be the lower volume flights from small communities. The 747 full of business travelers from London is going to be able to pay a pretty hefty congestion fee—a regional jet coming from a smaller community will not be able to pay much. I am under little illusion that my State is going to have much in the way of direct flights to airports in the New York area. But my State does rely on other hubs, such as Atlanta, Memphis and Dallas-Fort Worth, for connections. These are all busy airports that will see increased congestion in the future if projected traffic growth materializes.

We should not forget that the best way to address the burden to the air space is to support the Next Generation Air Transportation System. The entire aviation system needs an overhaul. We need a permanent solution. I want to work with you on passing an FAA Reauthorization bill that provides the financial and programmatic tools the FAA needs to modernize.

Thank you and I look forward to the witness testimony.

The CHAIRMAN. Thank you.

Senator Klobuchar?

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

Senator KLOBUCHAR. Thank you, Mr. Chairman.

I can attest firsthand that Secretary Peters does not stay holed up in her Ivory Tower. We spent a lot of time together in Minnesota this summer after the tragedy with our I–35W Bridge, and I really appreciated how practical you were and how you were able to work with everyone from the Governor to the Mayor to our Congressional delegation. You helped us with that emergency funding immediately. I think you saw how quickly our State responded. And now, of course, we're working on the appropriations, which I just urge you to bring the message to the President that we'd like the transportation bill upheld.

What I said that day when we were standing next to each other in front of that bridge was that a bridge just shouldn't fall down in the middle of America. I continue to believe that, and I think that if there was any silver lining to our tragedy, it's that it triggered a national discussion about infrastructure investment, not just in bridges, but also in roads and in rail and, as Senator Lott pointed out, in harbors, in ports, and our entire transportation infrastructure.

As President Kennedy once said, "building a road or highway isn't pretty, but it's something our economy needs to have." I would like to make one point today, and I'd say that there is nowhere that that's truer than in rural America. We see this rejuvenation and revitalization in rural America, from wind farms to ethanol plants, and, at the same time, these industries are placing great demands on our transportation infrastructure. The U.S. Department of Agriculture estimates that truck freight in rural America is going to double by the year 2020. You take ethanol, just as a specific example, an average square mile of land in southern Minnesota, which now generates the equivalent of 80 loaded semi trucks of grain per year, could soon produce double that, 160 loads per year. And the continuing trend toward greater reliance on trucking to support these industries raises concerns about the wear and tear, not only on our bridges, but on our roads. Many of these roads and bridges were built before this trend was evident, and they were not designed for this type of traffic.

I also support Senator Lautenberg's work with rail and Amtrak, and I'd like to say, from a shipping standpoint with rail, we have some major problems in the rural parts of our country for captive shippers. Senator Dorgan and Senator Rockefeller and Senator Vitter and I have a bill focused on that, because we believe there's not a level playing field for our captive shippers. We have numerous examples of places in Minnesota, such as paper mills that are trying to ship their goods, and it's cheaper for them to actually import—from their plant in Europe—to Indiana by plane than it is to send them down by rail. And some of that is because they are captive shippers, the way they've priced things out, is difficult for shippers to contest the prices now, and how much money they have to even make a claim is a problem.

So, in the end, I think we need to commit to broadening our transportation options, developing the right mix of multimodal solutions to serve our emerging needs, while maintaining our existing system of roadways. I believe this is going to include a mix of high-occupancy vehicle and high-occupancy toll lanes, rapid bus transit, and, of course, light rail.

At the moment, we are heading into a 21st century economy on 20th century roads and rail. I'd say the same can be said about our airports.

I appreciate you being here today, Madam Secretary. Thank you for your time. We look forward to hearing what you have to say.

The CHAIRMAN. Thank you.

Senator Thune?

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

Senator THUNE. Thank you, Mr. Chairman.

Thank you, Madam Secretary, for being here today. And, as, I think, maybe one or maybe two states in the country that don't have Amtrak, we would take direct air service in lieu of Amtrak if there is a bill that allows for that. But we have a lot of infrastructure problems, as you know, in rural areas of the country, and this summer's tragic events in my neighboring state of Minnesota did bring to light a very stark reality for our country, and that is that our aging infrastructure is putting our citizens at risk, and action needs to be taken to address the problem.

Of our Nation's 600,000 bridges, we're told that 12 percent, or about 72,000, are classified as structurally deficient as of 2007. And I would argue that the highest percentage of those structurally deficient bridges are going to be found in rural areas, and I think the data supports that. And, in fact, while deficiencies in most classes of bridges have actually declined over the past decade, deficiencies of interstate bridges in rural areas have actually increased. So, to address the problem, Congress and the administration are going to need to get together, and must place a high priority on maintenance, inspection, reconstruction, and replacement of our aging transportation infrastructure in the United States, and we need to consider new and innovative ways to find transportation—to fund transportation projects at the local, State, and Federal levels. And I also recently introduced a piece of legislation, along with Senator Wyden and other members of this committee, that—it's a bipartisan bill; it's called the Build America Bonds Act. The bill would provide $50 billion in infrastructure investment for all states across the country, including many important projects that would improve our aging and deficient infrastructure.

And, while Congress has allocated record funding levels to States under the 2005 highway bill, the need for infrastructure improvements far exceeds available Federal and State resources. And so, the Build America Bonds Act is intended to replace—I should say, is not intended to replace the current user-fee structure we have in place in the Highway Trust Fund, but it would be a supplemental funding stream that would allow States to address the backlog of important highway, bridge, rail, and waterway projects that exist literally in every State across the country. The funding

under the legislation would be distributed directly to the States. Again, it's much-needed funding. It would create over 2 million jobs, spur significant economic growth, and save lives by addressing transportation problems that exist from coast to coast.

In addition to the aging transportation infrastructure, another issue that is of great importance, which was referenced by my colleague from Minnesota, is the need for additional rail capacity to deliver biofuels from the Midwest to blenders in regional markets around the country. As you know, the President has set a goal of reducing petroleum consumption by 20 percent in the next 10 years. In order to achieve that goal, the President has also proposed an alternative fuels standard of 35 billion gallons by the year 2017, and the Senate has acted upon a similar renewable fuels standard—standard that we would achieve by the year 2022. I don't have any doubt that the American farmer and the innovative leaders of the ethanol industry can achieve that very ambitious national priority. I—however, I do believe that we've got to act with a true sense of urgency to improve our transportation infrastructure to be able to deliver this fuel to all parts of the country.

My home state of South Dakota is going to be producing a billion gallons of renewable fuel alone by the year 2008. Nationwide ethanol production capacity is expected to double in the next 2 years. Considering cellulosic ethanol is still a few years away, the near-term future of ethanol production continues to remain concentrated in the Midwest. Absent a dedicated ethanol pipeline, much of the ethanol must be moved by truck, rail, or barge. And, in past years, railroads have responded by securing additional tank and grain cars to efficiently ship both ethanol and its byproducts. However, railroads are already taxed by growing shipments of coal, containers, and grain; capacity concerns remain on the horizon. And according to the Association of American Railroads, shipments of ethanol have tripled since 2001, and are expected to top 140,000 carloads this year.

So, Madam Secretary, I look forward to hearing your thoughts on this issue, of creating a more robust transportation system that will keep our biofuels industry growing. Again, Congress and the Administration have got to develop a comprehensive plan to address an increased rail capacity for the delivery of biofuels. And so, I welcome your input and thoughts about that issue, as well as your thoughts about Build America Bonds legislation that might address the infrastructure problems we have across the country.

And, Mr. Chairman, again, I thank you for holding the hearing and giving us an opportunity to exchange some of these ideas.

Thank you.

The CHAIRMAN. Thank you.

Senator Smith?

STATEMENT OF HON. GORDON H. SMITH,
U.S. SENATOR FROM OREGON

Senator SMITH. Thank you, Mr. Chairman.

And, Secretary Peters, it's great to see you here. I understand you were recently in Oregon, and so, you got a firsthand look at some of our issues as it relates to I–5 and connecting. It's a vital link for transportation and commerce between the states of Wash-

ington, Oregon, and California, and it is in need of increased capacity and repair. And I know, really, what we're all saying in a different way is that we understand the need to balance the need for repair with the need for expansion, and that is the challenge that you have.

I think Minnesota's bridge tragedy is a deadly reminder that we're playing for keeps here, and we really do need to focus on the work that you're doing.

The only other comment I have relates to the Essential Air Service Program. You know, there are many rural communities who, if they don't get this important aid, they don't have air service. And it seems like Congress is consistently having to fight the administration from attempts to cut funding for the program. And I think that should stop. We need the program, I think.

So, thank you, Mr. Chairman. Thank you, Madam Secretary.

The CHAIRMAN. Thank you very much.

And, finally, Madam Secretary?

STATEMENT OF HON. MARY E. PETERS, SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION

Secretary PETERS. Thank you. Chairman Inouye, Vice Chairman Stevens, and distinguished Members of the Committee, I am very pleased to appear before the Committee today to discuss the various activities of the U.S. Department of Transportation.

The U.S. has the world's largest and most capable transportation systems. These systems have enabled our Nation to have unprecedented growth in domestic and in international trade, and have brought our States closer together and provided a critical foundation for the amazing wealth-creation and economic prosperity that have taken place in the United States and around the world over the last 60 years.

When I returned to Washington last year, when I had an opportunity to appear before this Committee as part of my confirmation process, I told you that I wanted to seek to ensure the Department focused on the most pressing challenges facing our transportation system and on the most promising solutions. In my view, those challenges are, first, reversing the decline in overall transportation system performance. The performance decline is increasingly imposing costs on American families and American businesses and making us less competitive in a global marketplace. And, second, ensuring a continued reduction in transportation system fatalities and injuries, even as traffic volumes grow, by emphasizing comprehensive data-driven approaches and using new technologies that can save lives. The results of the focus are a work in progress, but I believe that the Department has made significant strides in the last year and will certainly continue to work with you to do so.

In order to bring about the type of change that I believe is critical, we must recognize that the financing structure that underpins our aviation, highway, and public transportation systems is failing on multiple levels. More importantly, that structure does not allow us to align prices and charges with true cost, and, in that respect, the failures of our current system are the result, not of poor engineering, but of poor economics. And I think that, Senator Klobuchar, you hit the nail on the head when you said we have a—

we have 21st century transportation needs with 21st century solutions—we need 21st century solutions, rather—and nowhere is that more apparent than in the funding strategies.

And let me speak to aviation, in particular. As the members of this committee well know, there is a pressing need to overhaul the Nation's aviation system, to improve economic efficiency, and to maintain an impressive record of safety performance. We project tremendous growth in that system, with over a billion passengers expected to be flying on U.S. commercial carriers by 2015. And, in light of this strong and growing demand, which is a sign of our strong economy, the administration, in February, offered a comprehensive proposal to reform the way we finance air traffic control operations and air traffic air infrastructure and to capitalize on market-based tools so that we can ease the congestion that has characterized air travel in more and more of the country today and has affected each and every person in this room in one way or another.

Our proposal would create a new funding structure, a structure that would limit what—would link, rather, what users pay, when they fly, to the actual costs they impose on the system, and we commend this committee for the actions that it has taken to date, and appreciate the seriousness of the challenge. But we are concerned that Congress perhaps will simply pass an extension of the existing program rather than stepping up to what you and we have laid out, in terms of reforms that are needed. We look forward to working with Congress as the legislative process continues, and we urge that any further action remain consistent with our February proposal.

The priorities that I mentioned earlier apply to more than aviation. The performance of the Nation's highway and transit systems is wanting, as well. Indeed, we are suffering what can only be called an intolerable decline in performance in the form of travel delays and unreliability, with longer and more costly delays affecting more and more cities around the Nation.

When I was in Portland earlier this week, I heard from the business community about firms that had moved out of the area because they weren't able to navigate the challenges, and particularly, Senator Smith, the I–5 crossing over the Columbia River bridge. We've got to fix that. This deterioration of our surface transportation system is acute, and it is widespread, and it affects passenger travel and freight movement.

The good news is, we are focused on this problem as never before. We have sought to identify and attack the existing and projected congestion in a very targeted way, particularly in urban areas that account for so much of that congestion along vitally important corridors that carry so much of our goods, many of which are in our rural areas. These efforts offer the hope of reduced congestion, reduced emissions, and greater value to users.

The Department is also focused on bringing technological advances to bear on both safety and congestion, including, for example, building the urgent Next Generation Air Transportation System that will improve safety, and improving vehicle safety through advances such as our recent rule on the electronic stability control and one that I signed yesterday on roof crush.

The performance and the safety challenges ahead are difficult. They are not difficult to identify. But, Mr. Chairman, I believe that, working together, we can resolve these issues. I so appreciate the opportunity to appear before you today, and would be pleased and honored to answer any questions that you may have.

Thank you, sir.

[The prepared statement of Secretary Peters follows:]

PREPARD STATEMENT OF HON. MARY E. PETERS, SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION

Chairman Inouye, Vice Chairman Stevens, and distinguished Members, I am pleased to appear before the Committee today to discuss the various activities of the U.S. Department of Transportation.

The United States has the world's largest and most capable transportation systems. Those systems have enabled unprecedented growth in domestic and international trade, have brought our diverse States closer and closer together, and have provided a critical foundation for the amazing wealth creation and economic prosperity that have taken place in the U.S. and around the world in the last 60 years.

When I returned to Washington last year, I sought to ensure that the Department was focused on the challenges that were most pressing and solutions to those challenges that would have the most impact. In my view, those challenges are: (1) reversing the decline in overall transportation systems performance that is increasingly imposing costs on American families and businesses, and (2) ensuring a continued reduction in transportation system fatalities and injuries even as traffic volumes grow by emphasizing comprehensive, data-driven approaches and new crash prevention technologies. The results of this focus are a work in progress, but I believe that the Department has made significant strides forward in the past year.

To reverse the decline in our transportation systems, we need to look beneath the surface and explore the foundation of the problems we are facing. It is increasingly clear to me that the transportation policies and programs of the past are poorly suited to the economic, environmental and societal challenges of the future. In order to bring about the type of change that I believe is critical, we must be honest with ourselves and recognize that the financing structure that underpins our aviation, highways, and public transportation systems is failing on multiple levels. The financing structure prevents us from making efficient investments in maintenance and new construction because it does not allow us to allocate resources based on the highest returns to the taxpayer and the customer. The financing structure fails to sufficiently reward innovation and technology development. The failure of this structure can be traced back to the fact that it does not allow us to align prices and charges with true costs. The failures of our current systems are not a result of poor engineering but of poor economics.

Today's transportation systems suffer from congestion and inadequate maintenance, but these are just symptoms of the fact that investment decisions in these systems are not business decisions, but political ones. Business from movie theaters to cell phone companies charge less during off-peak periods to maximize the use of available capacity—but political decisions made in the middle of the last century limit our ability to use variable pricing to maximize the use of our transportation systems. Similarly, transportation investment decisions are made politically. During my many years in transportation, I don't recall one ribbon-cutting after a much needed maintenance investment. Transportation spending decisions are frequently not based on estimated return on investment, but on the hometown of the Governor or committee chairman. During the course of the next year, I hope we can work together to improve the economics of transportation investments.

As the Members of this Committee well know, there is a pressing need to overhaul the Nation's aviation system infrastructure to improve economic efficiency and maintain an impressive record of safety performance. We operate the world's largest and most complex air traffic system, one that controls aircraft transiting the domestic United States and millions of square miles of international airspace. By any measure, this is the safest period for aviation operations since the dawning of the jet age and the enactment of the modern-era Federal Aviation Administration Act in 1958, with a 65 percent decline in the commercial aviation fatal accident rate over the last decade.

While we have made great strides in safety, we project tremendous growth in the system. We expect over a billion passengers to be flying on U.S. commercial carriers by 2015, partly as a result of the success we have had in gaining access to inter-

national aviation markets around the world. This increased demand will bring new airlines, aircraft, flight crew, and controllers into the system. That is clearly a safety challenge, but it also is an increased burden on system performance. More and more, our skies and our airports are choked with aircraft, passengers are badly delayed in reaching their destinations, and the inefficiencies that we see are hampering growth across the economy. Simply put, today's air traffic management system is incapable of meeting the challenges presented by projected air travel demands in the future.

That is why the Administration in February offered a comprehensive proposal to reform the way we finance air traffic control operations and infrastructure to capitalize on market-based tools to ease the congestion that characterizes air travel in more and more of the country today. Rather than settling for a status quo extension of the existing program, our proposal would create a new funding structure that would link what users pay when they fly to the actual costs that they impose on the system.

Numerous bipartisan commissions have recommended cost-based funding for the FAA over the last two decades, and air traffic control providers in virtually every other developed country have it. This reform is necessary to support our efforts to make the Next Generation Air Transportation System—NextGen—a reality. Failure to adopt a cost-based system will hinder the implementation of NextGen, and for the first time in history we will risk placing the United States behind other countries that are moving toward the future of aviation.

The Administration's proposal also includes market-based mechanisms, such as auctions or congestion pricing, to allocate scarce airspace and airport resources more efficiently. Charges for flying into congested airspace or airports should more closely reflect the true societal costs of those decisions. To the extent they do not, the cost of delays will continue to accelerate and ripple throughout our aviation system.

While many economists have stressed the potential demand-side impacts of market pricing policies, such as peak period spreading and increased overall passenger throughput, we believe the revenues generated in connection with any form of market pricing can and should be re-invested to expand aviation capacity at or near these bottlenecks. In addition, just as excessive delays send signals about where capacity expansion is most critical, the signals sent by market mechanisms are even clearer. Congestion pricing has worked exceptionally well in other areas of our economy such as highways, electricity and telecommunications, and we believe the time has arrived to pursue similar approaches in the aviation sector.

We commend this Committee for taking the actions that it has taken to date and for appreciating the seriousness of the aviation challenges before us. We look forward to working with the Congress as the legislative process continues, and we urge that any further action remain consistent with our February proposal.

As the reauthorization process progresses, the Department continues to move forward on several fronts to improve system performance in aviation and to ensure that consumers are treated fairly when they fly. We issued the Record of Decision for a thorough redesign of airspace over New York City, New Jersey, and Philadelphia. This redesign alone will reduce delays by 200,000 hours annually. We have convened an aviation rulemaking committee that is focused specifically on the New York City area and that is considering numerous solutions—including market-based tools—to ease the congestion that ripples out from the Tri-State area to airports across the Nation. A third of the Nation's air traffic moves through New York airspace, and two-thirds of the Nation's air traffic can be affected when the New York area experiences delays.

We can respond to aviation congestion in the New York region in one of three ways—(1) continue with current policies and accept the fact that the region will be congested; (2) re-regulate air traffic in this region and have the Federal Government decide who can fly in this airspace and when; or (3) use some form of pricing to optimize the use of existing capacity. Some have suggested re-imposing slots in the region. That would be a mistake for a variety of reasons. As we have learned, slots limit competition and increase prices for consumers, and I am always leery of any proposal that relies on the Federal Government picking winners and losers in a market.

In addition to trying to improve the economics of our aviation system, we also have pledged to improve the fairness and transparency that passengers experience when they choose to travel. And we have continued to enforce the Department's existing consumer protection regulations vigorously. As the President put it when I met with him several weeks ago to discuss this issue, "We've got a problem, we understand there's a problem, and we're going to address the problem." I certainly look forward to continuing to work with the President and the Committee to do just that.

The priorities that I mentioned earlier apply to more than aviation. The Department, of course, plays a major role in sustaining and improving the Nation's highways and transit systems. Here, too, system performance is wanting. Indeed, we are suffering what can only be called an intolerable decline in performance in the form of travel delays and unreliability. This deterioration in our surface transportation system is acute and widespread, and it affects both passenger travel and freight movement.

The numbers tell the tale. In the past 20 years, hours of delay and wasted fuel have each increased by more than 400 percent. In 2005, highway and transit congestion wasted 4.2 billion hours of time and 2.9 billion gallons of fuel. The cost for this wasted time and fuel was over $78 billion—about 5 times the amount in 1982. If we add the extra time people must allow in planning for congestion delay and the lost productivity associated with it, the annual costs exceed $170 billion.

Even as it has been deepening, this problem has also broadened, to cover more and more travelers and freight operations. Highway congestion increased from affecting 33 percent of travel in 1982 to nearly 70 percent of travel in 2005. Rush hours increased in duration from 4.5 hours per day in 1982 to 7 hours per day in 2005. And the delay associated with the average rush hour driver's trip increased nearly three-fold—from 11 percent of normal trip time in 1982 to 30 percent in 2005. The cost to the trucking industry alone is estimated to be $10.7 billion every year, and if the indirect but very real costs to shippers are included, the total rises to about $20 billion.

This problem now affects the transportation of waterborne freight, too, as several of our leading ports have become chokepoints for intermodal container traffic, with others not far behind. Seattle/Tacoma, Galveston/Houston, LA/Long Beach, New York/New Jersey—nearly all our major ports are projected to experience enormous growth in volumes within several years. In calendar year 2006, approximately 27 million cargo containers were unloaded at U.S. ports and reloaded onto vessels, trucks, and railroad cars. Since many container ports are near or at capacity, the Department is addressing freight and passenger transportation issues from a system-wide perspective to support improved port efficiency and intermodal connections to better enable ports to handle increased volume and maintain growth.

Congestion is not merely an irritant to one's morning commute; it has real ramifications for American economic competitiveness. The efficient networks that we as a Nation have come to rely on have allowed businesses freedom of location and the ability to quickly reach customers across the Nation and around the world. Large U.S. firms that depend on the international supply chain tell us that growing system failures are propelling them to make inefficient decisions in the form of facility re-locations, delivery time shifts, and building in more and more expensive buffer time. The trend poses a real threat to a "just-in-time" inventory management revolution that has helped smooth business cycles and reduce economic volatility. And with the costs of building new capacity growing far more quickly than inflation, the challenge is not getting any easier.

The good news is that we are focused on the problem as never before. The initiative that we have undertaken is aimed at identifying and then attacking in a targeted way existing and projected traffic congestion. Our urban partnership program will provide over $800 million to support tolling and other congestion-relief demonstration projects in Seattle, San Francisco, Minneapolis, Miami, and New York City. New York's congestion pricing plan, if fully authorized by legislation now before the General Assembly in Albany, will help incentivize off-peak travel in Manhattan and finance substantial upgrades to the Nation's largest transit system. The other cities plan to partner with us as well to experiment with tolling and transit improvements that we believe can have tremendous impact.

Through our Corridors of the Future program, we have identified six critical multistate corridors that together carry nearly 23 percent of the Nation's traffic, and have begun to work with applicants on making improvements to these facilities. Elements of the program include building new capacity, adding lanes to existing roads, building truck-only lanes and bypasses, and integrating real-time traffic technology such as lane management that can match available capacity on roads to changing traffic demands. These advances offer the hope of reduced congestion, reduced emissions, and greater value to the users.

As a former state transportation chief, I know that in some circumstances there is no substitute for expanding physical capacity. But, in other situations, it is simply not possible to build our way out of the problem. The Department, therefore, also is focused on bringing technological advances to bear on congestion. Let me offer several examples.

In aviation, we have recently taken several major steps forward in the deployment of what is known as ADS–B capability, a NextGen technology that will give pilots

real-time awareness of the location of nearby aircraft and other information essential to improved operations in crowded corridors. At our airports, we have continued to expand the use of procedures such as area navigation (RNAV) and required navigation performance (RNP)—advances that allow aircraft to fly more precise routes for takeoffs and landings, thus reducing congestion and emissions at crowded hubs and affording airlines greater flexibility in point-to-point operations.

In our surface transportation programs and regulations, we are seeing similar progress. Intelligent transportation systems technologies are recognized as valuable tools not only to reduce traffic congestion, but also to improve safety. We are witnessing a rapid proliferation of real-time traffic information that is giving drivers more choices and more awareness of system conditions. New traffic signalization technologies can help to increase throughput and provide smoother operating conditions in metropolitan areas.

Technological advances are in some circumstances primarily about safety. In April, we finalized a rule requiring automakers to equip their vehicles with electronic stability control (ESC), a technology designed to improve the driver's ability to retain control of a motor vehicle under certain adverse conditions. This technology is expected to dramatically reduce the frequency of crashes due to the driver's loss of control, particularly rollover crashes. We estimate that, once all vehicles are equipped with ESC, the technology will prevent 5,300 to 9,600 highway deaths and 156,000 to 238,000 injuries every year.

In addition, new technology is now on-board trucks to help the motor carrier industry automate the process of recording its drivers' duty status, technology that eventually will allow for real-time transmission of a vehicle's location and other operational information. This technology has the potential to help reduce driver fatigue and allow trucking companies to keep better information about far-flung routes across the country. Also, DOT works closely with State and local-level highway organizations to assure that effective life-saving strategies and comprehensive, data-driven programs are advanced. The touchstone for all these efforts, of course, is to reduce the number and rate of fatalities on our highways, so that Americans can confidently and safely take to the roads.

Earlier this year, the Federal Railroad Administration announced approval of the first Positive Train Control system capable of automatically controlling train speed and movements to prevent certain accidents, including train collisions. The approved system, which includes both digital communications and a global positioning system, utilizes an in-cab electronic display screen that will first warn of a problem and then automatically engage the train's braking system if a locomotive engineer fails to act in accordance with operating instructions. This is an encouraging preliminary development, and DOT will work with industry and other stakeholders to consider cost-effective options for broader implementation of PTC.

Turning to fuel economy, I was pleased that this Committee responded to the President's proposal in his State of the Union address to improve the fuel economy program for passenger automobiles. This Administration demonstrated through its innovative light truck rule that fuel economy can be increased while preserving consumer choice, maintaining safety and not needlessly sacrificing jobs. We achieved these goals by emphasizing that the path to greater fuel efficiency is through utilizing fuel saving technologies. Following the President's directive, we continue to address our Nation's energy security policy goals and to reduce carbon dioxide emissions from vehicles by improving fuel economy and displacing gasoline with alternative fuels. Working with EPA and other agencies, the Department intends to propose new standards for fuel economy and carbon dioxide emissions from vehicles before the end of this year. These standards will be based on sound science and a cost-benefit analysis. This will ensure that for every dollar in a fuel saving technology cost added to a vehicle, motorists and society in general would see a dollar or more returned in benefit. However, as the President stated, our efforts are not a substitute for effective legislation. Accordingly, the Administration has articulated clear principles to move America toward a strong, cleaner energy future, and we continue to want to work with Congress as it moves ahead with its fuel economy legislation.

The Administration also looks forward to working with the Committee and Congress to improve the Nation's intercity passenger rail system, not with technological advances but with financial reform. We currently have a flawed model for providing intercity passenger rail service that does not encourage innovation or emphasize accountability. The Administration's goal is to create sustainable, demand-driven service by, among other steps, empowering States and localities to direct rail investment and fostering opportunities for participation by alternative rail service providers. I think these are goals that everyone can agree on, and I urge Congress to collaborate with the Administration to develop a common vision for this important mode of transportation.

The challenges that lie ahead are difficult, though they are not difficult to identify. Our transportation networks need improvement, but as I and many others have made clear, the challenge is not to simply spend more and more money, but to insist that we utilize Federal resources with an eye to the performance improvements that we urgently need. As the President has noted, we need innovation and creativity. We should embrace real solutions, such as advanced technologies, market-based congestion tools, private sector financing, and flexibility for state and local partners. If we do this, the potential for improving system performance and safety—and in the process to aid the Nation's continuing economic vitality—is enormous.

My message today is simply that the time has come to acknowledge that the financing structure that underpins our aviation, highways, and public transportation systems is failing on multiple levels, prevents us from making efficient investments in maintenance and new construction, and needs fundamental reform at the statutory level.

Mr. Chairman, I appreciate this opportunity to appear before the Committee today, and I would be pleased to respond to questions that you or other committee members may have.

The CHAIRMAN. I thank you very much, Madam Secretary.

In your confirmation hearing, you pledged that truck safety will be one of your priorities. And, as you know, from 2004 to 2005 fatalities rose. Have you been able to reverse this trend?

Secretary PETERS. Senator Inouye, thank you for the question, Mr. Chairman. And, yes, it is—it remains an important area. I don't have the data right in front of me, but I believe, as you said, there was a slight increase in the number of truck fatalities. However, that was disproportionate to the increase in truck traffic that we have seen on the highways. But, nonetheless, it remains a very, very important part of what we are doing to improve safety, and I continue to work with Administrator Hill to advance that goal.

The CHAIRMAN. Your department has received the dubious distinction of having its truck driver hours-of-service rules struck down by the courts twice in a row. I'm deeply concerned by the Department's failure to craft a rule that will clearly increase truck safety and meet the requirements of law. Well, how are you doing in this area?

Secretary PETERS. Mr. Chairman, as you said, the court just recently struck down the rule that was passed and has been in place since January of 2006. We are evaluating the court's decision, and, as you may be aware, they have issued a stay through the end of this calendar year. And, as soon as we reach a decision, sir, on which way we should go forward, I will communicate with you and with this Committee immediately.

The CHAIRMAN. Do you see any improvement possible?

Secretary PETERS. Yes, sir, I do.

The CHAIRMAN. How are you getting along with Secretary Chertoff?

Secretary PETERS. I get along well with Secretary Chertoff.

The CHAIRMAN. Because we have been told that your relationship is not as strong as it should be. Is it?

Secretary PETERS. Mr. Chairman, I hope that—and believe that—that is not the case. In fact, Secretary Chertoff and myself, along with our deputy secretaries, meet at least once a quarter to discuss issues that are relevant to our two agencies, and, in fact, just this last week, have had much communication about a Memorandum of Understanding that we signed between our agencies to assist with emergency transportation, should there be events along

the Gulf Coast. So, we do communicate frequently, and it is not my opinion that there is a bad relationship between us.

The CHAIRMAN. The Implementing Recommendations of the 9/11 Commission Act of 2007 significantly enhanced whistleblower protection. What is your plan for administering new provisions to ensure that employees' identities are adequately shielded from disclosure?

Secretary PETERS. Mr. Chairman, I, with you, share the belief that when employees bring valid safety concerns forward, they need to be responded to. My preference is to respond to those without having to have people resort to whistleblowing, but, when they do, they must be protected, and we must respond to the issues that they raise. And, in fact, we are working with the Office of Special Counsel at this time, dealing with several issues that have been raised to his office by whistleblowers.

The CHAIRMAN. I'm certain you're aware that the total volume of goods shipped to or from the U.S. will double over the next 20 years. What policies and programs are you developing to assist ports in addressing this added capacity demand?

Secretary PETERS. Mr. Chairman, you are so right, the doubling of the freight volume that will hit our Nation's transportation system over the next 20 years is something we have to pay attention to in very much a cross-modal fashion. We are working right now with the ports in L.A. and Long Beach to employ methods that will help us move freight more efficiently through that infrastructure, and we're using the Pure Pass program, for example, which has been tremendously successful. But I actually have our deputy administrator in the MARAD administration working directly on that very issue of how we can expand our port capacity so that we can meet the congestion and the future needs in that area.

Like my predecessor and your good friend, Secretary Norm Mineta, I do believe that a marine highway system in our waterways can be a tremendous help in moving this increased freight volume that we will see in the future.

The CHAIRMAN. Thank you.

Senator Stevens?

Senator STEVENS. Thank you very much.

Again, I welcome you, Madam Secretary.

Secretary PETERS. Thank you.

Senator STEVENS. I've mentioned to the Committee several times that recently a 15-year-old girl in Juneau boarded a plane and flew to Seattle without her parent's permission, and she did that to go on and meet a person that she had met over the Internet. This, I think, exposes a loophole in the travel of underage persons. Have you had occasion to take a look at that and to see whether we ought to find some way to put into effect a paradigm that requires parental consent or the accompaniment of an adult for an underage person to fly, particularly interstate flying?

Secretary PETERS. Senator, I have not dealt with that issue specifically, but I will. I, like you, probably saw the television coverage last evening of a young girl who also met up with an Internet predator that kept her captive. And I—as a mother and a grandmother, I'm very, very attuned to the dangers that our children have, espe-

cially when predators that—contact them through the Internet. So, I would be happy to follow up with you along those lines.

Senator STEVENS. I do hope you will, because I think this is a very sad situation. We've got more and more information concerning the predators on the Internet. I don't think we have strong enough condemnation of that in our criminal laws. I intend to follow up on it. But I do think the way to discover it has to be brought out, and somehow or other we ought to deny access to aircraft and interstate travel of any form, to underage people. I think that's going to be a scourge of our Nation if we don't watch out. This lovemaking over the Internet doesn't set with my generation.

Secretary PETERS. I will follow up with you, sir.

Senator STEVENS. The question of identification when a ticket is purchased, I think, has to be examined by the Department.

And this Committee's getting tired of me commenting upon the delays that are caused by the way that airline crews are distributed around the country. Five times this past 2 months, the aircraft I've been on has been delayed for over 4 hours, waiting for crews. Once, we were going from here to New York; we had to wait for a person coming down from Boston to be the pilot of the plane going back to New York. Another time, we were in Seattle, waiting for a person to come from Los Angeles to be the pilot of a plane coming to Washington, D.C. And in Minneapolis several times, we've been waiting for people to come up from Florida to be the pilots of planes, or members of the crews, going east. Now, that was not the situation in years gone by with regard to the regulations of the old CAB regarding the location of crews. And I think that the old CAB was right. When I buy a ticket on an airline, the taxpayers buy mine—but when I get there, they've made a contract with me that a plane will be ready to go when I get to the gate. As a matter of fact, you now require me to be there over an hour before this plane leaves, but there's no such requirement for the crews, and there's no penalty when they don't. And I've talked to these people waiting up to 4 and a half hours in these waiting areas of the airlines, the traveling public is as disturbed as I am about this. Once, we got here past midnight, and there were no baggage people to unload the plane. And when you get to the delays involved in this, I think they're faking it, a lot of times, saying, "Oh, this is—this is some light on the panel. We've got to have it examined," but suddenly the light goes off when the pilot comes in the plane.

Now, I do believe that your Department has a role in this and ought to look into it and examine! I have asked the GAO to look into the concept of increasing delay in departure of aircraft, and to give this committee a report. I hope they will. But I hope you will look into it, also.

Secretary PETERS. Mr. Vice Chairman, we absolutely will. In fact, we are looking into it, at this time. In fact, as recently as last spring I asked the Inspector General, who will testify after me today, to look into the issue of passenger concerns with these over—significant delays, passengers trapped in airplanes for hours and hours on the tarmac. And there are a variety of issues that we have to look into. As you may know, I met with the President at the end of September, and he directed me to really take a hard look

at this. We want to report—and will report back to you and to the President before the end of the year—and we're working on a dual path, sir. What I want to be able to do is address the symptoms of aviation delays, these difficulties that people like you are experiencing today, while, at the same time, correcting the underlying cause so that we don't have passengers suffering these delays. We are looking very hard—and appreciate the Inspector General's work in this effort—to look at this contract of carriage that you mentioned, this contract that you have with the airlines that you enter into when you purchase a ticket. We want to ensure that travelers have better travel information about the on-time arrivals of particular flights. We're investigating airlines that have chronically delayed flights, and taking steps within our enforcement action to discipline those airlines who have flights that are greater than 15 minutes late greater than 70 percent of the time over two quarters, which categorizes them as a chronically delayed flight. We also, sir, are looking at the compensation that passengers get when they take an involuntary bump, when enough passengers are not willing to give up their seats and someone is involuntarily bumped, and, in fact, have a rulemaking out on that specific issue today that would likely double, depending on the result of that rulemaking, how passengers are compensated.

But the real issue is to stop these delays from happening. The good news in our Nation is that air travel is up, and it's back up to and exceeding the levels that we were seeing prior to the tragic events of 9/11. But the system is not responding to this additional traffic in a way that is consumer-friendly. So, we are targeting the New York area with two specific issues; one, an Aviation Rulemaking Committee, where we can bring the airlines, the airports, travelers, general aviation, business travelers all together to have an open discussion about what we can do about this. And I am looking to that Aviation Rulemaking Committee to give me recommendations, recommendations that will fix this, not just for the short term, for the long haul. And, concurrent with that, Mr. Vice Chairman, we also have scheduled a scheduling meeting. We have asked the airlines for all of their schedules for next summer, and we want to take steps, either through voluntary methods or through methods that the Department will impose if they don't choose to do so, so that we don't have a hellish summer, like we had in the summer of 2007, in the summer of 2008.

But, even before that, sir, the upcoming holiday travel period—it is the time when many Americans are traveling to be with their families, service members are coming home and have limited time to be home, so I am calling together all of the aviation executives on the 1st of November to challenge them in the near term to do something about this so that we do not have a difficult holiday travel season in advance of these longer-term fixes that I hope to announce to you by the end of the year.

So, you're—you are right, I told the President travelers are very, very cranky, and they have good reason to be, and he has directed us to fix it. And, sir, we will do so.

Senator STEVENS. Well, thank you very much for your interest. I think that continued complaints by the passengers will lead to

the restoration of power such as the CAB. And I would be one to join that if this situation isn't fixed.

Thank you very much.

The CHAIRMAN. Thank you.

Senator Lautenberg?

Senator LAUTENBERG. Thanks, Mr. Chairman.

Ms. Peters, as I think about congestion pricing, I think about the fact that businesses typically operate in hours that would be considered peak hours. The conclusion I draw is that if we continue to increase costs for arriving at work and shipping materials and—that's what we're doing implies. We're going to see the Administration, in my view, say that it's got to cost more money to do business in America. That's what we want to do, we want to increase the cost. Why, instead of looking at expanded development of other means of transportation, isn't that part of the solution, as simply saying, "Here's a tax we're going to impose on you," and when there's all kinds of concerns about increasing taxes, but we're willing to impose on those taxes on business and workers and say that that's the best we can do in America? It doesn't seem to me that that ought to be the approach.

It's apparent that Amtrak trains moving throughout the country are delayed by slow-moving freight trains. This represents cost increases for Amtrak and increases their need for Federal funding. And since only the administration can enforce that law which gives Amtrak trains the right-of-way over these freight trains, what's your agency doing to address this problem?

Secretary PETERS. Senator Lautenberg, thank you for the question. And let me answer the question about the sharing of track between freight rail and passenger rail. That actually is an area that's governed by the Surface Transportation Board. I would be happy to talk with the director—the Chair of that Board, Chip Nottingham, to raise these issues to his concern. But let me address the issue that you raised first, and that——

Senator LAUTENBERG. Well, my time is limited, so if you could consolidate your response, I would appreciate it.

Secretary PETERS. Absolutely, I will, sir.

Sir, having additional options for travel is important, and it is part of the solution. My home state of Arizona is experiencing unprecedented growth. And, having come from there, I certainly understand that we need to add more modes and more capacity. But we also need to manage and get better throughput from the capacity that we have today. And what we're discussing, in terms of congestion pricing or value pricing, is not a—not an additional way, but perhaps a replacement way that we can use our transportation system, and, on highways, for example, get as much as 40 percent greater throughput by having dynamic pricing than we could on static, general-purpose lanes. So, that is, in my opinion, one of the tools we must have.

Senator LAUTENBERG. Well, one of the ways to relieve the congestion at our airports might be an improved passenger rail service—higher speed, more schedules throughout the country. Don't you think that would help in reducing airport delays, as well as traffic on the highways, if we could get that done?

Secretary PETERS. Senator Lautenberg, I absolutely do. In fact, when I flew to New York last to deal—to meet with people about this aviation congestion issue, I had an experience not unlike the Chairman's experience. It was not positive. And I had wished, all day, I had taken the train up there instead. But especially—especially in distances of 500 miles or less, passenger rail traffic is a very good and very viable alternative, and that, in fact, are some of the issues that we're discussing on the Transportation Commission that is due to report to you by the end of this year on surface transportation.

Senator LAUTENBERG. So, Madam Secretary, then I'll assume that you will enthusiastically support the Lautenberg bill for Amtrak.

Last year, you testified that there are circumstances where we could perhaps define situations where longer and heavier trucks could be safe. Now, that was discussed somewhat by our colleague, the Vice Chairman of the Committee. In light of the recent Minneapolis bridge collapse, the presence of overweight construction materials may have played a role. Have you changed your views on allowing heavier trucks on our bridges and our highways?

Secretary PETERS. Senator Lautenberg, make—let me make sure that I was clear in what I said earlier. I would only support exceptions to the existing truck size and weight rules if we had truck-only lanes, dedicated lanes that were built to handle that longer, heavier traffic. I have not been, and am not, a fan of revising the truck size and weight limits, except on those type of dedicated facilities.

Senator LAUTENBERG. Earlier this year, I chaired a hearing in this Committee on the use of electronic onboard recorders in commercial trucks. The debate clearly indicated that many would like to see these inexpensive, critical safety devices on every truck, like they're required, in much of the rest of the world. Did the Department have any plans with respect to this proposal?

Secretary PETERS. Senator Lautenberg, we are studying that. And I, too, think electronic onboard recorders have tremendous value. In fact, as the Chairman asked earlier about where we're going after the hours-of-service ruling, that is one of the issues that we are looking at.

Senator LAUTENBERG. Yes. The FAA has always claimed that understaffing of air controllers is not a safety issue, because air traffic is simply slowed down to safe levels. How can we make sure that our air traffic control system is adequately staffed to prevent further delays, considering that there's substantial retirement facing us, we are short-staffed. I would urge, Madam Secretary, that you take a look at what the population of—fully qualified controllers—is in the towers throughout the country, because we've had some disagreements with the FAA about the number of controllers, fully qualified, in Newark or New York, the heavy congested airports in the New York/New Jersey region. So, I'd appreciate it if your Department would do some research on that and get back to us.

Secretary PETERS. Senator Lautenberg, we would be happy to do that. We have completed, just recently, the air traffic controller workforce plan, and it looks at staffing, not only in the overall

sense, but at specific facilities. And, in fact, we're pleased to report that we exceeded our recruitment goals for this year in new air traffic controllers.

But let me say that I have the greatest respect for the men and women who control the traffic in our skies. It's a very important responsibility, and they have a great deal of the credit due for the unprecedented safety record that we now have in our Nation's skies. But——

Senator LAUTENBERG. No one's arguing——

Secretary PETERS.—as you said, many of them are retiring, and we must find a way to replace them with qualified controllers.

Senator LAUTENBERG. Thanks, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator LAUTENBERG. We can keep the record open for——

The CHAIRMAN. Oh, absolutely.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

Madam Secretary, referencing some of the discussion that's already occurred on air service, this last summer was, I think, the worst in a very long time, in terms of on-time performance with the airlines, and, in fact, I think it was three in ten—almost one in three flights now is delayed. Would it—is it fair to say that, if three in ten flights are delayed, that, if you have to make a connecting flight, that there's a chance—there's a six in ten chance that you're going to be delayed if you have to have two operations to get to your destination?

Secretary PETERS. Well, Senator Thune, you're—you are exactly right. Regrettably, since we have started capturing data, last summer was the worst that we've ever had on record, and, as you said, fully 30 percent of the flights were delayed. One of the reasons we're concentrating on the New York area in the short term is because delays into, out of, or over the New York airspace contribute to three-quarters of the delays, systemwide. And you're absolutely right, if a plane is delayed, and you have to make a connection, you're much more likely to miss that connection. And if—even if there is a subsequent flight, because planes are flying, on average, 80 percent full today, it is even more difficult for you to get a seat on a subsequent flight.

Senator THUNE. And we all experience that and see it time—most of us are frequent fliers, for better or worse. And—but, I mean, if you have six in ten—a 40-percent chance, basically, that an airline is going to be able to meet their contract obligation to you to get to your destination on time, I mean, that is a performance record that anyplace else in our economy would be considered deplorable. And I—people always ask me, "What's the best part and the worst part of your job?" And, of course, I'm someone who, like many of my colleagues, goes back and forth on weekends, back to my home state, and my answer always is, "The worst part of it is getting to and from it." And I think that that—and I'm—so I'm with my constituents a lot in airports, we spend a lot of time in airports. But I think that you have to—if you look at a record like that—and everybody blames somebody else. I mean, the airlines blame the air traffic control system; the air traffic control system, FAA, DOT, say, "Blame Congress. We need more money to move

to the NextGen system." But until we get there—and I'm one who believes that we've got to modernize our air traffic control system and use the very latest technology to improve air service in this country—there has got to be some way of dealing with this issue in—where we all—I'm—whatever Congress can do to help you with that—and I appreciate your commitment to make sure this doesn't happen next year, during the summer season—but it's gotten to be where it's, kind of, a year-round thing. I mean, there are a lot more people flying in the summer season, but when you have flights that are delayed or canceled, and with the higher load rates that they have trying to get another flight, becomes virtually impossible. And I see, like I said, constituents of mine in airports all the time, and there is tremendous frustration and angst out there about this. And I've introduced a bill, which is part of the FAA modernization bill, that would require at least more disclosure by the airlines. I mean, flights that are chronically delayed, canceled all the time, at least customers need to know what their chances or what their probabilities are on some of these flights. And I think those are things that, absent action by the Congress on FAA modernization—or reauthorization, which I hope we will get—those are things, I think, that you all could work with the airlines to impose, as well. I mean, there has just got to be more done to address this situation, because it affects our productivity, it affects our competitiveness, when people are wasting time in airports, like so many are, it just doesn't—the entire economy suffers.

So, I would just urge you to intensify the efforts that you are making with the airlines, and at least people need to know which ones are doing a good job, which ones aren't. And, I think, not just on an overall month-by-month basis, but flight-by-flight. I mean, I think people need to have that kind of information when they make decisions. And it seems, at least in the legacy airlines, they're all—the records are all fairly similar, they're all kind of bad. But I guess it's—what I'm expressing is a lot of frustration that I hear from people I represent.

Let me just raise one other issue, and that's the issue of—I talked about a little bit earlier, and that's railroad capacity. We've got a serious need, in my part of the country, for competition between railroads—we've got an ethanol—a booming ethanol business. Obviously, a lot of coal and agricultural commodities are hauled out of that area of the country. And I guess I'm interested in your thoughts about whether there is enough competition. Do we need another Class I railroad? What steps can be taken to ensure that shippers have at least an opportunity to have enough competition to where they can keep their rates at a reasonable level? And I will tell you, as a—that every power company, public or private, that comes into my office, every agricultural shipper that comes into the office, the issue is always the same, it's transportation cost and service. And the STB, which is their recourse to challenge some of those cases, seems to be less and less independent. It seems like every decision comes down—comes down on the side of the railroads. And I guess I'm wondering what your thoughts are about, What can we do to enhance and increase competition so that, as this ethanol industry—if we try to get to 20 or 35 billion gallons by the year 2017, that's a very ambitious goal and one

that's going to be complicated by the lack of infrastructure out there to support the movement of that product around the country.

Secretary PETERS. Senator Thune, you're exactly right, we need to do a lot more for this type of transportation. And, participatory, as both you and Senator Klobuchar mentioned, rural areas of the United States are experiencing very different transportation challenges and patterns today because of the additional production of ethanol, as well as hauling more coal out of the Powder River Basin and places like that, as well. As part of the National Infrastructure Committee, the one that is—was challenged at looking at future needs, we are looking at freight rail capacity, as well as capacity for trucks and—to carry this additional increase in freight that we're seeing in the future.

I would also agree that we will likely need more of everything in order to handle that, and, again, would be happy to report back to you at the end of this year, when our report is due, and to continue to work with STB on some of these challenges that have been brought forward, in terms of captive shippers, that I know is important to you, as well.

Senator THUNE. One last question, if I might. I'd—I want to come back to something I mentioned earlier in my opening statement, and that's dealing with the broader issue of infrastructure, the needs that are out there, the demand for additional funding exceeding the supply of funds that we have through the Highway Trust Fund and other sources of funding. This Build America Bonds proposal that Senator Wyden and I have introduced in the Senate is a way of increasing funding for infrastructure, $50 billion, outside of the Highway Trust Fund, that could be used by States to address some of these high and urgent needs without raising taxes. And I know—the administration, I'm told at least, is—has been opposed to this in the past, but I'm interested in getting your thoughts about, "If not this, what?" And why can't a concept like this, which is a fairly, I think, innovative financing proposal, be used to address what are some very desperate infrastructure needs that we have across the country, and not replace the Highway Trust Fund, but act as a supplement to it? There are a lot of deficiencies we have, and clearly it's going to take more money to solve some of those.

Secretary PETERS. Senator, I applaud your initiative—both you and Senator Wyden—in putting forth a proposal to increase funding for transportation. One of the concerns that we have about it within the administration, and I, particularly, is the underlying base funding and the reliability and sustainability of that funding to repay those bonds over a period of time. We're seeing the gas tax be less and less responsive to demand in our Nation today. And, in fact, we, as a Nation, have agreed that we want more fuel-efficient vehicles, we want cleaner-burning fuels, we want greater reliability on our ability to produce those fuels here in the United States, such as is being produced in your home State, with the ethanol. And my main concern is that there is not a good, solid base to repay that over time, that we have to supplement and diversify our funding for transportation in a much greater sense. That is why we have been advocates of attracting private-sector investment, where we can, to supplement existing revenues. And I think

that that certainly holds a great deal of promise, but it is not the answer, in and of itself. We do have to look long term, and, again, that's what this Commission is looking at, and will bring back recommendations to you by the end of the year, in terms of where we should go long term for funding surface transportation in our Nation.

Senator THUNE. Well, I would hope you'd take a new look at this concept, because it does use tax credits in lieu of interest payments, it is a way—a very cost-effective way of using leverage to get a lot more funding out there, funding that could be made available for States to use to determine—as they determine what are their highest needs, and it would be used for highway, rail, waterway, all types of infrastructure. But you—the—what we've got coming into the Highway Trust Fund, we already know, is going to be deficient by 2009, and it seems, to me at least, we've got to come up with some ways—some innovative ways of using the private sector to help address some of these infrastructure needs that we have.

So, I would hope that you would take a hard look at that and see if that might not be something that the administration could work with us on.

Secretary PETERS. Will do, sir.

Senator THUNE. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Pryor?

STATEMENT OF HON. MARK PRYOR,
U.S. SENATOR FROM ARKANSAS

Senator PRYOR. Thank you, Mr. Chairman.

Secretary Peters, good to see you again——

Secretary PETERS. As well.

Senator PRYOR.—and thank you for frequent contact with me and my office on a variety of subjects. I'm going to ask you about a lot of different subjects, so I'm going to try to go quickly, and I hope you can help me by keeping your answers short because I don't want to take too much of the Committee's time.

But let me start with NHTSA and rollover protection the roof-crush issue.

Secretary PETERS. Yes.

Senator PRYOR. What is the status of that rulemaking?

Secretary PETERS. Senator, I signed that rulemaking yesterday. It went to OMB and should have been published today.

Senator PRYOR. OK. So, does that mean the rule is done?

Secretary PETERS. It does not, sir. OMB has 90 days to redo the—review the rule, and then it goes to final publication.

Senator PRYOR. All right. The intent of Congress is pretty clear in the legislation, that there be roof-strength testing for driver and passenger sides of the vehicle. Does the rule include driver and passenger sides?

Secretary PETERS. Senator, to my knowledge, it does. I will verify and get back to you on that. "The rulemaking addresses both sides of the vehicle (driver side and passenger side) one after the other. We expect to publish a NPRM by the end of the year."

Senator PRYOR. OK. And are you guys doing any different type of testing on roof strengths now? Are you requiring the manufacturers do a different type of testing than you did before?

Secretary PETERS. That, sir, is what the rule addresses, that—the different types. And, again, I'll get back to you on the specifics of that so that I don't spend too much of your time here today.

Senator PRYOR. Great, thank you very much.

Secretary PETERS. Yes.

Senator PRYOR. If we can stay with NHTSA just for a minute. We all know the Senate passed some language on CAFE, and I'm wondering about the Administration's position on the Senate language in CAFE. Has the Administration taken a position?

Secretary PETERS. Sir, we have not yet taken a position on that language that came out of the Senate. As you know, we did work with you during that period of time.

Senator PRYOR. Right.

Secretary PETERS. One of our concerns is that, when we set fuel economy standards—and we do believe that we should have the authority to do that at NHTSA—we want to take into consideration what is technologically feasible, what is economically feasible, and what the impacts on safety would be. And our concern is that, without some valid, I'll call them "off ramps," the goal may be set too high, it may not be achievable, considering those three important factors.

Senator PRYOR. I would strongly encourage either you or your staff or someone in the administration to contact the leadership in the House and Senate, because, as I understand it, there are discussions now about putting together an energy package, which would include this CAFE standard.

Secretary PETERS. Yes.

Senator PRYOR. The House hasn't passed one, we have—and try to come up with something. I offered an amendment, along with—a bipartisan group of Senators, and ours did not prevail. We ended up not offering it, because we just couldn't get the votes right. But, certainly, I think now is the time to weigh in on that.

Secretary PETERS. I agree. And, Senator, as recently as yesterday I was meeting with House members on this very issue——

Senator PRYOR. Great.

Secretary PETERS —and I will get some further documentation to you on that.

Senator PRYOR. Great, thank you.

And, on the Mexican truck issue, which we've talked about before—you and I have spoken about it two or three times—what is the current status of GPS devices? I know, at one point we thought they may be included, and then maybe not. What's the status of GPS devices?

Secretary PETERS. Sir, we are moving forward with the GPS devices. What we found when we went—we had felt that, at the one time, that there was only one provider that could provide those devices, and thought we might be able to move to a more immediate contract to do that. We have found that there are several vendors who are interested in providing those devices, so, appropriately, we're holding an open competition, and, by the end of this calendar year, we should be able to have a program in place to put a GPS

device on every Mexican truck that is participating in the demonstration program.

Senator PRYOR. And on the issue of drug testing and alcohol testing for the Mexican truck drivers, is that being done?

Secretary PETERS. Yes, sir.

Senator PRYOR. Are you are satisfied with how that's being done?

Secretary PETERS. Yes, I am. American labs are conducting those tests, and I also asked the Office of Drug Control Policy to validate that we have the proper procedures in place, as well as the independent panel to validate those procedures.

Senator PRYOR. Great. And are those procedures and the protocols, are they public information? Can members of the public find out what's going on there?

Secretary PETERS. Yes, sir.

Senator PRYOR. Great.

And, let's see, I just had a couple of more quick questions for you. One is high-priority corridors. I know that you have designated I–69 as a high-priority corridor. I just would like to know where that is and how far along the I–69 building and design and all the things you have to go through to do a new interstate highway are—if you could just give me an update on I–69.

Secretary PETERS. Sir, I will. It was one of six corridors selected, and those corridors were selected because together they carry 23 percent of all freight in the United States, and I–69 is certainly an important component of that. Some areas of I–69 have not yet been completed, especially in some of the southeast States and in Indiana. Let me get back to you on the record with the specific completion.

But what being selected as a Corridor of the Future will allow us to do is expedite processes so that we can complete sections of that urgent highway more quickly than we might otherwise be able to, as well as some funding to help accomplish that.

Senator PRYOR. That's great. Thank you.

And, really, the last question I had for you is on air traffic control. I know I've been jumping all around, and thank you for being patient. But, on air traffic control, we know that—in September, the Memphis TRACON went down. Do we know what happened, why that happened, how we're going to prevent that in the future?

Secretary PETERS. Senator, what happened was a wide-area power outage, and that's what caused the problem in that area. We're analyzing the specific impact on the Memphis TRACON. The good news is that, almost immediately, because of the actions of the air traffic controllers in that area, who literally picked up their own cell phones and notified other TRACONs to pick up that traffic, so there was minimal disruption that day. But system redundancy is something that I've asked about, what redundant paths do we have in the event that we get wide-area power outages like that in the future? And, again, I have to commend the controllers in the facilities for immediately responding and getting that traffic picked up by other TRACONs.

Senator PRYOR. Right. And Little Rock was part of that, and we were proud to do that. But, you know, I think that the Memphis system was down for about 3 hours——

Secretary PETERS. It was.

Senator PRYOR.—which caused at least 3 hours, and maybe a full day, of disruption. But they got it fixed within 3 hours.

Last thing I just wanted to mention is Jim Ray, Chief Counsel at FHWA—came to Arkansas on the Yellow Bend Port issue. I don't know if you've been briefed on that. The people in Arkansas were very, very happy that he came down and spent a day looking at that issue. When you get back to the office and have a minute, if you could, give us a written update on the status of Yellow Bend Port, we would greatly appreciate it.

Secretary PETERS. Senator, I know you and I talked about that, and I wasn't personally able to go, but Jim did give me a very positive report——

Senator PRYOR. Good.

Secretary PETERS.—and we'll get something in writing to you.

Senator PRYOR. Thank you very much. We very much appreciate him, and he was great.

Secretary PETERS. Thank you.

Senator PRYOR. Everybody was very impressed with him.

Thank you very much.

Secretary PETERS. Thank you.

The CHAIRMAN. Thank you.

Senator Kerry?

STATEMENT OF HON. JOHN F. KERRY,
U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Thank you, Mr. Chairman. First of all, thank you, Mr. Chairman, for having this hearing, which is, I think, one of the most important topics that we could be looking at in this Committee, and, unfortunately, doesn't always get the kind of attention that it deserves.

Secretary Peters, thank you for agreeing to be here today. And we're going to hear, later this morning—from Inspector General Scovel, about the strain that the Department of Transportation is facing in the crumbling infrastructure.

Mr. Chairman, I don't think it's a secret, the Secretary's testimony—I wasn't here for it, but I just read the entire thing through and through, and I want to ask a few things about it. It talks considerably about the hours lost and the greater-than-inconvenience that this represents to families, the problems of productivity, the problems for our economy, which are not insignificant. But I think it's fair to say, Mr. Chairman, that, for a considerable period of time now, as a country, we really are facing an urgent challenge—both safety and economically with respect to our overall transportation system. And I know the Department of Transportation has assumed additional responsibilities to keep our highways and our railways and skies safe from terrorist attack, and is struggling to deal with some of the congestion issues, but these record-setting delays, not just at airports, which is sad, if not inexcusable, but in every major urban center in our Nation, where the traffic just gets worse and worse, and the numbers of single individuals driving single vehicles in gridlock, using untold amounts of fuel, is ridiculous. Sadly, reading through your testimony, Madam Secretary, while you cite some of these problems, you talk about financial reform, you don't really lay out an agenda or a program, a policy by

this administration, a strategy, to really deal with those issues, particularly the issue of rail. I think rail gets a couple of, mentions here, and I'll come back to that in a minute.

But I want to focus, first, on one particular problem that has been ignored until tragedy strikes, and then we pay attention to it, and that's the state—the fundamental state of bridges and tunnels in the country. We're all familiar—and it probably was mentioned previously—with the recent tragedy in Mississippi, across the Mississippi River—in Minneapolis—that brought everybody's focus back to this, at least temporarily. But Minnesota isn't alone in this. And the question that we ought to be asking is not just what went wrong there, but what's next, and where, and what are we doing to make sure that the next time you turn on your television set, you're not reading about another tragedy?

Now, I say this as a Senator from a State, where, just this last weekend, inspectors found cracks in a beam that supports the 57-year-old Tobin Memorial Bridge in Boston, and the inspection that identified that crack had been expedited after the State received reports that large chunks of debris were falling from the bridge onto the boats below. Now, fortunately, those particular cracks were found to be minor, but that minor disruption underscores the much larger problem. Across the State, 12 percent of functioning bridges are classified as being structurally deficient.

Now, for 88 percent, those folks who don't cross those bridges, they're OK, but for the person crossing that structurally deficient bridge, the tens of thousands of people crossing it, that's 100 percent to them. It's 100 percent. And it's 100 percent of the risk that goes with it. And those bridges are scattered across the entire State, and they carry literally hundreds of thousands of people in daily traffic. There's a bridge in Springfield, with a structural rating of zero, that sees average daily traffic of more than 104,000 people every day. The Wood Street extension bridge in Lowell carries traffic of more than 38,000 people, while a bridge in the town of Dennis, over Swan Pond River, carries traffic of 24,000. In Fall River, 15 bridges are rated as being structurally deficient.

Now, it's true, as a Nation, that there are fewer bridges with a rating of "structurally deficient" today than there were 20 years ago, but, again, for the percentage left out there, for those hundreds of thousands of people crossing them, that's not an answer. And for a Nation that ought to be leading in its efforts to guarantee safety, I don't think it's an answer. We shouldn't be holding ourselves to a lower standard, if you will.

So, I really want to know, what's the administration's strategy to urgently deal with an urgent question about $32 billion of backlog in bridge repair? And—that's number one.

Number two, I'd like to know what's going to happen with respect to increased oversight on these kinds of Federal-funded projects. Earlier this year, I introduced the Safety and Accountability in Construction Act, which would provide the Secretary of the Department of Transportation—you, Madam Secretary—with the authority to hire an independent engineer to inspect the planning, design, and construction of federally financed highway projects. I introduced that in response to the problems that we had in the well-publicized problems in Massachusetts with the Central

Artery Project. During 15 years of construction, spanning four Governors, five Federal Highway Administrators, not once was an independent engineer brought in to oversee the work that was being done, despite repeated attention that this Committee and others drew to the cost overruns, the delays, questionable construction methods, and thousands of tunnel leaks. Tragically—and I know the Inspector General will allude to this in his testimony—an innocent woman lost her life when faulty ceiling panels fell from the I–90 connector tunnel into her car in July of last year.

Why is this oversight necessary? Well, amazingly, in the case of the Central Artery Project, the main contractor, Bechtel/Parsons Brinckerhoff was, in fact, both constructing the tunnels and acting as the safety inspector. The Federal Government obviously needs to have explicit authority under Federal law to bring in an independent engineer to oversee that kind of project.

And then, finally, I just want to come back to this other issue of rail. Reading through your testimony, Madam Secretary, Senator Thune was referring to the bill—Senator Lott and I introduced, in the Finance Committee, a $900 million bond effort on rail. We did that, not the Administration. The Administration has failed, in my judgment, to confront the realities of these choices. We've got an old cow-path rail system that goes through New England, that winds its way around bays and coves, while other countries are building high-speed systems. You go to Shanghai, you can go from Shanghai to downtown now in about 12 minutes on a mag-lev train.

I remember sitting in this Committee when Senator Moynihan was around here, and we used to talk about mag-lev and its possibilities. There's nothing. I mean, leave "mag-lev" out, if you don't like the technology. Where's the discussion? We should be talking about taking the median strips of major highways—which is the only rights-of-way you're going to get today, given what's happened to the former rights-of-ways—in order to build something that's straight and true and has the ability to go fast. You can see the TGF or the Bullet Train in Japan, where, people greatly benefit in those countries as a consequence of their investment in infrastructure. Here we are, priding ourselves as the greatest technological, innovative, entrepreneurial Nation in the world, and we've got one of the most ancient, unbelievably underinvested rail systems in the world, behind tiny countries in Latin America. It's shameful.

Nowadays you can almost be competitive riding the rail system, the Acela, from here to New York, and it's a lot more comfortable and less hassle than going out to the airport and taking off your shoes and going through security and everything else, and you can plug in a computer, and you can get a meal. Why don't we offer that to people in more communities?—I saw that plenty of times in Seattle or in California or in Houston, other places on the West Coast, where you just can't move. People are taking 2 hours to get to work. And what's happened, further, is families are being driven further away from the centers of these communities, where they work, because they can't afford to buy the home, so people are forced into this hour-and-a-half commute each way, away from family, away from work time, because we don't have adequate kind of transportation system.

I've gotta tell ya, it just burns me up. It's beyond my comprehension that we're not talking in this Nation about some kind of funding mechanism to do the infrastructure, and put Americans to work in every which way—in a comprehensive way.

So, I'd like to know, on each of those—on the bridges and tunnels, the strategy for $32 billion, the accountability issue, and, finally, this question of rail. Those are three solid questions.

Secretary PETERS. Senator, certainly, and I'll try to answer your questions as quickly as I can.

First of all, we do have a national strategy to relieve congestion, and we're very actively working that strategy. And, in fact, several of the projects that we have authorized recently have tremendous promise to help us reduce congestion on those corridors that carry 23 percent of our Nation's freight, as well as the urban areas, where some of the congestion is the worst in our Nation. And these strategies, I believe, will give us strong new tools to help relieve this——

Senator KERRY. Are you talking about the technology and the Smart Roads, so to speak,——

Secretary PETERS. Sir, it's a combination of——

Senator KERRY. Of what?

Secretary PETERS.—tools. Of pricing, of using more technology——

Senator KERRY. Pricing. How is pricing going to affect Houston's traffic problem?

Secretary PETERS. Well, the way pricing can affect it, sir, is that, if we could take as little as 10 percent of the vehicles off a road during high-peak times, we could achieve almost free-flow status. A recent household travel survey has indicated to us that almost 50 percent of the people who are on a roadway during a peak period of time are not commuting to work and back, and, in fact, very nearly a quarter of those are retired. If there were some pricing mechanism so that they had to pay more to be there on peak periods, less to be off-peak, those drivers who do not have to be on that road during peak periods of time would not be there. This mechanism, when it's been tested, gives us as much as 40-percent greater throughput on the same configuration of roadway, of so-called "general purpose lanes." So, that is one tool. But it is, by no means, the only tool that we want to look at.

Senator KERRY. What's the alternative going to be for those people if they deem themselves as "needing" to be there, but not necessarily able to afford the increased prices?

Secretary PETERS. Well, sir, those who can will move themselves off the peak period, those who cannot will be able to take the lower-cost, perhaps no-cost, options outside of peak. If they do need to be there, and we, as a Nation feel that we need to subsidize some of those drivers, we can certainly do that, and do that through the technology that's available to day.

What Mayor Bloomberg has proposed, in New York in a pilot program, would actually funnel some $500 million almost immediately and additionally into building transit options, park-and-ride stations, things like that.

We need to—and you're very correct, sir—look at this comprehensively—from not just a single modal status, but comprehensively.

I also very much agree with you that passenger rail has to be part of the solution, and I think, particularly in distances of up to 500 miles, or—that is an excellent, excellent opportunity, and probably more cost-effective than air travel. All of this, we are looking at, sir.

Let me answer, specifically, your questions about the——

Senator KERRY. You've only got about a year left to look at it.

Secretary PETERS. We're looking at it very hard, sir, and our recommendations will come by the end of this year.

Sir, in terms of the bridges and tunnels and the backlog, I've done several things in the aftermath of the tragedy that occurred in Minneapolis. First, I asked our inspector general, who you will hear from next, to do a very thorough review of our bridge inspection program to ensure that the program was sufficient and rigorous. But, as importantly, what do we do with that data that comes out as a result of those investigations and those inspections? And are we using that appropriately to prioritize the expenditure of bridge funds or other funds that could be spent on bridges?

I have also sent out two advisories to States, asking that they reinspect their bridges. And I do believe, sir, that that contributed to the reinspection of the Tobin Bridge.

I have also asked States to be very mindful of the loading of construction materials and equipment on a bridge when they are doing construction and repair on the bridge. These two factors were brought to my attention by the Chairman of the National Transportation Safety Board, and he and I spoke, as recently as yesterday, about this, about what the cause would be and how we might be able to not only ensure that a tragedy like what happened in Minnesota does not happen again, but that we do more aggressively deal with the backlog in repairs that we do have.

Senator KERRY. What does that mean, in terms of the $32 billion?

Secretary PETERS. I'm sorry, sir?

Senator KERRY. What does mean, when you say "that we do more aggressively"? I mean, you don't need a study to know that you need to move more aggressively on the $32 billion.

Secretary PETERS. Sir, there are funds available in States today to do these necessary repairs. What we're asking is the prioritization of those funds being appropriately made.

Senator KERRY. I don't think they think they are available. I was told by my state's highway commissioner about a bridge in New Bedford; it required $100,000 of repair, but the State lacked the funding to do it. They lacked the flexibility to use its apportionment of highway bridge funds to fix it. The bridge went untended. The bridge got worse. Eventually, the entire superstructure needed to be replaced, at $9 million. So, $100,000 fix, which they weren't allowed to use the Federal money, and, therefore, didn't have the money, became a $9 million price tag.

Secretary PETERS. Well, sir, I'll—I will look into that specific case, because my knowledge is, and my experience as a State highway administrator, is that there is significant flexibility.

I also wanted to mention, sir, what you asked about, in terms of a bridge that was rated zero and is carrying 104,000 vehicles a day.

My understanding of—is that if a bridge is rated zero, it should be closed to traffic. So, I will certainly investigate that.

Senator KERRY. Appreciate that. But, also, the President's budget request is $4.388 billion. We upped that. We plussed that up by an additional billion. Senator Murray put that amendment in, and we passed it. And we've still got 72,500 bridges out there that need repair. It seems to me that there just isn't that sense of urgency about it.

Secretary PETERS. Sir, there is very much a sense of urgency, and I think the Inspector General can repeat to you what I have asked him to do. But, again, I have asked every division administrator in every Federal highway office throughout the country to review with the State DOT how they're prioritizing the funds that they have available to ensure that these important bridges are dealt with.

Further, sir, we will publish, by the end of this year, and at your direction—and I think you were very appropriately directing us to do so—standards for tunnel inspections, as well.

Senator KERRY. Are you following the Inspector General's recommendation with respect to implementing a data-driven, risk-based approach?

Secretary PETERS. Yes, sir, we are.

Senator KERRY. And when do you expect that that would be fully implemented?

Secretary PETERS. I will have to get back to you on that, sir. I know that the inspector general is continuing his review of the bridge inspection program, but that is something, in fact, that I asked be part of this review.

Senator KERRY. Thank you, Mr. Chairman.

Oh, and a final thing—the accountability?

Secretary PETERS. Yes, sir.

Senator KERRY. The—independent inspectors?

Secretary PETERS. Yes, sir. I think that's a very good suggestion. We did a very comprehensive review. And, in fact, you may recall, when I was with the Federal Highway Administration, I met with you on that very issue. And I do think that there are many, many lessons we can learn as a result of the Central Artery Tunnel Project. And one of those is how we have the independence of various folks, including the Federal Highway Administration, on those projects.

Senator KERRY. But, here's the problem. We met, when you served for about 4 years as the Federal Highway Administrator.

Secretary PETERS. Yes, sir.

Senator KERRY. You went back to Arizona. You've come back now. Still hasn't happened.

Secretary PETERS. Sir, there is a very aggressive four-point plan that is being implemented. In fact, I'll get the date for you, but I spoke with Governor Deval within the last 2 months, I believe—I'll get you a date—about following through on this very important plan to not only deal with the issues on the Central Artery, which I did start earlier, but to do the important follow-through that has to occur in a stem-to-stern review.

[The information referred to follows:]

UPDATE OF FHWA AND DOT OIG ACTIVITIES
IN RESPONSE TO JULY 10, 2006, CENTRAL ARTERY TUNNEL CEILING COLLAPSE

FHWA and the Department's Office of Inspector General (OIG) have been involved in four activities:

1. *The EOT/MHD immediate evaluations of the I–90 connector. Activity 1 was remedial and aimed at reopening closed sections of the I–90 corridor.*

As of June 1, 2007, all roadways have been completely re-opened. However, there are a number of non-safety related items that still must be completed as part of the permanent corrective work. FHWA continues to work with and monitor the State's progress toward completion of these items. Due to weather constraints the remaining few items of work are now scheduled for completion by June 30, 2008.

Each re-opening phase was accomplished by meeting 12 safety-related criteria that were jointly developed by FHWA and the State, and each re-opening was accomplished with concurrence from the OIG.

2. *Support to the National Transportation Safety Board (NTSB) and other investigations (e.g., U.S. Attorney's Office) of the July 10 ceiling failure. Activity 2 was aimed at determining the cause of the incident, which led to the fatality and injury.*

FHWA engaged in two primary activities to support the NTSB investigation:

- We conducted sustained-load (creep) testing on both the Fast-Set epoxy used in the tunnel and the corresponding Regular-Set epoxy.
- We conducted a parametric study of the anchor system considering such variables as preparation of the anchor holes and proportioning of the epoxy components.

On July 10, 2007, the 1-year anniversary of the tunnel ceiling collapse, the NTSB issued its final report of the investigation. The NTSB determined that the probable cause of the July 10, 2006, ceiling collapse was the use of an epoxy anchor adhesive with poor creep resistance. The NTSB made safety recommendations to a number of entities, including FHWA and the State departments of transportation. NTSB recommendations to FHWA included: (1) working with AASHTO to develop standards and protocols for testing adhesive anchors to be used in sustained tensile-load overhead highway applications, (2) prohibiting the use of adhesive anchors in sustained tensile-load overhead highway applications until standards and protocols have been developed, (3) seeking legislation authorizing FHWA to establish a mandatory tunnel inspection program similar to the National Bridge Inspection Program, (4) establishing a mandatory tunnel inspection program once authorized, and (5) developing a tunnel design manual.

3. *FHWA independent review of the July 10 ceiling failure. Activity 3 can be viewed as an extension of Activity 2 in looking at the broader process that led to the incident and implications for the rest of the CA/T project, as well as tunnels elsewhere.*

The primary objective of the independent review was to evaluate the probable cause of the failure of the ceiling anchor support system. A nine person multidisciplinary team was established to execute a comprehensive work plan that included looking at the ceiling system design and loading, oversight roles and responsibilities, in service inspection expectations, behavior of materials, workmanship, and quality control/quality assurance. The independent review team relied on the same testing that was done for the NTSB. The final report was completed July 13, 2007. Most of the conclusions and corresponding recommendations from the independent review coincide with the NTSB recommendations and are being acted on.

4. *The Governor's "stem to stern" risk-based safety review was authorized by emergency legislation. The first phase report was submitted to the Governor in November 2006. While the "stem to stern" review is a State initiative, FHWA has provided input to the Governor on the Phase I report and is overseeing the State's response to the recommendations contained in that report and the development and implementation of Phase II.*

Based on the Phase I report submitted in November 2006 that contained the results of the State's review of the structural and life safety systems of the Metropolitan Highway System (which includes but is not limited to the Central Artery Tunnel), the State developed a Phase I implementation plan that identifies the status of each action at the time of the hand-off of the "stem to stern" (STS) review to Governor Deval Patrick. The corrective actions for the items of immediate safety con-

cern identified in the Phase I study have been addressed. Other items of less immediate concern identified in the Phase I study are currently being pursued by the State. The State developed a Phase IA study that contains a small number of items that required further analysis based on comments by FHWA and the DOT Office of Inspector General. The Phase IA reports were made available to FHWA and the DOT OIG for comment. FHWA continues to monitor the resolution of all items identified in the Phase I Report. The State has also developed the scope for a further Phase II study and work on this effort was started on July 1, 2007. FHWA provided input on the scope of Phase II study (which includes non-Central Artery MTA facilities) and is currently involved in the resolution of the Phase II findings along with the OIG. FHWA will continue to oversee implementation of the STS findings and recommendations in coordination with the State and the OIG. FHWA's Deputy Administrator continues to serve as FHWA's lead official in this effort.

On August 16, 2007, the DOT OIG issued a report titled "Initial Assessment of the Central Artery/Tunnel Project Stem To Stern Safety Review." Steps are being taken by the State to address the concerns expressed in the report.

Senator KERRY. Well, we sure hope so.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Madam Secretary, I have a whole flock of questions here, but I've noted that you've been very patient, you've had much skill and grace, sitting there, responding to over an hour and a half of nonstop questioning. And so, if I may, I'd like to submit my questions to you for your consideration and response.

Secretary PETERS. I would be delighted to do so, Senator.

The CHAIRMAN. And on behalf of the Committee, I thank you for your presence here.

Secretary PETERS. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is the Honorable Calvin L. Scovel III, Inspector General, U.S. Department of Transportation.

General welcome to the Committee.

STATEMENT OF HON. CALVIN L. SCOVEL III, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION

Mr. SCOVEL. Chairman Inouye, Members of the Committee, we appreciate the opportunity to appear today to discuss the challenges facing the U.S. Department of Transportation and the Nation's transportation system.

As you know, we report annually on the top management challenges facing DOT, as required by Congress and the Office of Management and Budget. We will issue our latest report shortly.

At the outset, I would like to briefly highlight three pressing transportation challenges that will require the Department to work with Congress and other stakeholders to identify policy solutions.

First, agree on a long-term solution on how to finance FAA. The Congress has put in place a short-term FAA financing measure that reflects the status quo, but a long-term reauthorization is needed.

Second, achieve reform of intercity passenger rail. Significant progress is unlikely without a new reauthorization of Amtrak, one that addresses the critical questions of where intercity passenger rail makes sense, what types of service should be provided, how much it should cost, and who pays for it.

Third, resolve the short- and long-term challenges related to the Highway Trust Fund. The current surface transportation authorization expires at the end of 2009, and DOT and the Congress will

need to determine funding levels and sources of funding in light of the growing demand for Federal infrastructure investments and escalating construction costs.

Now let me turn to the specific challenges that DOT needs to address. We have assembled these issues along three cross-cutting areas.

First, strengthen oversight to ensure surface safety and make the most of the Federal investment in highway and transit projects. There are five areas that need sustained management focus.

One, ensure the safety of the Nation's tunnels. FHWA must develop and implement a system to ensure that States inspect and periodically report on tunnel conditions.

Two, improve oversight of the Nation's structurally deficient bridges. Nearly 72,500 bridges across the Nation have been designated as structurally deficient. As we testified last month, Federal oversight of bridge inspections and funding for bridge rehabilitation and replacement constitute one of the most significant challenges facing DOT.

Three, carry out commitments to closely monitor Mexican motor carriers allowed to operate throughout the United States under the Department's demonstration project. Assuming the demonstration continues, FMCSA must develop checks to ensure that all drivers in the demonstration are properly licensed and that all trucks have undergone a recent safety inspection.

Four, reduce highway project costs by promoting the use of value engineering. States have foregone opportunities to realize hundreds of millions of dollars in additional savings that could have been reprogrammed to other transportation projects. FHWA must improve its value engineering program to strengthen oversight activities and disseminate best practices to States.

And, finally in this area, provide vigilant oversight of transit projects to control costs and schedules. FTA has several massive infrastructure projects in various stages of design or construction, and it will be challenged to ensure that these projects stay within budget and on schedule.

Our second cross-cutting area is to enhance the safety of the Nation's aviation system. Three issues here need management's sustained focus.

One, take actions to improve runway safety. Reducing the risk of runway incursions—that is, potential collisions on airport surfaces—is a critical safety issue that requires proactive and ongoing efforts on the part of FAA, airlines, and airport operators.

Two, strengthen risk-based oversight system. In the past 9 years, FAA has made important progress in developing risk-based approaches to safety oversight. However, to meet the demands of an ever-evolving aviation industry, FAA must step up its efforts to complete implementation of its air transportation oversight system, to gather more complete data on the facilities air carriers use to complete critical maintenance, and to modify its risk-based system for manufacturers to effectively respond to the growth in use of suppliers.

Finally, maintain a sufficient number of aviation safety inspectors. The rapidly changing aviation environment makes it impera-

tive that FAA maintain a sufficient number of well-trained inspectors in the right locations.

Our third cross-cutting area is to reduce airline delays and meet anticipated demand for air travel, and address short- and long-term challenges to operate, maintain, and modernize the National Airspace System. Four areas need management's sustained focus.

First, reduce delays and improve airline customer service. These are urgent issues. During the first 7 months of 2007, airlines' on-time performance was at the lowest percentage over the last decade, with nearly 28 percent of flights delayed, cancelled, or diverted. Secretary Peters is committed to action, but there is no silver bullet to this problem. The answer lies in a mix of solutions, including scheduling, air traffic control modernization, and additional ground infrastructure. Airlines and airports, likewise, must do their part in the short term to effectively implement their customer service plans, including contingency plans, especially when there are extraordinary flight disruptions that cause significant delays, cancellations, and diversions.

Two, hire and train a new controller workforce. Through 2016, FAA must hire and train over 15,000 new controllers as controllers hired after the 1981 strike retire. FAA is making progress, but further efforts are needed, particularly in terms of reducing the time and costs associated with on-the-job training, the longest and most expensive portion of new-controller's training.

Three, reduce cost, schedule, and technical risks with NextGen, the most complex, high-risk effort FAA has ever undertaken. It will require multibillion-dollar investments by the Government and airspace users. FAA needs to continue to address complex engineering and integration issues, and develop an effective human-factors program for controllers and pilots, to ensure anticipated changes can be safely introduced.

And, four, keep existing modernization projects on track. FAA's major acquisitions have a long history of cost growth and schedule delays. These were a result of overly ambitious plans, changing requirements, complex software development, and poor contract oversight. FAA needs to prevent schedule slips, cost growth, or performance shortfalls with ongoing projects, that could delay much-needed NextGen capabilities for enhancing capacity.

Mr. Chairman, this concludes my statement. I'd be pleased to answer any questions you or other Members of the Committee might have.

[The prepared statement of Mr. Scovel follows:]

PREPARED STATEMENT OF HON. CALVIN L. SCOVEL III, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION

Chairman Inouye, Vice Chairman Stevens, and Members of the Committee:

We appreciate the opportunity to appear today to discuss the challenges facing the U.S. Department of Transportation (DOT) and the Nation's transportation system. I also want to express my appreciation for the strong support that this Committee has shown for the Office of Inspector General (OIG) and its mission.

As you know, we report annually on DOT's top management challenges as required by Congress and the Office of Management and Budget. We will issue our latest report on these issues in November.

This year, we will highlight nine challenges facing DOT across multiple modes of transportation, including issues related to funding and overseeing infrastructure

projects; strengthening highway, rail, and air safety; reducing congestion; and modernizing the National Airspace System (see Figure 1).

Figure 1. Fiscal Year 2008 Top Management Challenges

- Continuing To Enhance Oversight To Ensure the Safety of an Aging Surface Transportation Infrastructure and Maximize the Return on Investments in Highway and Transit Infrastructure Projects
- Addressing Long- and Short-Term Challenges for Operating, Maintaining, and Modernizing the National Airspace System
- Developing a Plan To Address Highway and Transit Funding Issues in the Next Reauthorization
- Reducing Congestion on America's Transportation System
- Improving Oversight and Strengthening Enforcement of Surface Safety Programs
- Continuing To Make a Safe Aviation System Safer
- Strengthening the Protection of Information Technology Resources, Including the Critical Air Traffic Control System
- Managing Acquisition and Contract Operations More Effectively To Obtain Quality Goods and Services at Reasonable Prices
- Reforming Intercity Passenger Rail

The Secretary and her team have been responsive to the challenges we have identified in the past. In fact, many of these are long-standing priorities that are at the heart of DOT's mission. The Department's Performance and Accountability Report also tracks progress in addressing the issues that we have identified and shows whether meaningful actions are underway to address them.

At the outset, I would like to briefly highlight several pressing transportation challenges that will require the Department to work with Congress and other stakeholders to identify policy solutions. They are:

- Agreeing on a long-term solution on how to finance the Federal Aviation Administration (FAA). Several alternatives have been proposed as to how to best fund FAA, including imposing user fees, adjusting the existing excise tax structure, and allowing the Agency to borrow for long-term capital investments. The Congress has established a short-term FAA financing measure that reflects the status quo, but a long-term reauthorization is needed.
- Achieving reform of intercity passenger rail. Significant progress on reform is unlikely without a new reauthorization of Amtrak. New reauthorization should address the critical questions of where intercity passenger rail makes sense, what types of service should be provided, how much it should cost, and who should pay for it. DOT must continue to work with Congress to improve the cost-effectiveness of Amtrak's operations to free up funds for Amtrak's capital program within the constrained Federal budget environment.
- Resolving the short- and long-term challenges related to the Highway Trust Fund. DOT and Congress must first decide how to address Highway Trust Fund revenue shortfalls that may require near-term reductions in Federal highway spending. The current surface transportation authorization expires at the end of 2009, and DOT and Congress will need to determine funding levels and sources of funding in light of the growing demand for Federal infrastructure investments and escalating construction costs.

Today, I would like to highlight the challenges facing DOT in the areas of strengthening aviation and surface safety and getting the most from our Federal transportation infrastructure dollars. We have assembled these issues along three cross-cutting areas:

- Strengthen oversight to ensure surface safety and make the most of the Federal investment in highway and transit projects.
- Enhance the safety of the Nation's aviation system.
- Reduce airline delays, meet anticipated demand for air travel, and address challenges for operating, maintaining, and modernizing the National Airspace System.

Strengthen Oversight To Ensure Surface Safety and Make the Most of the Federal Investment in Highway and Transit Projects

Recent fatal highway incidents highlight the need for the Department to focus on ensuring the safety of the Nation's surface transportation infrastructure, particularly for aging tunnels and bridges needing costly rehabilitation, repair, or replace-

ment. Additionally, the recent decision to permit some Mexican carriers to operate beyond the commercial zones along the border underscores the need for the Department to provide vigilant oversight to ensure the safety of the Nation's highways. The Department must also maximize the Federal transportation investment by ensuring that highway and transit projects are completed in a timely and cost-effective manner. This is critical at a time when infrastructure needs are increasing and the Nation's fiscal resources are struggling to meet growing demands.

Going forward, the Department will be challenged to balance the need to provide funding for projects to repair or replace aging infrastructures with funding for projects to reduce congestion with new capacity. Accordingly, we have identified the following areas that need continued management emphasis.

Ensuring the safety of the Nation's tunnels: In July 2006, a motorist was killed by falling ceiling panels in a tunnel of the Central/Artery Tunnel Project in Boston.[1] The safety problems that surfaced on this project call into question the oversight and quality control processes for constructing and maintaining the Nation's highway tunnels. Accordingly, the Federal Highway Administration (FHWA) should develop and implement a system to ensure that states inspect and report on tunnel conditions.

To begin addressing these problems, FHWA officials informed us that they will issue an advance notice of proposed rulemaking by December 2007 to seek input on the development of national tunnel inspection standards. FHWA should move aggressively on this rulemaking and establish rigorous inspection standards as soon as possible.

Improving oversight of the Nation's structurally deficient bridges: In August 2007, 13 people were killed when the Interstate 35W Bridge in Minneapolis, which spanned the Mississippi River, collapsed during the evening rush hour. The National Transportation Safety Board is investigating the cause of the collapse. This tragic incident underscores the importance of vigilant oversight for structurally deficient bridges (those that have major deterioration, cracks, or other deficiencies in their structural components). Nearly 72,500 bridges across the Nation have been designated as "structurally deficient." As we testified last month, Federal oversight of bridge inspections and funding for bridge rehabilitation and replacement constitute significant challenges for DOT.[2]

- Specifically, FHWA should sharpen its focus on developing a data-driven, risk-based approach to bridge oversight to better identify and target those structurally deficient bridges most in need of recalculation of load ratings and postings.
- Further, FHWA must identify and implement a process to determine the amount of Federal funds expended on structurally deficient bridges.

Carrying out commitments to closely monitor Mexican motor carriers allowed to operate throughout the United States under the Department's demonstration project: On September 6, 2007, after responding to Congress regarding our audit report issued that day, the Department initiated a 1-year demonstration project to permit up to 100 Mexican carriers to operate beyond the commercial zones along the United States-Mexico border.[3] Our report called on the Federal Motor Carrier Safety Administration (FMCSA) to address the need for coordinated, site-specific plans for checking trucks and drivers participating in the demonstration project each time they cross the border into the United States.

Assuming that future funding for the demonstration project is approved and the project continues, FMCSA will need to coordinate with the states and the U.S. Customs and Border Protection to carry out the plans for these checks. These checks must ensure that all Mexican drivers participating in the demonstration project are properly licensed and all trucks display a decal denoting a recent safety inspection.

Reducing highway project costs by promoting the use of value engineering: One way to more effectively use Federal highway funds is to lower project costs by increasing value engineering (VE) usage. VE is the systematic process of review and analysis of a project during the concept and design phases. A multi-disciplined team of persons independent of the project conducts the review. In our March 2007 report on FHWA's VE program, we found that states have missed opportunities to realize

---

[1] OIG Report Number MH–2007–063, "Initial Assessment of the Central Artery/Tunnel Project Stem To Stern Safety Review," August 16, 2007. OIG reports and testimonies are available on our website: *www.oig.dot.gov*.

[2] OIG Testimony Number CC–2007–095, "Federal Highway Administration's Oversight of Structurally Deficient Bridges," September 5, 2007.

[3] OIG Report Number MH–2007–065, "Issues Pertaining to the Proposed NAFTA Cross-Border Trucking Demonstration Project," September 6, 2007.

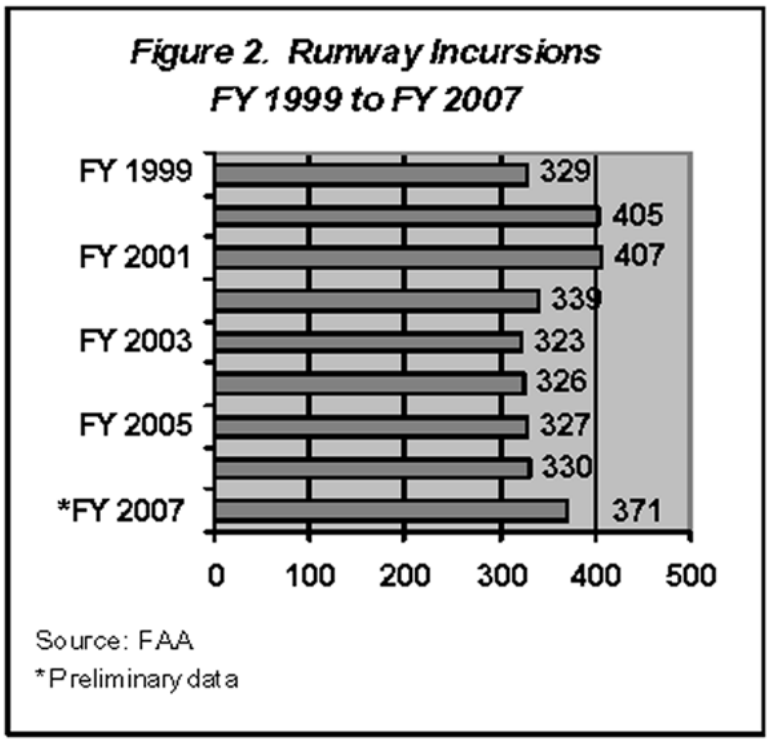
hundreds of millions of dollars in additional savings that could have been reprogrammed to other transportation projects.[4] FHWA should improve its VE program by strengthening oversight and disseminating best practices to states.

Providing vigilant oversight of transit projects to control costs and schedules: The Federal Transit Administration (FTA) has several massive infrastructure projects in various stages of design or construction. The Agency will be challenged to ensure that project sponsors keep these projects within budget and on schedule. Vigilant oversight of these projects will be particularly important as FTA simultaneously continues its oversight of a large portfolio of other transit projects across the country. For example, the magnitude of ongoing major surface transportation projects in New York City, with an estimated cost of over $16 billion (this includes about $8.48 billion in Federal funds) warrants close FTA oversight to ensure that project sponsors are exercising sound project and financial management.

Enhance the Safety of the Nation's Aviation System

Safety is FAA's highest priority. For more than 5 years, FAA and the U.S. aviation industry have experienced one of the safest periods in history—even though the industry has undergone dramatic changes. However, the August 27, 2006, crash of Comair Flight 5191 (when pilots attempted to take off from the wrong runway) serves as a reminder that we must do more to make a safe system safer. We have identified the following areas that need sustained focus.

Taking proactive actions to improve runway safety in light of recent serious incidents: Reducing the risk of runway incursions (potential collisions on airport surfaces) is a critical safety issue that requires both proactive and ongoing efforts on the part of FAA, airlines, and airport operators. As shown in Figure 2, the number of runway incursions decreased from a high of 407 in Fiscal Year (FY) 2001 to a low of 323 in FY 2003. However, the number of runway incursions has slowly increased since 2003, reaching a high of 371 in FY 2007—a 12-percent increase over FY 2006.



[4] OIG Report Number MH–2007–040, "Final Report on Value Engineering in FHWA's Federal-Aid Highway Program," March 28, 2007.

Serious runway incursions also continue to occur. For example, on July 19, 2007, at Chicago O'Hare International Airport, a collision was barely avoided when a United Airlines aircraft exited the wrong taxiway and taxied directly underneath the path of an arriving U.S. Airways aircraft. Although the controller instructed the U.S. Airways aircraft to go around, it over-flew the nose of the United aircraft by 50 to 70 feet.

These incidents underscore the need for proactive efforts that are both technological and programmatic in nature. A key technology for reducing runway incursions is the Airport Surface Detection Equipment—Model X (ASDE–X) program. FAA is developing ASDE–X to aid air traffic controllers in preventing runway incursions.

Keeping this important technology on track is critical because ASDE–X is currently at risk of not meeting its cost and schedule goals to commission all 35 systems for $549.8 million by 2011.

When we testified before the Senate Appropriations Committee in May,[5] FAA had already expended about $288 million (52 percent of the total ASDE–X planned funding) but had only deployed 8 of the 35 systems. Additionally, at the deployed sites, FAA had yet to implement the planned capability to alert controllers of potential collisions on intersecting runways and taxiways.

FAA also needs to take programmatic actions to reduce runway incursions. In May, we reported[6] that several national initiatives for promoting runway safety (undertaken by FAA as early as 2000) have waned as the number of incidents declined and FAA met its goals for reducing runway incursions. Actions needed include:

- Improving information sharing among users to identify root causes of pilot deviations and communicate best practices to reduce runway incursions.
- Placing additional focus on controller human factors issues and training to improve individual, team, and facility performance.
- Assigning greater authority and accountability at the national level to ensure that runway safety remains a priority for all FAA lines of business.

FAA has begun addressing these concerns. For example, FAA met with airline and airport officials and agreed to a five-point, short-term plan for improving runway safety. The plan's major focus includes conducting safety reviews at airports where wrong runway departures and runway incursions are the greatest concern, accelerating the deployment of improved airport signage and markings at the top 75 airports ahead of the June 2008 mandated deadline, and reviewing cockpit procedures and air traffic clearance procedures. These efforts are clearly steps in the right direction, but their success will depend on ensuring that the current momentum continues and that runway safety remains a high priority for all users of the National Airspace System.

Strengthening risk-based oversight systems for air carriers, external repair facilities, and aircraft manufacturers: In the past 9 years, FAA has made important progress in developing risk-based approaches to safety oversight of air carriers; aircraft manufacturers; and, most recently, aircraft repair stations. According to recent data provided by FAA, it has implemented the Air Transportation Oversight System at 110 air carriers; however, 8 carriers still need to be converted to the new system. FAA plans to complete this transition by the end of calendar year 2007. In addition, ATOS requires the use of a team of inspectors with specialized expertise, not only in technical areas such as maintenance and electronics, but also in conducting risk assessments. Based on information provided to us, FAA has not developed a plan that details how this transition can be accomplished with the Agency's limited inspector resources. FAA has indicated that it is reconfiguring field offices to more efficiently use existing and newly hired inspector resources in conjunction with the transition, but has not fully addressed how it plans to ensure these inspectors have the skills needed.

FAA needs to refine its safety oversight of aircraft repair stations. For its new risk-based system to be effective, FAA must have a sound process for determining where critical aircraft maintenance is performed. FAA developed new inspector guidance and air carrier processes to address this problem, but these efforts still fall short of providing FAA with the information it needs. For example, FAA developed a process for air carriers to report the top 10 critical maintenance providers used

---

[5] OIG Testimony, CC–2007–054, "FAA's FY 2008 Budget Request: Key Issues Facing the Agency," May 10, 2007.

[6] OIG Report Number AV–2007–050, "Progress Has Been Made in Reducing Runway Incursions, but Recent Incidents Underscore the Need for Proactive Efforts," May 24, 2007.

each quarter, but this reporting is voluntary; also, FAA inspectors are not required to validate the data that air carriers submit.

Further, FAA's new risk-based system does not include a process for overseeing critical repairs performed by non-certificated repair facilities. In 2005, we reported that over 1,400 non-certificated repair facilities were performing maintenance for U.S. air carriers and that more than 100 of these facilities were located in foreign countries.[7] FAA's efforts to improve its oversight of non-certificated repair facilities are still underway.

FAA will also need to modify its risk-based system for manufacturers so that inspectors can more effectively oversee manufacturing operations in today's complex aviation environment. The new system was not designed to address the increasingly prominent role that aircraft part and component suppliers now play in aviation. Rather than build the majority of their aircraft within their own manufacturing facilities using their own staff, manufacturers now have large sections of their aircraft built by domestic and foreign part suppliers. Therefore, FAA will also need to ensure that its risk-based system includes an assessment of the number of suppliers manufacturers now use.

Maintaining a sufficient number of inspectors: The rapidly changing aviation environment makes it imperative for FAA to maintain a sufficient number of inspectors in the right locations. FAA has approximately 4,000 inspectors located in offices throughout the United States and in other countries. These inspectors must oversee both domestic and foreign aspects of air carriers' maintenance and operations. FAA expects to hire approximately 287 aviation safety inspectors in FY 2008. FAA also expects to lose approximately 200 aviation safety inspectors during the same period, which would result in a net increase of 87 inspectors in FY 2008. FAA requested funding for these 87 inspectors in FY 2008; this would be an increase over FY 2007 staffing levels. FAA faces an additional challenge with approximately 48 percent of the inspector workforce eligible to retire by 2012.

FAA must ensure that its inspectors are properly trained. Using risk-based oversight systems is a foundational part of FAA's plan to meet future oversight challenges, but it requires that inspectors be skilled in risk analyses. Therefore, the Agency needs to improve its hiring and training efforts if it is to maintain a sufficient number of inspectors with the right skill set to oversee a dynamic aviation industry.

Reduce Airline Delays, Meet Anticipated Demand for Air Travel, and Address Challenges for Operating, Maintaining, and Modernizing the National Airspace System

The Department is pursuing a national strategy to reduce congestion across all modes of transportation. Congestion limits economic growth, wastes fuel, and costs billions of dollars in lost productivity each year. This will likely remain a prominent challenge for the Department for some time, particularly with regard to air travel. We are seeing record-breaking flight delays and cancellations, and forecasted air travel demands will continue to strain system capacity. This year's airline customer service issues drew national attention and underscored the need for the Department's continued focus in this critical area. While the Department has made progress on implementing a number of congestion-related initiatives this past year, the strategy was developed before this year's significant air travel problems. Reducing aviation delays and customer dissatisfaction with air travel is the most urgent congestion priority facing the Department. The Department and FAA also face several challenges in operating and modernizing the National Airspace System. This includes hiring and training a new air traffic controller workforce, reducing risks associated with the Next Generation Air Traffic Control System (NextGen), and ensuring that current modernization projects remain on track.

Reducing delays and improving airline customer service while meeting the anticipated demand for air travel: Reducing delays and meeting the anticipated demand for air travel are urgent issues. The National Airspace System is operating at the fringes of capacity, and record-breaking flight delays and cancellations are leading to long, on-board delays.

During the first 7 months of 2007, airlines' on-time performance was at the lowest percentage over the last decade, with nearly 28 percent of flights delayed, canceled, or diverted. During the same period, over 54,000 scheduled flights, affecting nearly 3.7 million passengers, experienced tarmac delays of 1 to 5 hours or more (see table). This is an increase of nearly 42 percent as compared to the same period in 2006.

---

[7] OIG Report Number AV–2005–062, "FAA Safety Oversight of an Air Carrier Industry in Transition," June 3, 2005.

Table.—Number of Flights With Tarmac Delays of 1 to 5+ Hours

[January Through July of 2006 and 2007]

Time Period	2006	2007	% Change
1–2 Hrs.	33,438	47,558	42.23
2–3 Hrs.	3,781	5,213	37.87
3–4 Hrs.	710	1,025	44.37
4–5 Hrs.	120	189	57.50
5 or > Hrs.	27	44	62.96
Total:	38,076	54,029	41.90

Source: BTS data.

Consumer complaints are also rising. DOT's Air Travel Consumer Reports disclosed that, for the first 7 months of 2007, complaints relating to flight problems (delays, cancellations, and missed connections) more than doubled, from 1,096 to 2,468, as compared to the same period in 2006.

The Department should take a more active role in overseeing customer service issues to ensure that airlines comply with their policies involving flight problems. Secretary Peters is committed to taking action, but there is no "silver bullet" solution to this problem. We believe that a cumulative mix of solutions would help the situation, including scheduling procedures, air traffic control modernization, and additional ground infrastructure. Other solutions, such as peak hour pricing, involve complex policy questions. It is also important to remember that the traveling public will likely face similar air travel problems in the spring and summer of 2008 and 2009 before they experience any real relief from capacity problems.

The airlines and airports must also do their part in the short term to effectively implement their customer service plans—including contingency plans—especially when their extraordinary flight disruptions cause significant delays, cancellations, and diversions.

Hiring and training a new controller workforce: Through 2016, FAA must hire and train over 15,000 new controllers as controllers hired after the 1981 strike retire. In December 2004, FAA developed a comprehensive workforce plan to address this challenge and issued the first in a series of annual reports to Congress. FAA issued its first update to the plan in June 2006 and the second in March 2007. In February, we issued the results of our review of FAA's progress in implementing its controller workforce plan.[8] Overall, we found that FAA continues to make progress in implementing a comprehensive staffing plan to address the surge in retirements. However, further progress is still needed in key areas. These include:

- Completing validation of accurate facility-level staffing standards. This is a critical component because FAA has over 300 air traffic facilities with significant differences in air traffic levels and complexity.
- Establishing baseline metrics to measure the effectiveness of controller productivity initiatives. FAA must ensure that reductions in staffing are a result of increased productivity and not simply fewer controllers controlling more traffic.
- Continuing efforts to reduce the time and costs associated with on-the-job training. This is the longest and most expensive portion of new controllers' training.

Reducing cost, schedule, and technical risks with NextGen: The development and execution of NextGen is the most complex, high-risk effort FAA has ever undertaken and will require multibillion-dollar investments from the Government and airspace users. While costs for developing and implementing NextGen remain uncertain, FAA expects to spend $4.6 billion on NextGen initiatives between 2008 and 2012. The bulk of these funds will be spent on developmental efforts and projects such as the Automatic Dependent Surveillance-Broadcast Program—a satellite-based system that allows aircraft to broadcast their position to controllers and other properly equipped aircraft.

In our February 2007 report, we examined progress with FAA's Joint Planning and Development Office,[9] which is responsible for developing a vision for NextGen,

[8] OIG Report Number AV–2007–032, "FAA Continues To Make Progress in Implementing Its Controller Workforce Plan, but Further Efforts Are Needed in Several Key Areas," February 9, 2007.

[9] OIG Report Number AV–2007–031, "Joint Planning and Development Office: Actions Needed To Reduce Risks With the Next Generation Air Transportation System," February 12, 2007.

and highlighted needed actions. We recommended, among other things, that FAA develop a strategy for obtaining the necessary expertise to execute NextGen initiatives and review existing modernization projects to determine required adjustments.

FAA has begun addressing our concerns. FAA must also continue to address complex engineering and integration issues and develop an effective human factors program (for controllers and pilots) to ensure that anticipated changes can be safely introduced.

Keeping existing modernization projects on track: FAA's major acquisitions have a long history of cost growth and schedule delays. For example, two acquisitions, the Wide Area Augmentation System (a satellite-based navigation system) and the Standard Terminal Automation Replacement System (new software and hardware for controllers that manage traffic in the vicinity of airports), have experienced cost growth of over $4.2 billion since their inception. Problems with FAA acquisitions are the result of overly ambitious plans, changing requirements, complex software development, and poor contract oversight.

It will be important to keep existing modernization projects on track because about 30 of these are intended to serve as platforms for NextGen. This includes the $2.1 billion En Route Automation Modernization project to replace hardware and software for facilities that manage high-altitude traffic. We note that the project is within budget and on schedule to be deployed to Salt Lake Center in 2008. While FAA has done a better job of managing acquisitions over the last several years, some programs are still at risk of further cost growth, schedule slips, or diminishing benefits. For example, the benefits (expected cost savings) of the FAA Telecommunications Infrastructure program (an effort to replace and consolidate all telecommunications into a single system) have eroded as costs have increased and the completion schedule has slipped. FAA needs to prevent schedule slips, cost growth, and performance shortfalls with ongoing projects that could delay NextGen capabilities needed to enhance capacity.

Enhancing air traffic control system security and continuity planning: The President has designated air traffic control systems as part of the Nation's critical infrastructure due to the important role that commercial aviation plays in fostering and sustaining the economy and ensuring citizens' safety and mobility. We previously reported deficiencies in protecting this critical infrastructure in two areas: (1) continuity planning to restore essential air traffic service in case of prolonged service disruptions at en route centers and (2) review of operational air traffic control services security outside of the computer laboratory.

During FY 2007, under the Deputy Administrator's (now Acting Administrator) direction, FAA undertook initiatives and made modest progress in both areas, such as developing a concept of operations for business continuity planning. However, these are multi-year efforts, for which FAA still faces many uncertainties.

FAA also made progress during FY 2007 in reviewing air traffic control systems in the field by developing a methodology to select high-risk systems for testing. While this is a good initiative, we have identified two areas requiring further attention.

- First, there are about 100 systems used to direct air traffic, none of which were reported as having a high-risk impact. After this was brought to management's attention, the Department's Chief Information Officer, the FAA Acting Deputy Administrator, and the FAA Chief Information Officer all agreed to collaborate with the Air Traffic Organization to ensure that air traffic control systems are individually reviewed and categorized in accordance with Government standards and departmental policy, as a key priority for FY 2008.
- Second, FAA needs to focus on identifying and preventing unauthorized software changes made in air traffic control systems to meet local (field site) operational needs. As evidenced in our previous audit reports, such software changes could inadvertently create vulnerabilities to air traffic control operations.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you or other Members of the Committee may have at this time.

The CHAIRMAN. I thank you very much, Mr. Scovel.

I'll be submitting a whole list of questions.

But, for this moment, on oversight, you've cited tunnels, bridges—there are 7,000 of them—and Mexican motorists, monitoring them. What is the estimated cost of carrying out what you propose?

Mr. SCOVEL. Sir, with regard to the inspection of tunnels, I don't have a cost figure with regard to that. Our recommendation in this area arose from our study of the tunnel ceiling collapse in the Big Dig Project in July of 2006, which, as Senator Kerry mentioned, unfortunately killed a passenger in the tunnel. We discovered, in the course of our review of that event, and we recommended to FHWA, that it undertake a tunnel inspection program. Frankly, we were surprised to discover, in the course of reviewing the incident, that our country has no tunnel inspection program. In light of what happened in Boston and the age of many tunnels in this country, we thought that would be prudent. We recommended it to FHWA. They will implement it by the end of this year, as the Secretary mentioned.

With regard to bridges, my understanding of the total cost is that somewhere in the neighborhood upward of $60 billion will be required to repair structurally deficient bridges. There are 72,500 structurally deficient bridges in the country right now. We have recommended an immediate plan for FHWA to undertake, as Senator Kerry mentioned, our term, a "risk-based and data-driven" approach to target its very limited inspector resources on the most needy bridges.

The CHAIRMAN. How do you propose to finance this?

Mr. SCOVEL. Sir, I can't presume to speak for the Department. I wish to make clear that our role is one of inspection and independent and objective oversight, rather than policymaking. We have, in addition to the short-term measures that I know Senator Murray has introduced here in the Senate and that Chairman Oberstar has introduced in the House, bridge inspections and repairs necessarily need to be part of the overall financing scheme to repair surface transportation in this country. We've identified a number of alternatives, and, as the Committee knows, two commissions are presently at work. Secretary Peters chairs one of those, and it's due to report out by the end of this year. But we've identified financing alternatives, and we will leave it to policymakers to determine the prudence of any one of those, or combination.

Certainly, there are exemptions, perhaps to—the fuel tax, as the Committee knows. Those could conceivably be paid for from the General Fund instead of the Highway Trust Fund. The per-gallon fuel tax might be raised. It might be indexed to inflation. It could be converted to a sales tax. User charges, such as a per-container cargo fee, might be an option. Senator Thune mentioned his bonding proposal, certainly that should be on the table, as well as tolling and other innovative financing techniques that the Department is looking at most energetically. And, finally, mileage-based fees may be on the table, although we believe that that would be a long-term possibility, should the Administration and the Congress decide to move in that direction.

The CHAIRMAN. Does the Administration have any recommendations to make?

Mr. SCOVEL. I'm not aware of any at this time. I know Secretary Peters is chairing the commission which is examining a number of these alternatives, and we look forward to reviewing them, as I know the Committee will, at the end of this year, when it reports out.

The CHAIRMAN. On the matter of recommending monitoring Mexican motorists, are you suggesting that we can't trust them?

Mr. SCOVEL. Can't trust Mexican drivers, sir? No, I don't mean to suggest that at all. Our sustained focus for a number of years now, ever since the proposal to honor our country's agreement under NAFTA and institute a reciprocal trucking arrangement with Mexico—our sustained focus has been on oversight to make sure that that is done properly and safely. I have a number of very capable staff, who, frankly, have made their careers on this subject over the last 7 to 8 years.

With regard to the demonstration project, our immediate concern has been the apparent absence, in the Department's initial plans, for coordinated onsite plans to ensure that the Department's promise, of "every truck, every time" to be inspected, would be honored. We found, in our review over the summer, that there were not coordinated onsite, site-specific plans to accomplish that promise. We pointed that out to the Department, they responded immediately and initiated the demonstration project.

The CHAIRMAN. Runway safety, can you tell us what the problems are?

Mr. SCOVEL. Sure. Mr. Chairman, a number of problems. And, in fact, FAA has identified runway safety as its most pressing immediate safety issue. As the Committee knows, aviation safety has improved markedly over the last 5 years. However, runway safety poses the greatest risk for tragic accidents; and, in fact, the most costly accident, in terms of loss of life, occurred between a collision of two jumbo jets some time ago—not in this country, I should add. However, we have had a number of—close calls, one in Chicago, one in San Francisco, just this year, that, again, highlight the importance of runway safety.

FAA is pinning a lot of its hopes in a system called ASDE–X, which has great promise; however, in terms of management of the contract to install ASDE–X, we have found problems with FAA's performance. It's expended over 50 percent of the total, it's obligated over 60 percent, yet only nine systems—eight systems, in fact—and one has just recently been approved for Chicago, so that might make nine systems of the 35—have actually been installed, or will soon be installed.

The deadline—or the goal for installation of all 35 systems was to be 2011. I think, based on our review of the project, we're hopeful, but we have to be realistically skeptical, that FAA will be able to make it on time and on budget.

To its credit—and my office always tries to be fair in giving credit where credit is due—Bobby Sturgill, the Deputy—former Deputy Administrator at FAA, currently Acting Administrator—in August, convened a special Runway Safety Task Force, and came up with a number of very short-term and immediate actions that could be accomplished, having to do with signage, marking, dissemination of best practices between airports to ensure runway safety.

And I would also like to give credit to FAA for finally making good on a point that we have emphasized for a number of years, and that is, at the national level, at FAA headquarters level, there seemed, to us, to be a lack of proper oversight. The Runway Safety Office had lacked a permanent director for over 3 years. That's re-

cently been filled, we understand, and we have hopes that runway safety will come back to the forefront, in terms of proper FAA attention.

The CHAIRMAN. I've been advised that the most important airspace in the United States is the New York/New Jersey one. It's also the area that many of the problems originate, such as delays and what have you. FAA just announced that final plans for the redesign of this airspace is on its way. Are you involved in this redesign?

Mr. SCOVEL. Thank you, Mr. Chairman. We're not involved in the redesign. We have been watching it closely, because, in our opinion, as you mentioned, New York City appears to be the Gordian Knot of air traffic delays in this country. There is a ripple effect from everything that happens or doesn't happen in the New York area throughout the country.

Airspace redesign has the promise to be a key to cutting that Gordian Knot. FAA estimates that 200,000 hours annually of delay might be saved with proper airspace redesign. It has exerted great energy in accomplishing airspace redesign in the New York/Philadelphia/New Jersey area, where they're close. We know FAA would like to move as fast as it possibly can. We're aware of the possibility of litigation, and many folks on the ground, particularly in areas of New Jersey, that might experience jet noise for the first time, have objections to it, and they may, indeed, bring suit.

But if the agency is successful in accomplishing air design of the New York/New Jersey airspace, it will help. It is not a silver bullet, but it will certainly help ease the congestion and delays that result from all the traffic over the New York area.

The CHAIRMAN. You said that you're not involved, but you monitor. If you find anything wrong, would they take your advice?

Mr. SCOVEL. With specific reference to airspace redesign, sir?

The CHAIRMAN. Yes.

Mr. SCOVEL. We have not found anything wrong. We've, frankly, applauded their diligent efforts to move as fast as they conceivably can, they believe they can, taking into account the citizen objections to the new design.

The CHAIRMAN. About the 15,000 more air controllers?

Mr. SCOVEL. Yes, sir.

The CHAIRMAN. How long will it take to train them?

Mr. SCOVEL. We have significant concerns in this area. As I mentioned, and as the Committee knows, after the 1981 strike a whole new controller workforce was hired. Many of those folks are now eligible for retirement, and they are leaving. They have left in larger numbers than FAA first estimated. However, again, I'd like to give credit to FAA for doing a pretty good job, in our estimation, of adjusting their plans to accommodate the higher-than-expected retirement levels. FAA, again, has also done a pretty good job of recruiting to fill the vacancies. However, it's just that, that gives us concern.

There is a large number, now, of developmental air traffic controllers. And that's the proper term that the agency uses when it talks about these new-hires. I have some recent updated numbers, just this morning. FAA—these are end of Fiscal Year 2007 numbers—FAA projected 700 retirements, the actual retirements were

128 over that projection. Again, we think FAA made a pretty good stab at quickly adjusting to that. FAA projected 1,197 total losses; actual losses were 362 over that projection. FAA planned to hire 1,386 new controllers in Fiscal Year 2007, but actually hired 1,815. That was 429 above the planned number. So, again, our credit to FAA for reacting quickly.

However, this strengthens the case about the flood of developmental controllers that now need to be trained. All of these people who have been hired to fill those vacancies need to go through the Air Traffic Controller Academy in Oklahoma City, then they are sent out to the field to air traffic control facilities, where their training, frankly, is a very labor-intensive and time-intensive process. They are not fully up yet—the newly hired employee—and a fully experienced air traffic controller really must sit at their elbow in order to educate them on processes and procedures for an extended period of time. That ties down manpower within the facility.

We have recommended to FAA that it take steps to examine and improve that training process so that it can get more productivity from all its controllers.

The CHAIRMAN. If I hear you correctly, you're predicting that we'll have more disasters or more delays. Is that correct?

Mr. SCOVEL. I have to be a realist. When you say "disasters," I don't mean to try to predict that we are going to have loss of life. What we will certainly have is great dissatisfaction when the delays, that I do think are inevitable, simply because—for one reason, we're approaching the winter travel season—those delays are inevitable, and we will have passengers stranded on the tarmac again for long periods of time. And, because some of the air carriers have been slow in properly designing and testing their passenger care plans and their contingency plans, the carriers won't be able to respond in good fashion.

The CHAIRMAN. If you had a very important engagement in New York City next Saturday—not this coming Saturday—would you take Amtrak or take a flight?

[Laughter.]

Mr. SCOVEL. I'd look very closely at Amtrak, Mr. Chairman. In fact, I have ridden Amtrak between Washington and New York on business during the week. I do a fair amount of traveling in this job, much of it by air, and I've been delayed on virtually every single trip, to some extent or another.

I think, for short-segmented travel, like between Washington and New York, here in the Northeast Corridor, Amtrak is a viable option.

The CHAIRMAN. The record of the Committee will be held open for 3 more weeks, and if you wish, Mr. Inspector General—want to change your testimony or add, you're free to do so. I will be submitting questions to you, and I expect other members to do the same. I hope you'll respond to them.

Mr. SCOVEL. I welcome your questions, and thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much for your attendance.

[Whereupon, at 11:57 a.m., the hearing was adjourned.]

A P P E N D I X

SIERRA CLUB—NATIONAL PARKS AND MONUMENTS COMMITTEE
October 21, 2007

To: U.S. Senate Committee on Commerce, Science, and Transportation

RE: OVERSIGHT HEARING ON THE DEPT. OF TRANSPORTATION (OCT. 18, 2007)

The Sierra Club, with its 840,000 members nationwide, wishes to comment for this Oversight Hearing on two current areas of concern concerning the Department of Transportation and its Federal Aviation Administration, re the failure to provide due-diligence, straightforward, timely implementation, of either

1. The National Parks Air Tour Management Act (enacted April 5, 2000)
2. The proposed Aviation Noise Abatement Policy (issued by FAA July 14, 2000 in a *Federal Register* Notice for Comment)

The National Parks Overflights Act of 2000 (NPATMA)

Congress had intended this legislation, within 2 years of its original enactment, to prevent significant adverse impacts of air tour noise on units of the National Park system, which were and still are barraged by noisy helicopter and fixed-wing, low-level air touring enterprises subject to management by the FAA.

This intent has been unacceptably delayed and frustrated.

The way Congress intended relief was to have the Park Service (NPS) and the Federal Aviation Administration (FAA) jointly develop air tour management plans for national parks—though excluding those in Alaska, and Rocky Mountain National Park and Grand Canyon National Park. Unfortunately, not a single air tour management plan has been completed well more than 7 years since the passage of the Act. Among other factors, this has mainly been the result of FAA's consistently challenging the authority of the Park Service, especially re the significance of noise impacts from air tours on national parks.

Sierra Club believes that *Congress should clarify the intent of the NPATMA by making it explicit that the Park Service has the unimpeded, sole authority to determine the significance of noise impacts on the parks, while the FAA has the authority to ensure airspace safety.* With this clarification, the Park Service will have the clear authority it needs to make progress in better protecting natural sounds and quiet in the Parks.

Sierra Club also believes that Congress should stipulate additional measures which FAA could have undertaken years ago under NPATMA, and failed to do so, again by not exercising due diligence. These were the subject of two recent General Accountability Office (GAO) reports. In fact, specifics from these two reports have informed certain sections in the pending FAA Reauthorization Act from either House.

If appropriately managed, air tours provide a unique way for a reasonably controlled number of park visitors to experience some, though not necessarily all, of America's parks. However, we believe it is unfair for air tours and their noise to continue detracting from the experience of other visitors.

FAA has not exercised the overall due-diligence required, and otherwise has obstructed the progress which Congress intended. As an unfortunate result, the National Parks Overflights Advisory Group learned in June 2007, that (1) no air tour management plan (ATMP) was near completion; and (2) that of $32 million earmarked for air tour management, only $9 million had been spent, and that if there were no ATMP's soon, the remainder would have to be returned to the U.S. Treasury unspent.

The senior NPS representative at that June 2007 NPOAG meeting deplored the situation, and said that the viability of this DOT program could be seriously questioned without a single ATMP having been put in place. The September 2007 meeting of the NPOAG heard this sad story repeated, with the reasons for it essentially unchanged. After October 1 of next year, many millions of dollars, intended for na-

tional parks protection from adverse air tour impacts, will increasingly return to the Treasury unspent, unless the impasse between the agencies (largely created by FAA's negligence, lack of due-diligence, and/or obstructionism) is resolved.

FAA Proposed Noise Abatement Policy of 2000

The FAA has apparently abandoned its efforts to produce a revision of its Noise Abatement Policy of 1976.[1] It was improper, furthermore, that the FAA made no disclosure of said abandonment to a thereby blind-sided, concerned public.

Background

Three months after the FY 2000 enactment of the NPATMA, the FAA issued its proposed "Aviation Noise Abatement Policy 2000." The Secretary of Transportation thereby published a departmental policy statement, which included as Goal 5, "to provide specific consideration to locations in national parks and other Federally managed areas having unique noise sensitivities."

This was then translated to proposed "Policy Element 6: Areas with Unique Noise Sensitivities", (discussed at length [see FR 43811] within the subject announcement.)

This element had been a long-standing concern. This policy element section had appeared within "FAA's Noise Policy for Management of Airspace over federally Managed Areas", issued Nov. 8, 1996, by FAA Administrator David R. Hinson. The FAA in 2000 reasserted through Policy Element 6, a need/intention to focus, "to identify the extent to which low-level noise . . . may adversely impact areas with unique noise sensitivities."

Elsewhere in the same *Federal Register* 2000 notice, the FAA said in "Section 4: Assessing Aviation Noise", that it wanted to accomplish such identification, "in the vicinity of national parks in pristine areas, and land uses such as wildlife refuges." (FR at 43821)

However, FAA's recent abandonment of the 2000 draft Noise Abatement Policy, after all the public comment[2] it provoked (See Docket FAA–2000–30109), is unacceptable and incomprehensible. To thereby return the Nation to an outdated, 40-odd year old noise policy is unworthy of the Department of Transportation, and counterproductive to FAA's own stated NextGen goals of a 3x increase in airspace capacity by 2025. Aviation growth of such magnitude cannot occur without a properly updated Noise Abatement policy. This would include metrics, parameters, and thresholds more meaningful/acceptable to the general public, such as recently developed by the Commonwealth of Australia.[3] The Australian document confirms the views of many acoustic specialists in the U.S., that single-event metrics[4] and the disclosure of "respite" intervals are especially needed and appropriate.

Key Questions: *Was this 2000 Noise Abatement Policy abandonment accepted by any Secretary of Transportation within the past 7 years, and if so, by which one(s) and why? Was the interested public informed of such abandonment, and how? How does FAA now intend to inform the public, and promulgate a comprehensive noise abatement policy?*

The many hundreds of commentators on the Draft Policy and FAA Docket, and the Congress itself, deserve a full explanation. The Sierra Club was one of those commenters (comment of October 21, 2000, on "Draft 2000 Aviation Noise Abatement Policy.)

To make it clear to the Committee the problems at issue (since FAA has suppressed them to date, without response and without a policy), we are enclosing a copy of our October 21, 2000 official comment for the Docket, now exactly 7 years after its original submission.

Conclusions

The implications for national parks' aviation noise assessment and aviation noise mitigation generally, remain serious, as seen both from

1. FAA's obstinacy and/or stalling with the NPATMA; and

---

[1] Wyle Noise Bulletin #53—"FAA's Aviation Noise Abatement Policy" (Oct. 10, 2007—Wyle Laboratories, Inc., Arlington, VA), available at *http://www.wylelabs.com/content/global/documents/FAA1976NoisePolicy.*

[2] Noise Pollution Clearinghouse, "The Failure of America's Aviation Noise Abatement Policy", by Les Blomberg and James Sharp, 2002.

[3] "Guidance Material for Selecting and Providing Aircraft Noise Information", Commonwealth of Australia, 2003, at *http://www.dotars.gov.au/aviation/environmental/transparent_noise/pdf/GuidanceMaterial.pdf.*

[4] "What's In Your DNL?" by William Albee, Tom Connor, Royce Bassarab, Roger Odegard, and Clint Morrow, Oct. 2006, at *http://www.wylelabs.com/content/global/documents/dnl.pdf.*

2. FAA's failure to achieve—or even offer—a cooperative policy outcome, congruent with NPS, re national parks noise assessment.

The result is no air tour management plan for any park, now heading toward 8 years after the NPATMA, thus threatening the future viability of the entire air tour management program for national parks.

Elapse of so much time on both these matters confirms that the Park Service now ought to be legislatively assigned sole authority to determine the significance of noise impacts on the Parks.

The Sierra Club appreciates the time of Committee staff and members in undertaking to evaluate and correct this situation. We will respond willingly to further inquiry as needed.

Sincerely,

DICKSON J. HINGSON, PH.D.

Also attached: Sierra Club's Oct. 21, 2000 comment on FAA's Draft Noise Abatement Policy

SIERRA CLUB
San Francisco, CA, October 21, 2000

Federal Aviation Administration,
Office of the Chief Counsel,
Attention Rules Docket (ACG–200), Docket No. 30109,
Washington, DC.

RE: DRAFT 2000 AVIATION NOISE ABATEMENT POLICY: SIERRA CLUB COMMENT

The Sierra Club, on behalf of our 650,000 members, welcomes this comment opportunity on FAA's proposed Draft Noise Abatement Policy. We are particularly interested in Goal 5 and Element 6 as to locations in national parks and other federally managed, protected areas having unique noise sensitivities.

The focus of many of our comments is on units managed by the National Park Service. However, the following statements, and some of our comments, apply also to the broader range of "preserves", *i.e.,* those federally managed, protected areas thus bearing unique noise sensitivities. Please note, however, that the Statement which follows our Background Principles below is concerned specifically with scenic air tours.

Background Principles of Sierra Club re Natural Quiet

I. The sounds and silences of nature are among the intrinsic elements which combine to form the natural environment. Natural sounds amidst intervals of stillness are inherent components of the "scenery and the natural and historic objects and the wildlife" within National Monuments, and units of the National Park System and National Wilderness Preservation System (all hereinafter called preserves.)

II. Natural quiet is the extended opportunity to experience only natural sounds amid periods of deepest silence. The quiet to be preserved or restored is as defined by the National Park Service as "the quiet at the lower end of the ambient sound level range that occurs regularly between wind gusts, animal sounds, etc., not just the average sound level." As the Park Service explains, "Lulls in the wind or interludes between animal sounds create intervals where the quiet of a sylvan setting is quite striking. In considering natural quiet as a resource, the ability to hear clearly the delicate and quieter intermittent sounds of nature, the ability to experience interludes of extreme quiet for their own sake, and the opportunity to do so for extended periods of time (are) what natural quiet is all about."

III. Many of these preserves are vast, open places of astonishing beauty and wilderness. Each preserve area has a distinct and powerful aura, fully dependent upon the tenuous natural sounds and natural quiet. As such, these areas afford unique opportunities for undistracted respite, solitude, contemplative recreation, inspiration, and education. Further, these units also provide scarce refuge and undisturbed natural habitat for animals. Artificial, human-generated noise can disturb some sensitive animal activities. Therefore, noisy overflights which disturb the peace are not normally appropriate in our preserves.

Reference: National Park Service, U.S. Department of Interior, Report to Congress on Effects of Aircraft Overflights, 1994.

Statement Concerning Scenic Air Tours

I. The Sierra Club supports management tools and methods to diminish or eliminate impacts from aircraft tours and landings (including bans of tours and landings wherever and whenever appropriate) upon National Monuments and units of the

National Park System and National Wilderness Preservation System (all hereinafter called preserves.)

II. A goal of agency managers should be to preserve and, where impacted, fully restore the natural quiet within their individual preserve and to address this issue in the preserve's general management plan.

III. Key Statement:

a. Appropriate Control and Management:

The Sierra Club believes that, to be the most appropriate and effective, control over air tour use of airspace above preserves should entirely rest with the respective land management agencies (*e.g.,* National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.) These are the agencies which are in position to understand the preserves most intimately, and which are charged to provide them the fullest possible resource protection.

b. External Sources of Noise:

The managing agency should work with responsible parties to reduce or eliminate air tours or landings outside a preserve, if needed to restore natural quiet within the unit. Federal managers of adjoining preserves should coordinate their management planning efforts.

c. Monitoring:

The Sierra Club supports the establishment of appropriate noise standards and comprehensive baseline sound level monitoring and sound source inventories of all preserves. This includes continual assessment of noise from all human-generated sources and incorporation of public comments about noise impacts.

The foregoing Sierra Club Background Principles and Statement re Air Tours Over Preserves admittedly is significantly at odds with FAA's past insistence on "exerting (FAA) leadership" in 'balancing' the interest of the general public and/or aviation transportation *versus* "the need to protect certain natural environments from the impact of aviation noise." (Reference: FAA 1996 Noise Policy for Management of Airspace Over Federally Managed Areas, issued Nov. 8, 1996.)

The historical record is this: FAA' sense of "balance" or "leadership" in such matters has inevitably resulted in protracted, legalistic delays, litigation, and inappropriate tour aircraft noise derogation of premier preserves, such as at the Grand Canyon. This stems from its industry-promoting organizational culture, above all.

FAA has historically failed—time and again—to truly protect the natural preserves from the increasing impact of tour aviation noise. (See Statement of The Wilderness Society, re this same Docket.) The Sierra Club thus agrees with The Wilderness Society that FAA should relinquish its felt need to pursue this sort of "balancing" insofar as the environmental protection and assessment needs of natural preserves is concerned. The FAA should instead, at the earliest possible opportunity, cede control of environmental assessment, standards, and criteria, and related NEPA process-control, etc.) insofar as regulation of air tours in noise-sensitive airspace, *i.e.,* preserves, is concerned. This may require FAA support for amending present law as well as administrative procedure. The FAA would retain a constructive consultative role, particularly with regards to various airspace efficiency and safety matters.

A beneficial aspect of this change, from the FAA perspective, might be a welcome lightening of its ever-increasing responsibilities (becoming nearly impossible; see recent mass media coverage re summer airport gridlock and radar failures, etc.) FAA would no longer be beleaguered with convoluted NEPA leadership and public-process responsibility for the preserves re air tours. Its role there would be consultative, and re-focused on safety and efficiency. FAA solicitors would also shed some of the enormous burdens of litigation which they now carry. FAA would no longer bear the heavy burden of extensive scientific noise modeling and baseline noise research involving preserves. This consumes so much staff time and fiscal resources. That duty would devolve more properly to NPS (or other land agency), perhaps in consultation with the Environmental Protection Agency.

FAA could then focus its concerns of "balancing" airspace efficiency and technical practicability and environmental sensitivity on air tours and other aviation noise over "non-preserve" areas. These still represent the vast majority of the agency's airspace management responsibility. They present—in themselves—more than enough, ever-increasing headaches in "balancing."

The Sierra Club says all this because, historically, the FAA has ignored Section 4(f) of the Transportation Act, generally preferring end runs around it. It likewise

has repeatedly ignored the first three "bulleted" items in its own Nov. 1996 "Noise Policy for Management of Airspace over Federally Managed Areas."

Illustrative recent examples of FAA neglect of that policy's public participation, communication, and "consult actively" requirements are

1. Zion National Park (Utah)

The inadequate and misleading draft Supplemental Noise Analysis (June 2000) (re Zion National Park) for the St. George (Utah) Replacement Airport was produced despite FAA "oversight." It is likely the Noise Analysis will have to be entirely redone. Section 4(f) of the DOT Act likewise still remains insufficiently addressed by FAA at Zion, in terms of this project (For documentation, contact, Marty Ott, Superintendent)

2. Saddle Mountain Wilderness Area (Arizona)

FAA has failed to consult with USFS re this Wilderness, or designate the area as "noise-sensitive" in response to the USFS' request of 3 years ago, as protection against the imminent derogation impacts of Grand Canyon air-touring upon said Wilderness. It also neglected its NEPA responsibilities in this regard. (For documentation, contact John Neeling, Wilderness Manager for this unit at North Kaibab National Forest, Fredonia, AZ)

3. Bryce Canyon and Grand Canyon National Parks

Noisy helicopter and propeller low-level touring has grossly exceeded levels consistent with Sec. 4(f) of the DOT Act or with the National Park Organic Act, or with the spirit and intent of the 1987 Overflights Act (P.L. 100–91) and 1964 Wilderness Act. (For documentation, contact Fred Fagergren, Superintendent, Bryce Canyon National Park, or Ken Weber at Grand Canyon National Park)

In all of the specific instances cited, requisite FAA consultation has, in our view, been either lacking, insufficient, perfunctory, or otherwise not genuinely comprehensive, responsive or timely.

The Sierra Club statement on air tours (above) provides some further guidance which now may be applied to this next (following) FAA statement, from the current policy draft.

FAA Statement:

"A primary focus for FAA is to identify the extent to which low-level noise . . . may adversely impact areas with unique noise sensitivities. At present, no scientifically verified, predictable criteria have been established." *We respond to this in three ways:*

1. Sierra Club's introductory Statement on Air Tours (Sec. II–(a) suggests rather, that FAA's more appropriate role would instead support NPS (or USFS Wilderness Managers, etc.) authority in making this identification and establishing criteria for assessing low-level noise impacts. (This would include establishing particularly stringent criteria for helicopters, which FAA acknowledges are perceived by the general public as more significantly annoying than other aircraft operating at the equivalent decibel level.)

2. NPS policy prohibits the derogation of Park resources. Until such time as criteria are established, there exists the continuing derogation of Park resources by various low-level air tour impacts. Therefore the current level of use should be made static (*i.e.,* capped) for 3 years (providing enough time for NPS to develop criteria.) If new criteria are not established in 3 years, then the level for existing tours should be decreased 10 percent each year (based on the rate of use at the trigger year), to a level not to exceed 10 percent of use at the three-year trigger date.

3. The Sierra Club Statement thus means that in the creation of comprehensive noise management plans, low-level scenic tour aviation generally should adhere to NPS' definition of natural quiet, and to NPS' legitimate mission to fully protect or restore it. The standard for natural quiet should be based on audibility and not noticeability standards for both tour and commercial jet aircraft, and for general aviation.

FAA Statement:

"One of the cornerstones of the FAA's Year 2000 aviation noise abatement policy is the continuation of aircraft source-noise reduction."

Sierra Club Comment:

1. The FAA should make use of best available technology such as Global Positioning Systems to create flight corridors that avoid areas with unique noise

sensitivities. It is likely that many commercial flight corridors over sensitive areas in use today are done so out of precedent and not necessity.

2. The FAA should commit to establishing quiet technology standards for aircraft under 75,000 pounds, as well as Stage IV standards for larger aircraft. Quiet technology should address not only reduction of high pitched engine noise, but also deeper pitched low frequency noise.

Further Comment re Commercial Jet (High Altitude) Aviation

The Sierra Club's prefatory (italicized) Statement re Air Tours did not specifically address the regulation of high-altitude commercial jets traveling longer, point-to-point distances over Parks and Wilderness units.

However, it is becoming obvious that growing jet traffic is providing increasingly significant, frequent, and distracting noise impacts over otherwise pristinely quiet National Park and designated Wilderness units.

The nation's airspace efficiency needs obviously make it impossible to route commercial transportation aircraft around so many Park and Wilderness units as now (or may in the future) exist. However, the FAA in consultation with the Park Service or other land agency could designate a few national parks, and a few national Wilderness preservation units as priorities for restriction from at least the bulk of this traffic noise, at least for some critical period of the day (*e.g.,* sunset and evening hours.) A short (illustrative only) list of premier, particularly vulnerable national parks to be so designated might then be

Grand Canyon
Zion
Bryce
Yosemite
Rocky Mountain

(Four of these five are taken from the "short lists" of NPS priority parks for aviation noise concerns, found in Sec. 10.3.4.1 and Sec. 10.3.4.2 of the 1994 NPS Report to Congress on Aircraft Overflights.) This author previously made similar suggestions in his individual comments on FAA's Advance Notice of Public Rulemaking on this subject, issued March 17, 1994. Six years later, the need for relief and respite in at least a few parks is even more apropos as the projected amount of commercial jet traffic—thus noise intrusions—is steadily increasing.

A "short list" of a few wilderness units might be similarly drawn up for special protection and mitigation.

The Sierra Club urges the FAA, in consultation with the NPS or appropriate land-based agency managers, to so designate those few national parks and designated wilderness areas as places for special mitigation. The deference to the "power of place" of these special places would certainly represent a welcome maturation of our environmental consciousness and national pride in protecting them.

Affected transcontinental jet routes would thus be lengthened by only a few miles, in most cases. For example, the existing commercial east-west jet traffic routes could be "bowed" (slightly bent) 10 miles to either the north or to the south of the Grand Canyon National Park's boundaries, with only minuscule additions to total flight mileages. This is not a new concept to FAA; it does this sort of accommodation all the time with respect to Military Special Use areas.

Conclusion

Visitors to our national parks and wilderness areas have a right to experience the entire natural environment, including the soundscape, unimpaired. Within units of the National Park System, natural quiet—the extended opportunity to experience simple natural sounds amid periods of deepest silence—must be preserved for the enjoyment and inspiration of present and future generations. The FAA has an obligation to reduce and even eliminate intrusions on the experience of natural quiet. We appreciate the opportunity to comment on the proposed Noise Abatement Policy 2000.

Sincerely,

DICKSON J. HINGSON, PH.D.,
Chair, Subcommittee on Noise/Aviation,
Sierra Club—Recreation Issues Committee.

Commenter's Mailing Address: (original shows former address in Rockville, UT).

Sierra Club—Headquarters Mailing Address: 85 Second Street, San Francisco, CA 94105.

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

Question 1. In your testimony, you discussed the need to drastically overhaul the Federal transportation financing system in order to increase the system's alignment with sound economics. How would the Federal safety programs that are funded through the current trust funds fit into this new paradigm? How do we fairly apportion the safety risks among the system's users?

Answer. As I've emphasized since becoming Secretary of Transportation, safety is the number one job of the Department. Programs such as the Highway Safety Improvement Program (HSIP) play a critical role in enabling States to plan, implement, and evaluate safety projects, and I strongly support Congress's actions to incentivize States to develop strategic highway safety plans (SHSPs) as part of the HSIP. In fact, SHSPs actually include many of the attributes that we would be well served to incorporate elsewhere in our transportation decision-making processes. Within an SHSP, States must set performance-based goals, and must focus their resources on the areas of the greatest need. They must track progress toward their performance goals, and must evaluate the results of safety projects after their completion. SHSPs, unlike most of our surface transportation funding programs, focus on performance and accountability.

Regarding financing, I would anticipate that we would continue to fund Federal safety programs in the surface sector through the Highway Trust Fund, at least in the short term. As States transition to alternative financing mechanisms, they could dedicate some portion of new transportation revenues to safety expenditures. The transportation reforms that I have called for would not reduce the amount of funding for safety programs. They would simply—and over time—more closely align the sources and amounts of funding with the costs that users impose on the system.

In terms of apportioning safety responsibilities among system participants, I believe the "Next Generation Air Transportation System Financing Reform Act of 2007" transmitted to Congress in February 2007 serves as a model for maintaining safety roles set forth by law while financing these activities with true user fees. Under our proposal, the Federal Aviation Administration would retain its safety role, with continuation of the current contribution from the Airport and Airway Trust Fund to safety operations. The only change in this area would be that receipts to the Trust Fund would come from user fees, not excise taxes. Our proposal is shaped to leave safety responsibilities undisturbed.

Question 2. In your response to a question last year during your confirmation hearing before the Senate Commerce Committee, you pledged to make truck safety one of the Department's top priorities and committed to ensuring that the Federal Motor Carrier Safety Administration (FMCSA) aggressively implements truck safety legislation. Truck fatalities rose from 2004 to 2005, increasing from 5,190 to 5,226. Has the Department been able to reverse this trend?

Answer. Safety is the Department of Transportation's top priority and our efforts have produced results. The large truck fatal crash rate per 100 million vehicle miles traveled (VMT) for 2006 is at its lowest rate, 1.94 fatal crashes per 100 million large truck VMT, since the Department began tracking these figures 30 years ago. We are committed to reducing the fatality rate even further.

Based upon a review of data from the National Highway Traffic Safety Administration's Fatality Analysis Reporting System (FARS), between 1997 and 2006, fatalities from large truck and bus crashes have declined 7 percent from 5,709 in 1997 to 5,309 in 2006. Looking specifically at large truck fatalities and excluding fatalities associated with buses, from 2004 to 2005, truck-related fatalities decreased from 5,235 to 5,212. The number of fatalities decreased further in 2006 to 4,995 truck-related fatalities, a 4.7 percent reduction over 2005. Relying on the FARS data, we are unable to account for the specific statistics cited in the question.

One of the most important ways we could reduce truck-related fatalities further is to increase safety belt usage of drivers of commercial motor vehicles (CMVs). Specifically, of the 805 large truck occupant fatalities in 2006, 393 (49 percent) were not wearing their safety belts. Of these 393 fatalities, 134 were ejected completely from their vehicle. Many of these fatalities could have been avoided had the large truck occupants been wearing their safety belts. Through focused efforts in the last 2 years, we have seen safety belt use increase from 48 percent to 59 percent. You may rest assured that the Agency will continue its efforts to raise the level of safety belt use.

Another way to bring the fatality numbers down further is the use of technologies such as electronic and roll stability control systems, lane departure warning systems, and forward collision warning systems. The industry is starting to adopt these technologies at a faster pace. FMCSA continues to promote and evaluate these tech-

nologies. We intend to make the adoption of these technologies a part of our enforcement regime through settlement agreements when carriers have failed to demonstrate safety performance in their operations.

Question 3. Your Department has received the dubious distinction of having its truck driver hours-of-service rules struck down by the courts twice in a row. I'm deeply concerned by the Department's failure to craft a rule that will clearly increase truck safety and meet the requirements of law. What action is the Department going to take to comply with the court's decision and how will this action improve truck safety?

Answer. The Department has issued an interim final rule (IFR) that addresses the court's concerns by thoroughly explaining the safety basis for the rule and by giving ample opportunity for public comment so that the Federal Motor Carrier Safety Administration (FMCSA) can develop a new final rule in the coming year. The IFR keeps in place on a temporary basis the 2 hours-of-service provisions set aside by the court while FMCSA conducts its new rulemaking, thereby avoiding the disruption in enforcement and compliance efforts that would result from an immediate, short-term reversion to the pre-2003 requirements.

Question 4. The 9/11 Act requires significant levels of cooperation and coordination between the TSA and the DOT in order to enhance security while improving efficiency and the use of Department resources. Can you describe the efforts that your agency is taking to strengthen your relationship with DHS? Specifically, please describe the progress required by Section 1541 of H.R. 1, the Implementing Recommendations of the 9/11 Commission Act of 2007, to develop an annex for truck security to the existing Memorandum of Understanding between the Departments for transportation security, as well as coordination efforts on the awarding, distribution, and oversight of grants.

Answer. To strengthen the DOT–DHS relationship, Secretaries Chertoff and I, along with other high-level officials, continue to meet regularly to discuss issues of mutual interest. Effective October 11, 2007, we entered an important Memorandum of Understanding (MOU) on roles and responsibilities for emergency preparedness and response activities.

On the 9/11 Act (the "Implementing Recommendations of the 9/11 Commission Act of 2007"), DOT and DHS, including TSA, have formed an inter-agency working group to ensure both Departments coordinate and cooperate in implementing the actions required by the Act. The group holds meetings and conference calls and has agreed to coordinate draft documents and reports between the Departments.

On the annex for truck security to the 2004 MOU between the Departments, staff of DOT's Federal Motor Carrier Safety Administration and DHS's TSA have been meeting regularly to discuss assignments under the 9/11 Act and other subjects where the two agencies interact. These discussions address subjects that in many cases we expect to cover in the annex, which is due no later than August 3, 2008, under the terms of the 9/11 Act. On coordination efforts on grants, the two agencies continue to work cooperatively, with DHS serving as the agency with primary jurisdiction for transportation security.

Question 5. Are you getting the cooperation you need from Secretary Chertoff?

Answer. Yes, DHS leadership has been wholeheartedly supportive in these efforts.

Question 6. The 9/11 bill significantly enhances whistleblower protections for non-Federal railroad, public transportation, and motor carrier employees that report safety and security violations or refuse to work in hazardous conditions. What is the Department's plan for administering the new provisions and ensuring that protected employees' identities are adequately shielded from improper disclosure?

Answer. The Department has a Legislative Implementation Plan underway for the "Implementing Recommendations of the 9/11 Commission Act of 2007" (the Act), and the new whistleblower protections for surface-transportation modes are included. We are currently working with the Occupational Safety and Health Administration of the Department of Labor and with the Transportation Security Administration to implement this aspect of the Act in a manner that prevents improper disclosure of employee identities.

Question 7. What specific steps is the FAA taking to address congestion and delay in the short term?

Answer. The Office of the Secretary and the Federal Aviation Administration are meeting regularly with the airline industry and aviation officials from the most over-stressed part of our system—the New York metro airspace—to develop a plan to alleviate congestion and reduce delays, along with steps implemented to address the short term. As you know, for the Thanksgiving holiday, the President announced the U.S. military would make some of its airspace available for use by civilian airlines to keep the air travel system running at full capacity. Also, the FAA imposed

a holiday moratorium on maintenance projects that were not time-sensitive so all FAA equipment and personnel could focus on keeping flights on time. With our encouragement, many airlines had extra staff and airplanes available to expedite check-in and help accommodate passengers affected by cancellations and delays.

We are working to address the symptoms of aviation delays while at the same time moving to correct the causes of those delays. In the short term we are getting travelers better information about flight delays, investigating airlines that have chronically delayed flights, and considering stronger consumer protections, such as boosting the fee airlines are required to pay for bumping passengers. For the New York region, we are moving forward with an ambitious plan to redesign the airspace routes over the northeastern United States to allow more flights to safely operate in those congested skies. In conjunction with these other initiatives, we held a scheduling reduction meeting for JFK to develop recommendations for reducing the number of flights into and out of that overcrowded airport.

Question 8. The FAA recently announced final plans to redesign the New York/New Jersey airspace. To what extent is this redesign expected to reduce delays? How soon can we expect to see the benefits of this effort? Is there any way to speed that timeline up?

Answer. The Record of Decision (ROD) on the airspace redesign was issued in September 2007. There are four stages of implementation identified in the ROD, with each stage taking approximately 12–18 months to complete. Implementation activities and meetings are ongoing. The first implementation meeting was the first week of October 2007 and several additional meetings have subsequently occurred. We expect it to take at least 5 years to complete implementation of the selected project.

The selected project for the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign will reduce delays by more efficiently directing aircraft to and from major airports in the two metropolitan areas. We estimate there will be a 20 percent reduction in airport delay, once implementation is complete, compared to the case where nothing had been done.

We expect to see benefits as soon as we implement any element of the select project. The implementation of the first elements of the selected project, dispersal departure headings at the Newark Liberty International, John F. Kennedy International, and Philadelphia International Airports, is planned for December 2007. These new departure headings will increase departure efficiency and are expected to reduce departure delay by as much as 20 percent during periods the dispersal departure headings are in use.

This airspace redesign project is large and complex. The timing of the implementation is driven more by the managing of operational changes and identifying available infrastructure resources. It is not currently limited by legal or regulatory restrictions. Legal action has the potential to slow progress. Elements for each of the implementation stages are being prioritized based on their ability to provide relief to the congested airspace in the northeast.

Question 9. The Department appears to have committed to pursuing some sort of congestion pricing for JFK or the NY airspace generally. Can you provide specific information as to the steps that Department has taken to validate that such an approach will reap real benefits in terms of reducing delays?

Answer. Congestion pricing has been successfully deployed across a wide range of industries, including aviation, to make the best use of scarce capacity. Pricing encourages consumers to use a scarce resource during off-peak hours and can dramatically increase the capacity of a constrained system.

Question 10. What steps do you intend to take that will protect and strengthen small community access to the NY airspace?

Answer. No decision has been made concerning how to address aviation congestion in the New York area. However, in deciding on a course of action, the impact on small community air service will be considered.

Question 11. What do you believe is the impact of general aviation on the NY airspace? How do you envision Teterboro Airport playing into any broad plans the Department has to reduce congestion in the NY region.

Answer. In Fiscal Year 2007, general aviation accounted for approximately 26 percent of the operations at the New York Terminal Radar Approach Control and approximately 13 percent of the operations at the New York Air Route Traffic Control Center. At the three New York airports (Newark Liberty International, LaGuardia, and John F. Kennedy International Airports), general aviation overall accounted for less than 3 percent of the total operations. The New York Congestion Aviation Rulemaking Committee (ARC), established in response to the President's request, has taken a regional approach in examining the congestion issue and includes Teterboro

(in addition to JFK, LaGuardia and Newark) as one of the airports being examined for potential solutions to congestion. The Secretary will be receiving a report from the ARC in December and owes a response to the President by the end of the year.

Question 12. What are the expected benefits of the U.S.-EU Open Skies Agreement?

Answer. The first-stage U.S.-EU Air Transport Agreement will have significant economic benefits for the United States and Europe. The Agreement has the potential to fundamentally transform the framework within which transatlantic air services operate, increasing dramatically the quality of competition in the market and benefiting consumers, communities, and employees who rely on air transport services, both directly and indirectly. The agreement also represents a next step in deregulation of the global airline industry, by removing regulatory barriers to the emergence of the European airline, establishing an EU-wide Open Skies regime with the United States, and promoting trans-Atlantic cooperation in areas such as security, competition policy, and consumer protection. We believe that these benefits will transcend anything achieved through our traditional bilateral Open Skies agreements.

Under the agreement every EU and every U.S. airline will be able to:

- fly between every city in the European Union and every city in the United States;
- operate without restrictions on the number of flights, the aircraft used, or the routes chosen, including unlimited rights to fly beyond the EU and United States to points in third countries;
- set fares freely in accordance with market demand; and
- enter into cooperative arrangements with other airlines, including code sharing and leasing.

In addition to the economic impact of the Agreement, both sides have underscored their fundamental commitment to the highest standards of aviation safety and security. The Agreement provides for enhanced cooperation between European and American authorities in these vital fields. It also envisions consultations and cooperation between the European Union and the United States in the areas of competition law and policy, government subsidies and support, environment, and consumer protection. The Agreement will establish a Joint Committee to review implementation and resolve questions and will further improve cooperation between the two sides. Furthermore, the Agreement represents a first stage of opening markets and enhancing cooperation. The European Union and the United States have agreed to begin a second stage of negotiations within sixty days of application of the Agreement.

Question 13. A franchising agreement between a U.S. airline and a foreign airline or investor would appear to give a foreign airline or investor considerable influence over a U.S. airline's operational decisions. While technically different from ownership, this seems to violate the spirit of the foreign ownership prohibition. What checks does DOT have in place, or what steps is the DOT taking, to ensure that franchising agreements do not become *de facto* ownership arrangements?

Answer. Section 41102 of Title 49 of the United States Code ("the Transportation Code") directs us to determine that applicants for certificate authority to provide interstate and/or foreign air transportation of persons, property and mail are "fit, willing, and able" to perform such transportation and to ensure that all operations relating to this authority conform to the provisions of the Transportation Code and the regulations and requirements of the Department. To determine whether an air carrier is fit, the Department must, among other things, find that the air carrier is a U.S. citizen as defined in section 40102(a)(15) (49 U.S.C. 40102(a)(15)), which requires that the president and two-thirds of the Board of Directors and other managing officers be U.S. citizens, that at least 75 percent of the outstanding voting stock be owned by U.S. citizens, and that the applicant must be under the actual control of U.S. citizens. An arms-length franchising arrangement between a U.S. airline and a foreign airline must be structured to preserve the independence of the U.S. airline and its ability to exist outside the franchise. Any substantial change in a carrier's operations, ownership or management, including a franchising agreement that could affect its ownership or control, must be reported to the Department under 14 CFR § 204.5.

In addition, the Department, as part of its responsibilities under section 41110(e) (49 U.S.C. 41110(e)), periodically assess changes in ownership, management, financial condition, and operations that may affect a carrier's continuing fitness (including its control by U.S. citizens) since its initial DOT authorization or last fitness review. That section provides the Department with the authority to, among other

things, modify, revoke, or suspend a U.S. airline's authority if it either fails to remain fit or fails to file such reports as the Department deems necessary to determine whether it remains fit. Further, section 41708 (49 U.S.C. 41708) empowers the Department to request information and reports that it may deem necessary to carry out its responsibilities under the Transportation Code and its regulations.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO HON. MARY E. PETERS

Question 1. NHTSA is in the process of developing a Notice of Proposed Rulemaking in connection with a provision contained in Subtitle C section 10301 of SAFETEA–LU on occupant ejection. The provision directs NHTSA to reduce full and partial ejections through new performance requirements. Given the importance of this rule to protect the driving public, during vehicle rollover and side impact events, I would like assurances from you that all occupants regardless of size, age or condition, belted or unbelted will be protected from full and partial ejections.

Answer. In developing the proposal to fulfill the SAFETEA–LU mandate for an ejection mitigation standard, NHTSA is addressing full and partial ejections for all vehicle occupants. Research serving as the basis for the proposal has used both child and adult dummies in belted and unbelted conditions. NHTSA expects to complete this rulemaking by the statutory deadline of October 1, 2009.

Question 2. Although the requirement to reduce full and partial ejections will be implemented through a performance standard, a systems-based approach combining advanced glazing, including laminated glass, and side curtain air bags shows better performance than either technology alone. As NHTSA moves forward with NPRM, are you focusing on the benefits of adopting a performance standard that would lead to the more protective combined system?

Answer. NHTSA is developing robust performance requirements that will attain the most benefits feasible without specifying any particular technology or technology combinations. NHTSA has conducted tests of side curtain air bags in combination with laminated glass. These tests have shown some level of improved performance over individual technologies, and will be included in the body of tests used to draft the occupant containment proposal.

Question 3. In the recent side impact final rule, NHTSA claimed that side impact air bags will reduce partial occupant ejections and that "manufacturers will increasingly install air curtains in their vehicles because air curtains can potentially be used as a countermeasure in preventing ejections in rollovers." Does this mean the curtains would have to have sustained inflation during the life of a rollover crash rather than deflating after several milliseconds in a side impact? Is NHTSA implying that air curtains are one of the countermeasures that could be used to prevent ejections on rollovers or whether they are the only countermeasure that the agency will select to prevent ejections in order to comply with section 10301?

Answer. By their nature, rollover events are considerably longer duration events than are side crashes, and tend to be measured in seconds rather than milliseconds. In developing a robust occupant containment requirement, NHTSA is taking this into consideration. While side curtain air bags are one technology that could be used to meet the requirements for occupant ejection, other technologies could also be utilized to meet the requirements. NHTSA will specify the performance requirement, but a particular countermeasure necessary to comply will not be selected.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN F. KERRY TO HON. MARY E. PETERS

Question 1. I understand that Federal regulators have begun to meet with airlines that use JFK International Airport to find ways to reduce traffic levels. Any plan that comes from these meetings will reverberate at airports across the Northeast, including in Massachusetts. Please detail the Administration's preferred strategy for reducing traffic at JFK, and provide insight as to how airlines are reacting to this strategy. What alternative strategies have been offered by airlines to meet the demands on a short term basis? When can travelers expect the Administration to act on this critical issue? And how will these strategies impact airports such as Logan International in Boston?

Answer. The Department has been taking a multifaceted approach to air congestion in the New York area. The Administration's preferred strategy for reducing delays is through operational improvements and capacity enhancements, such as airspace redesign and implementation of the Next Generation Air Transportation

System (NextGen). Since these operational and technology improvements will take time to come on-line, the Administration is looking at several options to reduce delays at JFK in the short and mid-term.

We are implementing new operational improvements that will reduce delays in the short-term. We are designing new approach paths to JFK, LaGuardia, and Newark (EWR). The Northeast airspace redesign will also reduce delay for flights in the crowded New York region.

Additionally, the use of military airspace by commercial aircraft was successful for the recent Thanksgiving holiday travel period. We believe using this airspace during holiday periods, in combination with the efficiencies gained by redesigning the airspace over the Northeast, will reduce delay and provide other useful benefits such as less exposure to noise and reduced fuel consumption.

The FAA has held a scheduling reduction meeting to reduce peak hour flights at JFK to 81 per hour for the 2008 summer scheduling season. This decision came after much analysis. The process is still ongoing, but we expect to announce the results of the scheduling reduction meeting soon.

We also chartered a New York Aviation Rulemaking Committee (ARC) to help us understand what options are available and how any changes would affect the ability of the airlines and airports to serve the traveling public. Members of the ARC included officials from the Office of the Secretary and Federal Aviation Administration (FAA), the Port Authority of New York and New Jersey (Port Authority), airlines, consumer groups, and other interested parties. The New York ARC explored five policy areas: Operational/Infrastructure Improvement—New York Airspace Czar, General Aviation, Voluntary Reductions; Congestion Pricing, Auctions, and Aircraft Gauge; Gate Utilization and Perimeter Rule; Priority Aviation Traffic Preferences; and International Air Transport Association World Scheduling Guidelines, Other Administrative Options.

No decision has been made concerning how to address aviation congestion in the New York area; however, we expect to issue a proposal soon. The Department recently announced that it will not pursue congestion pricing in the New York area. However, we still prefer market-based mechanisms to allocate scarce airspace and airport resources more efficiently. Charges for flying into congested airspace or airports should more closely reflect the true societal costs of those decisions. To the extent they do not, the cost of delays will continue to accelerate and ripple throughout our aviation system.

The Port Authority of New York and New Jersey recently announced that it would prefer to use the International Air Transport Association's World Scheduling Guidelines to allocate the airspace at the New York major airports. The airlines also would prefer the use of the World Scheduling Guidelines, but are willing to accept the limited use of auctions.

Since three-quarters of the delays nationwide last summer resulted from the congestion surrounding New York, we expect that a reduction of congestion will benefit the entire air traffic system, including Logan International in Boston.

Question 2. I understand that the FAA continues to deliberate over how height limitations may be imposed on structures near airports. These impending rules will have an impact on how building proceeds in neighborhoods surrounding airports as well as how airports address infrastructure improvements. When can a decision on height restrictions be expected?

Answer. While current Federal Aviation Administration height limits serve to protect the airspace around airports, new navigation technologies and procedures, as well as the cumulative impact that results from an increase of tall structures, have demonstrated the need to consider changes in the FAA's obstruction evaluation process. The FAA is working with several communities concerning building heights around airports. This process considers the plans of communities surrounding these airports and recommends building heights that are conducive to the safe and efficient flow of air traffic. The FAA is working with the airport authorities and local zoning entities in Las Vegas, Nevada; Boston, Massachusetts; Miami, Florida; Phoenix, Arizona; and Arlington, Virginia.

This is an ongoing effort because it involves multiple interested parties that must take concurrent action such as zoning changes. It is important to note the FAA can only recommend such height limitations and it is the responsibility of the local governments to take conclusive action to control growth around airports.

The FAA will continue to develop relationships with local zoning entities to better secure and protect the diminishing national resource that is the National Airspace System. Deliberations to inform these decisions are on-going and a time-frame for finalizing them is not yet determined.

Question 3. The General Accounting Office (GAO/RCED–99–155) and the National Cooperative Highway Research Program have previously issued reports detailing Owner Controlled Insurance Programs (OCIP). Notwithstanding the length of time that has passed since the GAO and NCHRP reports on OCIP were issued, are the findings and conclusions from those reports still as accurate and reliable as they were when they were originally issued? If so, please explain your response in detail.

Answer. The National Cooperative Highway Research Program Synthesis Study #308—"Owner-Controlled Insurance Program Issues" was published in 2002. The General Accounting Office's report titled: "Transportation Infrastructure: Advantages and Disadvantages of Wrap-Up Insurance for Large Construction Projects" was published in 1999. The FHWA is not aware of any published report that has presented new information regarding OCIPs.

Question 4. Notwithstanding the length of time since the issuance of the Federal Highway Administration's Guidelines on Owner Controlled Insurance Programs (OCIPs), are they still applicable and reliable for the consideration, implementation and administration of OCIPs on transportation projects? If not, please explain your response in detail.

Answer. Yes, the guidelines issued on OCIP are still applicable for transportation projects. We are not aware of any event or change in policy that would necessitate a revision of the guidelines. We believe these guidelines remain useful for the consideration, implementation, and administration of OCIPs on transportation projects.

Question 5. Can Owner-Controlled Insurance Programs (OCIPs) be used in the aftermath of a disaster to increase the employment of local contractors and reduce the need to waive Disadvantaged Business Enterprise participation requirements?

Answer. The FHWA's guidelines allow for the use of OCIPs on Federal-aid projects as an eligible cost. The contracting agencies have the discretion to decide when it is appropriate to use an OCIP with a particular Federal-aid project or program of projects.

It is not clear how OCIPs would be used to increase the use of local contractors. State DOTs are required to meet Disadvantaged Business Enterprise (DBE) requirements on a statewide program basis. It is not clear how or why OCIPs would reduce any need to waive DBE requirements.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARBARA BOXER TO HON. MARY E. PETERS

Question 1. With respect to the campaign you led in May–June 2007, in which you and other U.S. Department of Transportation (DOT) staff communicated with and sought to contact state Governors and Members of Congress seeking to have them oppose California's request for a waiver under the Clean Air Act for the California regulations covering vehicle emissions of greenhouse gases (referred to below as the "lobbying program"), please explain in detail how the lobbying program originated and was planned. Specifically, was this lobbying program entirely your doing, or did you or other DOT staff discuss it in advance with anyone a part of or connected with the White House, the Vice President's Office, EPA, or any other Executive Branch officials? Please identify all persons involved in each of those discussions and describe the substance of each such discussion.

Answer. The enclosed copies of documents previously provided to Chairman Waxman of the Committee on Oversight and Reform reflect the various participants and communications related to this matter.

Question 2. Did you or other DOT staff discuss the lobbying program with industry representatives? Please identify all persons involved in each of those discussions and describe the substance of each such discussion.

Answer. I do not recall discussing this matter with industry representatives, nor to my knowledge did anyone on my staff.

Question 3. Please provide me with copies of all documents (including e-mails) held by the DOT relating to or reflecting the lobbying program described above and any discussion or communication with regard to such lobbying program.

Answer. Enclosed are copies of responsive documents provided to Chairman Waxman in response to his request for documents related to this matter.

Question 4. Internal DOT e-mails in late May 2007 stated you personally directed the DOT lobbying program for the purpose of "facilitating a pushback from Governors" on the waiver. The e-mails also included a script to be used in the lobbying contacts which included the language: "If asked our position, we say we are in opposition to the waiver." Please state whether as of late May 2007 it was your understanding that Bush Administration officials within the White House, the Vice Presi-

dent's Office, EPA, or any other Executive Branch agency other than DOT opposed granting the waiver requested by California. Describe in detail the factual bases for your understanding.

Answer. I do not know what position, if any, officials in those agencies or offices held as of late May 2007 concerning the California waiver request.

Question 5. Please provide copies of all analyses, memoranda, e-mails, and other documents reflecting, supporting or relating to the decision of DOT and any other person or unit within the Executive Branch to take a position in opposition to the California waiver or relating to the lobbying program as described above.

Answer. Enclosed are copies of responsive documents provided to Chairman Waxman in response to his request for documents related to this matter.

Question 6. In an e-mail dated May 23, 2007 from your colleague Robert Johnson of DOT to Jess Sharp, White House Domestic Policy Council Deputy Director, relating to the planned lobbying program, Mr. Johnson stated that you [Secretary Peters] had "an issue with EPA and I need your [Mr. Sharp's] advice." Please describe fully the issue with EPA that you had as to which Mr. Johnson was seeking advice from Mr. Sharp.

Answer. The issue referenced in the e-mail was the appropriate way for DOT to raise awareness of the implications of the California waiver petition.

Question 7. In a response to Mr. Johnson later on May 23, Mr. Sharp asked: "Did you get a call from Marty Hall, COS at CEQ?" An e-mail on May 25, 2007, from Sandy Snyder of DOT to Robert Johnson, subject "Phone call from Marty Hall" stated: "Marty Hall . . . OK w/S1 making calls, spoke with Steve Johnson yesterday." Please describe fully what Mr. Hall reported to DOT as reflected in this e-mail, and describe in detail DOT's understanding of the substance of Mr. Hall's communications with Steve Johnson.

Answer. The May 25 e-mail reflects the full substance of Mr. Hall's message, and I have no knowledge of the substance of Mr. Hall's communications with Steve Johnson.

Question 8. In an e-mail you sent to Robert Johnson on May 31, 2007, you stated that your staff "thought the WH had approved calls to the Gov's on the issue I had discussed with Administrator Johnson." Please confirm that in this e-mail, "WH" stands for the White House, and that the "approved calls to the Gov's" refers to the calls that were to be made in opposition to the California waiver request, defined in *Question 1* above as the "lobbying program." Please describe fully the substance of your conversations with Administrator Johnson that you referred to in this e-mail and your understanding of the White House's approval. Please describe fully all other communications between or among you (or other DOT officials or staff) and Administrator Johnson (or other EPA or CEQ officials or staff) relating to the California waiver request.

Answer. "WH" refers to the White House, but I later learned that the relevant communication actually came from CEQ, not the White House. The "approved calls to Gov's" refers to calls from DOT to Governors informing them of the California wavier petition and its possible implications for the current, nationally uniform regulatory scheme for fuel economy, so that they could consider submitting comments to the EPA docket. The substance of my discussion with Administrator Johnson concerned DOT's longstanding support of a single Federal fuel economy regulatory scheme, and the implications of California's waiver petition.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO HON. MARY E. PETERS

Question 1. Madam Secretary, you have been on the record that the Federal gas tax is inefficient and will not address congestion. You have also said that you believe that future transportation investment should come from the private sector. I am concerned that if we privatize our transportation system, through long-term leases with little accountability, the concerns of users and other citizens will be ignored. What safeguards are you working to put in place to ensure that privatization efforts do not just benefit private entities, but also ensure accountability to the public?

Answer. I agree that safeguards are critical to the success of efforts to finance future transportation facilities with reliance on private funding sources, and I look forward to working with Congress to assure that proper safeguards are in place. We face a shortage of funds for needed projects, and the current financing structure prevents us from making efficient investments in maintenance and new construction

and system management and operations, because it does not allow us to allocate resources based on the highest returns to the taxpayer and the customer.

It should be emphasized that no public transportation asset could be built or operated by the private sector without authorization from a public authority. That public authorization will be provided only on the basis of a carefully negotiated agreement between the public authority and the private operator. These agreements are written in such a way as to provide accountability for the concerns of users and other citizens. For example, an agreement for a private toll road could guarantee that tolls will not rise above certain levels, and that the facility will be operated and maintained in accordance with specified performance standards. These agreements generally provide that failure by the private partner to comply with the terms of the agreement leads to the control of the highway reverting to the public authority. In addition, where the private partner's revenues are made up of user fees, such as tolls, if the private partner is not responding to the concerns of users, the public would reduce use of the facility and motivate improvements.

Private sector partners have a built-in incentive to operate as efficiently and effectively as possible, and that incentive means that private investment in our Nation's infrastructure is likely to result in significant public benefits, such as reduced costs, accelerated project delivery schedules, increased innovation, competition and efficiencies, and increased revenues for use on other transportation priorities.

Question 2. Madam Secretary, private sector financing works when there is a revenue stream that can be used to finance future investments. But for the majority of nation's transportation system, that simply is not possible. Most, if not all, rural transportation projects and many urban mega projects don't pencil out for the private sector, and can't be tolled at a rate high enough to build the project. Given your commitment to private sector financing, how can we expect to build and maintain the vast majority of our transportation system when it simply is not possible to generate the kind of money needed to attract private sector investment?

Answer. You have raised an important element of the changes needed to shift from the current excise-tax financing of our transportation system to a more efficient and flexible means to obtain the resources needed to maintain and expand our infrastructure in built-up and rural locales.

Private sector participation is possible on projects where tolls don't cover all costs and even on projects where there is no tolling. The private sector can compete on the basis of the lowest level of subsidy they will accept to carry out the project. This approach is widely used in Europe. In the United States, it is being used for the Missouri Safe and Sound Bridge Improvement Project, where two short-listed bidders are competing largely on the basis of the lowest level of "availability payments" they will accept (paid for from tax revenues) to bring 802 of Missouri's lowest-rated bridges (many of them in rural areas) up to satisfactory condition and keep them in that condition for 25 years. A similar approach is "shadow tolling," where no toll is charged to highway users, but the payments to the private partner depend on the level of traffic on the highway.

Question 3. Madam Secretary, under SAFETEA–LU, Congress created two commissions to examine the financing of the system. The first is the National Surface Transportation Policy and Revenue Study Commission and the second is the National Surface Transportation Infrastructure Financing Commission. It is my understanding, that to date, neither has reported on their findings. It would be helpful to have the insights of these commissions as we begin to move forward on transportation reauthorization and seek to address the shortfall in the Highway Trust Fund. Can you please comment on the work of these commissions and let us know when can we expect to receive their findings?

Answer. The National Surface Transportation Policy and Revenue Study Commission is coming to closure on the final wording of its report. It intends to complete the report during December 2007 and print and release the report to Congress and the public during January 2008. The Commission will coordinate with Congress on the exact January release date.

The National Surface Transportation Infrastructure Financing Commission is finalizing an interim report that it expects to release in January 2008. The interim report will state what the Commission thinks the surface transportation infrastructure financing problem is, list possible solutions to the infrastructure financing problem, and solicit feedback from stakeholders on the solutions that it is considering. The Commission plans to issue its final report in the early part of 2009.

Question 4. Madam Secretary, I understand that you have asked the Department's Inspector General to review the Federal bridge inspection and repair program and provide recommendations for improving that program. But having served as Federal Highway Administrator, you have a unique and intimate knowledge of

those programs, having been the person in charge of them for 4 years. Based on your experience, what ideas do you have for making DOT's bridge inspection and repair programs work better? Is anything being done to take a fresh look at how the safety of bridges are evaluated to assure that funds are going to those structures posing the greatest risk to the public?

Answer. Immediately following the collapse of the I–35W bridge, the DOT Inspector General (IG) was asked to conduct a rigorous assessment of the Federal-aid bridge program and the National Bridge Inspection Standards (NBIS). The IG will be reviewing our program to decide and advise us what short- and long-term actions we may need to take to improve the program. As demonstrated by the downward trends in deficient bridge numbers and the long history of safe bridges across the country, our current program is working; however, in the future, we believe the program could be improved through the development of performance standards that are data-driven and performance-based. As an example, future transfers of funds out of the bridge program might be permitted only if certain performance standards were achieved.

We continuously strive to ensure that the quality of our bridge inspection program is maintained at the highest level and that our funds are utilized as effectively as possible. We have quality control systems that oversee the operations and use of our bridges. And we have quality control over inspections of bridges to keep track of the attention that a bridge will require to stay in safe operation. These systems have been developed over the course of many decades and are the products of the best professional judgment of many experts. We will ensure that any findings and lessons that come out of the investigation into the I–35W bridge collapse are quickly learned and appropriate corrective actions are institutionalized to prevent any future occurrence.

The FHWA recently completed a "fresh look" at the NBIS, culminating in an updated regulation that took effect in January 2005. The updated regulation included several provisions aimed at making the program better, such as an increased emphasis on training, quality control and quality assurance, and follow-up on critical inspection findings.

The FHWA continues to support the States in the development and implementation of comprehensive management systems to aid in improving their bridge programs. Pontis, a bridge management software tool, was developed with the assistance of FHWA and is supported through training and technical assistance. The NHS Act of 1995 struck the penalty for failure to meet the bridge management system requirement originally established in the 1991 ISTEA, but most States still use and continue to develop bridge management systems.

We are excited about future advances in bridge deterioration modeling and bridge management that are expected to result from the FHWA's Long Term Bridge Performance Program (LTBPP). The LTBPP has been designed as a 20-year effort that will include detailed inspections and periodic evaluations and testing on a representative sample of bridges throughout the United States in order to monitor and measure their performance over an extended period of time. The program will collect actual performance data on deterioration, corrosion, or other types of degradation; structural impacts from overloads; and the effectiveness of various maintenance and improvement strategies typically used to repair or rehabilitate bridges. The resulting LTBPP database will provide high quality, quantitative performance data for highway bridges that will support improved designs, improved predictive models, and better bridge management systems. The program has been underway for approximately 1 year.

Question 5. Madam Secretary, an effective mix of transit and road improvements are needed to help relieve congestion, but Federal Highway Administration and Federal Transit Administration programs are managed independently of each other. Are there ways of improving the coordination of these two agencies? Is it your intention that the Urban Partnership Program play such a coordination role?

Answer. The current highway and transit programs are structured and funded to give States considerable flexibility in developing the appropriate mix of investments to meet their surface transportation needs. The Urban Partnership initiative is intended to demonstrate how, with proper leadership and a flexible approach, we can improve the efficiency and effectiveness of investments to reduce congestion. It shows that FHWA and FTA, as well as RITA, can strategically work together, coordinate efforts, and advance national policies to reduce traffic congestion. The UPA initiative yielded two benefits for the Department—funding and programs:

- From the funding side, the Department strategically focused its scarce discretionary dollars toward the national priority of congestion reduction. The UPA initiative drew from 13 different FHWA, FTA, and RITA discretionary programs

to deliver one major national program to reduce congestion. Historically, these funds would be delivered in a less focused manner to support many projects to achieve many different goals and objectives.

- From the program side, it moved away from the Federal transportation program's historical modal silos and toward a more coordinated and multi-modal transportation policy. The UPA initiative brought together the planning, environment, operations, capital, research, and policy staffs from FHWA, FTA, and RITA to enable the selection and award of the demonstration projects.

This coordinated effort to advance these projects to the implementation stage continues through a Department-wide Urban Partnership Management Team. The decisions made by the team members to manage the program and advance the five projects are developed in a coordinated setting and delivered to the Urban Partners through specific points of contact. In other words, we are delivering the Urban Partnership initiative with one Departmental voice.

Question 6. The Administration has stated the Nation's transportation improvement projects can be funded through Public Private Partnerships, aggressive tolling, innovative financing and redirecting earmarks, and that no increase in the Federal gas tax increase is necessary. The Federal Highway Administration's most recent Conditions and Performance Report to Congress concludes that Federal revenues fall short of providing necessary maintenance of the existing transportation network, and fall short of making necessary improvements to the network.

Most, if not all, rural transportation projects, and many urban mega projects, don't pencil out for the private sector, and can't be tolled at a rate high enough to build the projects. As you know, my state has received some funding for one mega project, the Alaskan Way Viaduct, and has two additional potential mega projects including the Columbia River Crossing and the five-twenty replacement bridge.

I understand that current and projected Federal transportation revenue, even if redirected as you suggest, is insufficient to build all the Nation's needed safety and congestion relief projects, especially given the increasing costs of construction materials. States and local agencies can't fund these projects on their own either, and have only so much bonding capacity.

Can you give us today an estimated percentage of those Department-identified shortfalls that would be met through public-private partnerships, devolution, tolling and redirected current revenues?

Answer. Congestion pricing provides a powerful mechanism to reduce capital investment needs and raise revenues. The 2006 Conditions and Performance Report confirmed that congestion pricing, by improving the performance of our current highway system, could significantly reduce the level of future highway investment that would be required to maintain or improve the condition of our highways. The 2006 C&P Report found that applying congestion pricing to all of the congested roads in the system could reduce the cost to maintain the system by $21.6 billion per year, or 27.5 percent, leaving it at $57.2 billion, which is well below the current level of capital spending. In addition, pricing of all congested highway would raise significant revenues, on the order of $34 billion per year over the analysis period 2005 to 2024.

Public-private partnerships are also a powerful financing mechanism, allowing States to generate revenues beyond their existing funding and borrowing capacity, thus freeing up money for use on projects that require subsidies.

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

Question 1. I understand that only the Administration can enforce the Federal law which gives Amtrak trains "preference" in dispatching over freight trains which share the same right-of-way. I also understand that most delays of Amtrak trains are due to delays by host railroads. What is your Department doing to pursue enforcement of this "Amtrak preference" statute?

Answer. I would like to clarify that it is the Department of Justice rather than the Department of Transportation that brings about an enforcement action in this area. Section 24103 of Title 49, United States Code ("Transportation") provides that ". . . only the Attorney General may bring civil action for equitable relief in a district court when Amtrak or a rail carrier engages in or adheres to an action, policy or practice inconsistent with this part . . .".

The Department is not aware of a time within the last 10 years when Amtrak has sought the assistance of the Attorney General in enforcing its right of preference in dispatching. This is probably because Amtrak's issues with on-time per-

formance go far beyond whether or not its trains receive preference in dispatching. Among the other areas of concern include the reduction since 1980 in the amount and redundancy of rail main lines on routes served by Amtrak, the record volumes of freight moving over this smaller system, differences in speeds operated by Amtrak and freight trains and the limited places where "meets" and "overtakes" can occur on single track rail lines, the lack of redundancy in Amtrak, so that delays affecting one train are compounded on others dependent upon the timely arrival of trains, and some might argue, the unrealistic schedules for passenger trains using highly congested rail facilities. I am not sure that litigation on this issue would lead to a sustainable improvement in on-time performance.

FRA meets regularly with all the major freight railroads, and part of these meetings is a review of Amtrak's on-time performance and ways it can be improved. At least as important is the need to encourage capital investment to address rail bottlenecks. The Administration proposed a Federal/State program of capital investment benefiting intercity passenger rail as part of the FY 2008 budget request. One of the purposes for this program that the Administration highlighted was making investments to address the bottlenecks that lead to poor on-time performance.

Question 2. Do you believe that passenger rail service can provide an adequate alternative to air travel for trips of less than 400 miles?

Answer. The primary factors influencing intercity travel choice between air and rail are trip time, service frequency and the quality of service. There are intercity corridors—Washington, D.C. to New York City as an example—where rail has consistently demonstrated that it is an effective alternative to air for center city to center city trips. On the other hand, there are many intercity corridors of 400 miles or less in length that do not possess the travel demand to justify the capital investment necessary to provide air-competitive rail service.

Question 3. Do you support S. 294 as passed by the Senate? Will you recommend the President veto the bill if it is presented to him in the current form?

Answer. The Administration and department do not support enactment of S. 294 in its present form. It fails to make the necessary reforms to Amtrak and how this Nation provides intercity passenger rail service that the Department believes are necessary for this form of travel to achieve its potential to become an important part of our transportation system. The Department would like to work with the Congress to address these concerns as the legislative process moves forward.

Question 4. Do you believe that any agency or office within the USDOT possesses any authority to regulate the environmental health and safety of solid waste processing operations located on railroad properties? If so, do you believe that the Federal Government should be enforcing such authority? And if so, what activities are performed by Department offices and instrumentalities under such authority, and how much in Federal funding was used in Fiscal Year 2007 specifically for enforcing this authority?

Answer. The Department of Transportation does not have any specific authority to regulate the "environmental health and safety of solid waste processing operations located on railroad properties." The Federal Railroad Administration ("FRA") does enforce the Nation's rail safety laws where applicable, which may include rail operations related to solid waste processing. FRA's enforcement authority is primarily directed to the promotion of safe rail operations for the benefit of railroad workers and the general public, and does not include authority to enforce environmental laws, except for the Noise Control Act of 1972 (see 49 C.F.R. Part 210).

Question 5. Will you recommend imposing caps on the number of flights at JFK Airport without recommending caps at Newark Liberty International Airport as well?

Answer. We are still undergoing the scheduling reduction meetings process for John F. Kennedy International Airport. No decision has been made to hold scheduling reduction meetings for Newark Liberty International Airport; however, we are still considering whether to do so. The characteristics of Newark and JFK are quite different; congestion management policies that work for one airport may not be appropriate at another. While we recognize Newark Airport experiences delays and actions to reduce those delays are necessary, we are still analyzing whether caps at Newark are an appropriate measure at this time.

The New York Aviation Rulemaking Committee (ARC) has taken a regional approach in examining the problem and is considering the impact of a particular approach at one airport on the remaining airports.

Question 6. Do you believe that implementing congestion pricing schemes at New York-area airports will have an impact on the level, timing, and amount of air noise experienced by residents in the New York-New Jersey area?

Answer. The goal of congestion pricing is to encourage efficient use of scarce resources at an airport by shifting a portion of the demand to periods when capacity is readily available. Additionally, by smoothing out operations throughout the day, congestion pricing would reduce delay. This would reduce the time that aircraft spend in nearby holding patterns waiting to land at JFK.

Question 7. The FAA has always claimed that understaffing of air traffic controllers is not a safety issue, because air traffic is simply slowed down to safe levels. How do you intend to make sure that our air traffic control system is adequately staffed to prevent further delays?

Answer. The FAA has been extremely successful at hiring and training controllers nationwide over the past 3 years, following the strategy outlined in its annual Controller Workforce Plan. This systematic, continuing effort is central to FAA's ability to assure the air traffic control system is adequately staffed.

Staffing at the vast majority of FAA Air Traffic facilities falls within the authorized staffing range included in the Controller Workforce Plan. In Fiscal Year 2007, the FAA hired 1,815 new air traffic controllers and expects to hire a similar number of new controllers this year. At the end of September 2007, the FAA had a controller workforce of 14,874, well above the planned target of 14,807. The FAA monitors controller staffing on a daily basis at all of its facilities, adjusting hiring as needed to account for all losses, including retirements.

Total operations per controller are roughly the same as in 1999 and 2000 when the FAA was operating under a staffing agreement with the National Air Traffic Controllers Association. The flexibility of the 2006 contract with NATCA gives the FAA more control over scheduling, which helps to guarantee it has the right number of people to manage expected traffic.

Question 8. What criteria did you use in selecting members of the Aviation Rulemaking Committee? Why didn't you use the Federal Advisory Committee Act procedures and standards in forming this committee? Why did you decide not allow this committee to meet in an open forum, available to the public and members of the media? What particular background and experience of consumer advocates represented on the Aviation Rulemaking Committee led you to choose them for participation?

Answer. The FAA has the authority to establish Aviation Rulemaking Committees (ARC) that are exempt from the Federal Advisory Committee Act (49 U.S.C. 106(p)(5)). In selecting members for the New York ARC, we wanted a broad representation of the major interests in the New York area. Airlines, airline associations, consumer groups, the Port Authority, and the NY and NJ State DOTs, and other interested parties were invited to attend. We wanted a broad, representative group, but we also wanted to keep the list manageable. We included people that have knowledge of the operational and technical use of the airspace. We also wanted experts who could articulate what the impact of any changes to the use of the airspace would be on the economy and airlines. Many of the options that the NY ARC is considering likely will require an order or rulemaking, both of which require notice and comment. Therefore, there may be opportunity for public comment in the future.

Question 9. The National Aeronautics and Space Administration has collected survey data on aviation safety as part of a program called National Aviation Operations Monitoring Service. Were you aware that NASA was conducting this activity? Do you believe it can benefit the Department's aviation safety improvement efforts? Have you or anyone within the Department asked NASA for this survey data? Have you or anyone within the Department been asked by NASA to provide analysis of the data? Do you support further investigation by Senate Committee on Commerce, Science, and Transportation into the handling of this data by NASA and its contractor who collected it?

Answer. Staff from the National Aeronautics and Space Administration (NASA) briefed the FAA Commercial Aviation Safety Team (CAST), which is comprised of both representatives from industry and government, on their efforts. Consequently, there were some FAA officials present during the CAST briefing. The briefing was on some preliminary results of the NAOMS survey in 2003. Because the NAOMS survey relied on the subjective recollections of pilots over a period of 2 to 3 months, the CAST representatives raised questions about the methodology of the survey and asked how the results could be compared to other sources of data that are routinely collected by aviation safety experts. This was particularly important to understand, given that it appeared the NAOMS data may differ from the information collected from other sources.

Since that time, FAA and the industry have developed more robust pilot reporting mechanisms, including the Aviation Safety Action Program (ASAP), which encour-

ages pilots to report events without fear of retribution. ASAP requires the report to be submitted within 24 hours of the event and each report is reviewed by a committee comprised of representatives from the airline, labor and the FAA. Because the events are immediately reported and reviewed by experts to assure that the information is complete, the credibility of these reports is quite high.

When NASA releases the NAOMS data, FAA will incorporate it into the Aviation Safety Information and Analysis System (ASIAS). Because of the subjective nature of how the information was collected, however, and FAA's inability to independently confirm its validity, it is unclear how useful it will be, especially given the high reliability of the other information input into ASIAS. Through ASIAS, the FAA integrates over 20 data sources to help identify areas of emerging risk.

I believe it would be inappropriate to take a position on whether or not the Committee should continue to investigate how the NAOMS data was handled by NASA and its contractors.

Question 10. Do you believe that the Federal Government should be spending Federal funds on projects—even those such as 'truck-only lanes'—which would support infrastructure to allow trucks to operate with greater than 80,000-pound loads?

Answer. I would first like to clarify that the Department does not support raising the Federal weight limit on trucks on the Interstate System to greater than 80,000 pounds. At the same time, we are supporting research on the potential of truck-only lanes as a means to increase the overall productivity of our highway system. However, many questions remain concerning the operating characteristics of such facilities and of the economics and safety implications of permitting trucks with weights greater than 80,000 pounds to operate on them.

Question 11. What are the Department's plans with respect to requiring electronic on-board recorders on all new commercial trucks and the vehicles of all new entrants?

Answer. On January 18, 2007, FMCSA published a notice of proposed rulemaking (NPRM) to amend its safety regulations to establish new performance standards for EOBRs. Also under the proposal, motor carriers that have demonstrated a history of serious noncompliance with the hours-of-service (HOS) rules would be subject to mandatory installation of these electronic on-board recorders (EOBRs).

The proposal provides that if FMCSA determined, based on HOS records reviewed during each of two compliance reviews conducted within a 2-year period, that a motor carrier had a 10 percent or greater violation rate ("pattern violation") for certain regulations, the Agency would issue the carrier an EOBR remedial directive. The motor carrier would be required to install EOBRs in all of its CMVs regardless of their date of manufacture and to use the devices for HOS recordkeeping for a period of 2 years.

Finally, under the proposed rule, FMCSA would encourage industry-wide use of EOBRs by providing the following incentives for motor carriers to voluntarily use EOBRs in their CMVs: (1) revising the Agency's compliance review procedures to permit examination of a random sample of drivers' records of duty status; and (2) providing partial relief from HOS supporting documents requirements, if certain conditions are satisfied.

We are currently analyzing the approximately 750 comments received in response to the NPRM, and completing additional research and data analysis as a result of those comments to determine the content of a final rule. Although there are many complex technical issues involved, we plan to publish a final rule addressing EOBR use in 2008.

Question 12. Do you believe universal helmet laws are vital to prevent further fatal motorcycle crashes? Do you believe the USDOT or any Federal safety agency of the U.S. Government should be prevented from providing data to state legislatures regarding the effectiveness of universal helmet laws in reducing fatal motorcycle crashes? Do you believe that you should be required by law to wear a USDOT-approved helmet when operating a motorcycle?

Answer. The Congress has determined, and the Department believes properly, that implementation of a universal helmet law is an issue to be left to the States for determination.

The Department has conducted evaluations in various States of the effects of repeal of a universal helmet law and also, with the States, collects crash data regarding motorcycles and helmet use. The Department believes the evaluations and motorcycle crash and helmet use data can be helpful to State legislative deliberations regarding motorcycle helmet use and effectiveness. Consequently, the Department would favor obtaining authority to share this information with State legislatures as they prepare for or participate in consideration of motorcycle helmet use and effectiveness issues.

The Department believes that all motorcyclists should wear a DOT-certified helmet and other protective gear on every ride. As stated earlier, universal helmet use requirements are within the purview of the States and best left to the States to decide.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED STEVENS TO HON. MARY E. PETERS

Question 1. Recently, a 15-year-old Alaskan girl from Juneau boarded a plane and flew to Seattle without her parents' permission in an effort to meet someone she met over the Internet. The incident exposed a potential loophole concerning air travel and children between the ages of 13 and 17. What steps does the department believe could be taken by the industry, as a whole, to address unsupervised teenage air travel and ticket purchase and would the department be willing to review individual airline policies on allowing teenagers between the ages of 13 and 17 to travel and purchase tickets without parental consent?

Answer. The Department has the authority to communicate with air carriers with respect to any air transportation issues. Individual air carriers have the authority to establish contract of carriage rules precluding the sale of tickets to, or the transport of, unaccompanied minors of whatever age they should choose. Starting at age 12 on most carriers (age 15 on some carriers), a child can travel alone and the airline does not require unaccompanied-minor procedures. An unaccompanied-minor procedure is a process that typically requires a parent to fill out a form, the airlines to have employees chaperone the minor, and an adult, identified on the form that the parent filled out, to show identification when picking up the minor.

Question 2. In the Department's ongoing work to review congestion and delays have you considered including delays and cancellations related to airline crew problems including, but not limited to, duty time requirements and policies?

Answer. Yes. In our review, we will be considering all factors contributing to congestion and delays, whatever the cause.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TRENT LOTT TO HON. MARY E. PETERS

Question 1. In your testimony you state that we can respond to aviation congestion in the New York region in one of three ways——

(1) continue with current policies and accept the fact that the region will be congested;

(2) re-regulate air traffic in this region and have the Federal Government decide who can fly in this airspace and when; or

(3) use some form of pricing to optimize the use of existing capacity.

It seems to me that there is a fourth option which is to modernize the air traffic control system and add capacity. For example, in September the Department issued a Record of Decision for a thorough redesign of the New York airspace that the Department estimates will increase capacity by twenty percent.

a. How soon will this redesign be fully implemented?

b. Is there anything that can be done to accelerate the process?

c. What are you doing to make the FAA's operations more efficient and to modernize air traffic technology?

d. As you consider options for New York, what are you doing to ensure that consumer choices aren't limited and that ticket prices don't increase?

Answer. (a) The NY/NJ/PHL Metropolitan Area Airspace Redesign project is very large and complex. The FAA has started implementation planning and expects to see the earliest elements operational by late 2007 or early 2008. There are presently ten lawsuits filed and one motion for a stay, which the FAA has denied. Implementation planning is proceeding as the lawsuits are being addressed.

As described in the Record of Decision, implementation for airspace redesign will proceed in four stages, with each stage lasting approximately 12 to 18 months:

Stage 1: the first stage involves elements that do not require large-scale changes to other parts of the system. These items may be implemented without changes to the current airspace structures or operations of neighboring facilities. Stage 1 includes dispersal headings at Newark, Philadelphia and JFK. Presently procedures are being developed and training requirements estab-

lished. The additional elements of Stage 1 concentrate on initial relief to westbound departures.

Stage 2: the second stage of implementation entails the integration of the terminal and en route airspace, but does not change the current airspace structures or operations of neighboring facilities.

Stage 3: the third stage requires changes at other facilities, such as resectorization or shifting boundaries, but no changes to the current operational structure.

Stage 4: the final stage of implementation requires changes at FAA air traffic control facilities. This may include transfer of sectors as well as operational changes for the New York area facilities. These changes will be priority-based on the ability to provide immediate relief to the congested airspace in the northeast.

(b) Since the FAA is currently facing legal challenges regarding the NY/NJ/PHL Metropolitan Area Airspace Redesign, we are moving forward to implement the NY/NJ/PHL Metropolitan Area Airspace Redesign as described in our Record of Decision. This process will move forward as expeditiously as possible while still considering the need to safely implement the procedures and the need to comply with all legal and environmental considerations.

(c) FAA is undertaking a number of operational activities to increase efficiency and modernize air traffic technology. These activities include the following:

NY Aviation Rulemaking Committee: The Administration is focusing several near-term efforts to address congestion problems, including the development of a New York Aviation Rulemaking Committee (NY ARC). The ARC has five working groups to focus on the details of various congestion mitigation approaches. Air Transport Association member airlines are participating on this particular ARC Working Group.

Utilization of multiple runways at JFK and Newark: The FAA uses multiple runway configurations whenever weather permits, when there is sufficient demand, and when operationally feasible. Because of the closeness of the three major airports, the airport operations at the three airports must be carefully coordinated. In the fall of 2006, a new runway configuration was implemented at JFK Airport to increase capacity for departures. JFK's three-runway configuration is to arrive on two runways and depart one runway during arrival demand periods and land on one runway and depart on two runways for the departure configuration. Newark Liberty International Airport runway planning uses both parallel runways as well as the 11/29 arrival or departure configuration. These actions and planning have been ongoing since the early 1990s to address growing traffic demands and are adjusted seasonally as well as daily in response to weather and traffic demands.

Improved surface management: The FAA is expediting the deployment of the Airport Surface Detection Equipment—Model X (ASDE–X) system at the John F. Kennedy International Airport. The target for initial operational capability of the JFK ASDE–X system is August 31, 2008, nearly 1 year ahead of the program baseline schedule. ASDE–X will provide safety and efficiency benefits. While ASDE–X does not increase an airport's capacity, it improves efficiency of the existing capacity. The FAA has also committed to providing the airlines and the PANYNJ with preliminary ASDE–X data (via the Data Distribution subsystem), including implementation of additional remote units for coverage of the ramp and gate areas by June 30, 2008.

Expand use of RNAV procedures: FAA has already implemented 13 performance-based navigation (PBN) procedures in the New York area through Fiscal Year (FY) 2007. PBN is comprised of area navigation (RNAV) and required navigation performance (RNP) procedures. An additional 17 PBN procedures are in various stages of development.

Create new routes where practical: Routing changes are the central component to the NY/NJ/PHL Airspace Redesign. This includes several new arrival and departure routes, as well as changes to existing routes. Overflight routes and airways are also made much more efficient. New routes are designed assuming wide-spread application of RNAV and are not restricted to the current location of ground-based navigational aids. FAA is also pursuing a series of near-term initiatives to address congestion in the northeast that were identified by the New York Short Term Initiatives workgroup that was convened in March 2007. These efforts were defined to be consistent with the NY/NJ/PHL Metropolitan

Area Airspace Redesign project and also include routing changes in high altitude airspace.

Although these activities will help to address air congestion, operational improvements alone will not fix the problem of flight delays.

(d) As the President said on September 27, it is absolutely essential that we address excessive congestion and delay at the New York airports. Our intent is to ensure that passengers are able to make their connecting flights and arrive at their final destinations on time. By better matching demand with available capacity, we hope to accomplish this goal.

As you note, we can respond to aviation congestion in the New York area in three ways—do nothing, impose operational caps, or implement some form or congestion pricing. Air fares will rise under either operational caps or pricing. However, passengers currently are paying for flight delays. A recent survey by Orbitz indicated that 32 percent of those surveyed say they now book the earliest flight of the day or travel the night before a meeting or appointment, to minimize risk of delays and ensure arrival at their destination ahead of time. Doing so involves paying for a hotel room and meals—expenses that would not have been incurred otherwise.

Under operational caps or congestion pricing, air carriers have several ways to ensure that passenger choice is preserved. First, with respect to international flights, air carriers can, to some extent, retime their flights into the New York region or use alternative connection points within the United States. For example, Chicago, Atlanta, and Detroit are just a few gateway airports that are available to international flights. Another approach would be for air carriers to up-gauge their aircraft size during period of peak congestion. The use of larger aircraft enables more passengers direct access to the New York region on the same (or fewer) number of operations that exist today. I am confident that as air carriers put their passenger interests first, within a capacity constrained environment, they will be better able to accommodate their needs.

Question 2. Finally, I am concerned about how limiting flights through either caps or congestion pricing will impact smaller communities. For better or worse, small communities are dependent on the hub or spoke system. If we start constraining capacity at hubs rather than increasing capacity, the first flights that will be dropped will be the lower volume flights from small communities. The 747 full of business travelers from London is going to be able to pay a pretty hefty congestion fee—a regional jet coming from a smaller community will not be able to pay much. I am under little illusion that my State is going to have much in direct flights to airports in the New York area. But Mississippi does rely on other hubs, such as Atlanta, for connections. As you go through this exercise in New York, what will you be doing to ensure smaller communities aren't disproportionately affected?

Answer. Maintaining service to small communities is important to the FAA. The High Density Rules for both Chicago O'Hare Airport and LaGuardia Airport contained provisions for service to small communities. Most recently, in the proposed congestion management rule that FAA published in August 2006 for LaGuardia Airport, the agency designed three alternative "carve-outs" for small communities and sought comment on those proposals.

As we continue to work toward a solution for congestion in the New York area, we will consider the importance of connecting small communities to the National Airspace System. If congestion pricing or a market-based allocation mechanism were to be adopted in New York, FAA would certainly consider the impact on small communities. However, we are hesitant to develop a national system which politically allocates scarce capacity.

Question 3. If the current aviation taxes are allowed to lapse, how will this affect the FAA's programs and the Aviation Trust Fund? What effect will this have on the modernization of our national aviation system?

Answer. If the current aviation taxes are allowed to lapse, the effects on both FAA's programs and the Airport and Airway Trust Fund would be substantial. We estimate that the Airport and Airway Trust Fund's uncommitted balance at the end of Fiscal Year 2007 was approximately $1.5 billion. This level provides a cushion of less than 2 months for the FAA's Trust Fund-based activities.

After the uncommitted balance runs out, FAA would have to rely exclusively on General Fund appropriations for operating costs, including payroll. It is likely that FAA would start to defer capital projects even before the uncommitted balance runs out, in order to preserve funding for day-to-day operations. Under no circumstances, of course, would safety activities be curtailed in any respect.

Also, with a couple of minor exceptions, FAA cannot make new Airport Improvement Program (AIP) grants without a programmatic authorization. This also applies

to Letters of Intent. FAA cannot honor these commitments until the AIP program is reauthorized.

Question 4. In the FAA's Airport Capacity Benchmark Report for 2004, planned improvements at JFK airport included a Precision Runway Monitor (PRM) radar system. The PRM allows simultaneous independent approaches on closely spaced parallel runways less than 4,300 feet apart, returning a portion of lost capacity during adverse conditions and thereby reducing delay. I understand that there is currently not a PRM at JFK. When will a PRM be installed at JFK?

Answer. The FAA originally planned to install a Precision Runway Monitor (PRM) at John F. Kennedy International Airport (JFK) but changed those plans when an airspace study concluded that such an operation would adversely impact operations at LaGuardia (LGA) Airport. PRM safety procedures require that certain airspace be dedicated as a safety zone for PRM breakout maneuvers. Unfortunately, because of the close proximity of JFK and LGA, the required Kennedy PRM safety zone would reduce LaGuardia's airspace. In summary, while a PRM at JFK could increase operations at that airport slightly, operations at LaGuardia would need to be reduced by a greater amount.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO HON. CALVIN L. SCOVEL III

Question 1. What recommendations do you have for the Committee on resolving the impending revenue shortfall of the Highway Trust Fund? Specifically, do you have any ideas on how the auto and truck safety programs should be funded as we look at changes to the financing structure of the Highway Trust Fund in the future?

Answer. A comprehensive highway funding framework is needed quickly as the Highway Trust Fund (HTF) faces a near-term funding crisis. HTF revenues for 2009 are now expected to fall far short of the levels previously anticipated. Unless addressed, this shortfall could lead to reductions in obligation limitations for Federal highway programs below the levels anticipated in the current authorization to prevent HTF insolvency. For instance, the American Association of State Highway and Transportation Officials (AASHTO) has projected a $4.3 billion Highway Account revenue shortfall in 2009 that could require an obligation reduction in the highway program of about $16 billion.

While we don't, at this time, have any specific recommendations, the Department must help develop a consensus among the States, the highway community, and Congress as to if, and how, this shortfall in HTF revenues will be made up. Viable solutions will likely require a combination of the following alternatives:

- Paying for certain fuel tax exemptions, such as for school buses and state and local government vehicles from the General Fund rather than the HTF.
- Raising the per gallon fuel tax, indexing it to inflation, or converting it into a sales tax (which would generate greater revenue as gas prices increased.)
- Imposing other user charges and dedicate their revenues to surface transportation, such as the per container cargo fee.
- Increasing the use of bonding, tolling, and innovative financing techniques.
- Implementing a mileage based fee as has been field tested recently in Oregon.

Currently, most auto and truck safety programs are funded from the HTF. Finding both a near term and long term solution to the HTF revenue shortfall problem would address any potential problems for these programs as well. Funding these programs from the General Fund, rather than the HTF, would eliminate any potential impact a future HTF revenue shortfall may have. However, it would force these programs to compete with all other domestic programs for funding. Funding them through a separate, dedicated user fee or excise tax would make them no longer subject to shortfalls in the motor fuel excise taxes. However, the stability of these program's funding would be dependent upon the stability of the new, and presumably much narrower, fee or tax.

Question 2. In your testimony, you discussed the tragic collapse of the Interstate 35W Bridge in Minnesota this August and call for a better system of oversight and funding for bridge repair. Have you looked at the impact that large and heavy trucks are having on our nation's bridges and whether the current protections in place are enough to ensure that our nation's bridges are not being overloaded or prematurely damaged due to high axle loads?

Answer. While we have not specifically looked at the impact of large and heavy trucks, our previous work has evaluated the load ratings and postings of the Nation's bridges. In March 2006, we issued a report on FHWA's oversight of the load

ratings and postings of structurally deficient bridges on the National Highway System. We found that FHWA could improve its oversight of states to ensure that maximum weight limit calculations and postings are accurate. The need for improved oversight was evidenced by our findings that based on statistical projections, load rating procedures were not properly followed for 10.5 percent of the structurally deficient bridges on the National Highway System and about 7.8 percent of the bridges were required to be posted for weight limits but were not posted. Failing to follow proper rating procedures or appropriately post maximum weight limit signs creates safety concerns that may allow vehicles, including trucks, exceeding those limits to use these bridges and accelerate their deterioration.

Shortly after the August 1, 2007 collapse of the Interstate 35W Bridge, the Secretary of Transportation asked us to undertake an independent review of the National Bridge Inspection Program. As we evaluate the program, we will look at current protections beyond those reviewed in the March 2006 report, such as enforcement of legal truck weights, and determine whether more can be done to ensure that our Nation's bridges are not being overloaded or prematurely damaged by heavy vehicles. We will take the results into consideration when formulating any recommendations for improvements to FHWA's oversight of the Nation's bridges.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARBARA BOXER TO HON. CALVIN L. SCOVEL III

Question 1. With respect to the DOT campaign in May–June 2007, in which Secretary Peters and other DOT staff communicated with and sought to contact state Governors and Members of Congress seeking to have them oppose California's request for a waiver under the Clean Air Act for its regulations covering vehicle emissions of greenhouse gases, please explain in detail all steps taken by the DOT (including but not limited to the DOT Inspector General's office) to investigate or evaluate the facts relating to those matters.

Question 2. Please provide copies of all documents reviewed or collected in the course of the evaluations(s) and investigation(s) described in response to the question immediately above, as well as copies of all draft and final memoranda, reports, findings, conclusions, recommendations, and all other written work product reflecting those investigations.

Answer 1–2. We are aware that the Department of Transportation (DOT) made contact with states and Members of Congress or their staffs regarding California's waiver request. We are also aware of a request made by Representative Henry A. Waxman, Chairman, House Committee on Oversight and Government Reform, for documents related to DOT's communications on this topic. In response, as indicated in the June 29, 2007 letter from the DOT General Counsel to Chairman Waxman (on behalf of Secretary Peters), DOT concluded that its efforts to inform the public and elected representatives about this issue were consistent with its support of a single, national regulatory scheme for motor vehicle fuel and economy. Our office has not conducted any reviews or collected any documents regarding these communications.

Chairman Waxman has posted a copy of the DOT letter on his website: *http://oversight.house.gov/story.asp?ID=1393.*

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO HON. CALVIN L. SCOVEL III

Question 1. How will your office ensure that the FAA is hiring enough controllers to replace those who leave, whether it is because of retirements, or because they were unhappy with new working conditions FAA unilaterally imposed upon them?

Answer. We have conducted several reviews and plan to continue further assessments of FAA's progress in addressing the expected surge in attrition within the controller workforce. In May 2005, we issued our first assessment of FAA's progress in implementing key factors of its controller workforce plan. We recommended that FAA develop hiring plans by facility that identify specifically where and when new air traffic controllers will be placed. We also recommended that FAA provide information to facility managers so they can begin planning how to handle the logistics of a significantly increased percentage of trainees at their locations.

We further recommended that FAA initiate a planned assessment of its current facility staffing standards, taking into consideration factors such as airspace complexities and runway configurations when determining appropriate staffing standards for each facility. FAA published its estimates of attrition by location in the last

update to its controller workforce plan and is in the process of completing validation efforts of its facility staffing standards.

In February 2007, we issued our second assessment of FAA's progress in addressing controller attrition. Overall, we found that FAA continues to make progress in implementing a comprehensive staffing plan to address the surge in retirements. For example, we found that FAA has significantly improved its hiring process and has reduced the time and costs to train new controllers. However, further progress is still needed in the following key areas:

- Completing validation of accurate facility-level staffing standards. This is a critical component because FAA has over 300 air traffic facilities with significant differences in air traffic levels and complexity.
- Establishing baseline metrics to measure the effectiveness of controller productivity initiatives. FAA must ensure that reductions in staffing are a result of increased productivity and not simply fewer controllers controlling more traffic.
- Continuing efforts to reduce the time and costs associated with on-the-job training. This is the longest and most expensive portion of new controllers' training.

We will continue to monitor FAA's progress and report on its actions to address this significant challenge. We are currently reviewing FAA's management of the controller on-the-job training process and plan to issue a report early next year.

Question 2. Department employees have indicated to me many problems with the new headquarters building—that it does not have enough space for the entire Department, especially closed-door offices for adhering to Federal privacy requirements; and telephone, Internet, and voice-mail services are too unreliable to effectively conduct daily job activities. Has your office investigated whether the new facilities are adequate to allow Department employees to perform their duties effectively, in light of the $275 million investment which Congress made in this brand-new state-of-the-art building?

Answer. Our office has not conducted any reviews of the adequacy of space or of the telephone, Internet, and voice-mail services at the new DOT Headquarters building.