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Description of document: A copy of each response to a Question for the Record (QFR) provided to Congress by the Department of Transportation (DOT), 2012-2013

Requested date: 28-March-2015

Released date: 21-December-2016

Posted date: 30-January-2017

Source of document: FOIA Compliance Office
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581
[Online FOIA Request Form](#)

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December 21, 2016

FOIA File #: OST 2015-0206

This is in response to your Freedom of Information Act (FOIA) request dated March 28, 2015. You requested the Department of Transportation's (DOT) responses to Congressional Questions for the Record (QFR) during calendar years 2012 and 2013.

Enclosed are the records we located responsive to your request.

I am the person responsible for this determination. If you are dissatisfied with this response, you may appeal to Judith S. Kaleta, Deputy General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590. If you prefer, your appeal may be sent via electronic mail to ost.foia.appeals@dot.gov. An appeal must be received within 45 days of the date of this determination and should contain any information and arguments you wish to rely on. The Deputy General Counsel's determination will be administratively final.

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Sincerely,

KATHLEEN M RAY

Digitally signed by KATHLEEN M RAY
DN: c=US, o=U.S. Government, ou=DOT
Headquarters, ou=OSTHQ, cn=KATHLEEN M RAY
Date: 2016.12.21 15:06:06 -05'00'

Kathy Ray
DOT/OST FOIA Officer

Enclosures

**QUESTIONS FOR THE RECORD
FROM THE SENATE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT
FY 2013 BUDGET HEARING – 3/15/2012**

Senator Dianne Feinstein

Pipeline Safety

QUESTION 1: When will the Department of Transportation begin verifying pressure testing records and requiring pressure testing of grandfathered pipelines that were never tested, as required by the recently enacted Pipeline Safety legislation?

ANSWER: On April 13, 2012, PHMSA published a notice (72 FR 22387) to inform the public of the agency's intention to modify its information collection requirements. This information collection modification, which will be reflected in gas transmission annual reports, will allow PHMSA to collect operator pressure test information. Further, the operator pressure test information will be used to support proposed rulemaking (ANPRM – August 25, 2011) (76 FR5308) relating to removal of the grandfather clause.

QUESTION 2: About 50 percent of pipeline miles, including a majority of the oldest and highest risk lines, cannot be inspected using “smart pigs” due to the design of the pipelines themselves. What is your Department doing to develop a better smart pig, capable of inspecting more pipeline miles?

ANSWER: Many pipelines cannot be “smart-pigged” using current in-line inspection technology. Assessing the integrity of these pipelines requires new, innovative solutions and technologies. PHMSA is actively promoting increased development of smart pig technology through Research and Development (R&D) projects that are typically co-sponsored with industry; PHMSA is neither structured nor funded to independently develop smart pig equipment.

On July 18 and 19, 2012, PHMSA hosted a public R&D forum to identify technology gaps in addressing the key technical challenges facing pipeline integrity assurance. The forum was to allow public, government and industry pipeline stakeholders to develop a consensus on the technical gaps and challenges for future government-led research. R&D forums like this one, allow the government to learn what research projects are already underway by other stakeholders. At these forums participants discuss which projects deserve government funding by analyzing and prioritizing the research project plans. This helps ensure PHMSA does not direct funding towards a project that is already being paid for or that is not beneficial to its mission. The national research agenda coming out of these types of events is aligned with the needs of the pipeline safety mission, makes use of the best available knowledge and expertise, and considers stakeholder perspectives.

QUESTION 3: The President's FY2013 Budget Request proposes a significant increase in pipeline inspectors. Please describe how these inspectors will likely increase safety.

ANSWER: In FY 2013 PHMSA requested additional inspection and enforcement staff to successfully implement the Pipeline Safety Reform initiative. Additional personnel will be used to help determine the safety and fitness for service of pipelines. PHMSA will continue to raise the bar on the safety of the Nation's pipeline infrastructure, making sure that companies comply with the critical safety rules that protect people and the environment from potential dangers.

In 2011, Secretary LaHood issued a national Call to Action for all stakeholders to address the need for repair, rehabilitation and replacement of high risk pipeline facilities transporting hazardous liquids and flammable gases through American communities and environmentally sensitive areas. PHMSA is working with state regulatory communities, rate-setters, and the pipeline industry to establish remediation programs for these high risk pipelines. Additional inspection and enforcement staff members are needed to assure these facilities practice good risk analysis and aggressively apply integrity management principles until these pipelines are repaired or replaced.

Further, the nation is experiencing a boom in development of unconventional energy resources, i.e. gas shales and oil plays throughout the country. Along with swift commercial development of these resources, pipelines are being constructed at an increasingly rapid pace to transport the oil and gas from the source to processing facilities. More inspectors are needed to assure these pipeline facilities are safely constructed and in accordance with applicable standards and regulatory requirements.

Federal Aviation Administration

QUESTION 4 and 5: According to the Congressional Research Service, 36 percent of Airport Improvement Program dollars go to airports without commercial service. However, more than 99% of travelers fly commercial. Do you think this is the right balance of funding priorities in this time of shrinking budgets?

Would you support a higher percentage of Airport Improvement discretionary funding going to improving the safety and facilities of airports that most Americans use?

ANSWER: The goal of the Airport Improvement Program (AIP) is to maintain and improve the nation's airport system. AIP funds are awarded (based on national priorities) to different sized airports so they can address critical airport safety, capacity and security projects.

General Aviation airports provide the national airport system with specialized services like emergency medical services, aerial firefighting, and law enforcement and border control. However, they do not have access to airport development funding such as Passenger Facilities Charges and the bonds market that are otherwise available to airports with commercial service.

The FAA-issued study, *General Aviation Airports: A National Asset* (May 2012), provides additional information on the nation's general aviation airports. A copy of the study can be accessed at http://www.faa.gov/airports/planning_capacity/ga_study/.

Los Angeles Subway System:

QUESTION 6: The people of Los Angeles want rapid construction of their subway system, and no one that has experienced LA traffic can blame them. What can and should the Federal Transit Administration and Los Angeles do to get the two subway projects seeking full funding grant agreements in fiscal year 2013 prepared to execute that agreement?

ANSWER: FTA has been very supportive of the two projects, including recommending the Regional Connector project for \$31 million and the Westside Subway Extension project for \$50 million in the President's FY13 budget to help advance the projects through preliminary engineering and final design. Additionally, in response to their transmittal of a Letter of Interest, the Department invited the Los Angeles County Metropolitan Transportation Authority (LACMTA) to submit an application for a TIFIA loan for the Westside Subway Extension project.

Before the two projects will be ready for Full Funding Grant Agreements (FFGAs), they must complete engineering and design, obtain firm funding commitments for all non-New Starts funding sources, and obtain a satisfactory rating from FTA under the statutory evaluation criteria. Currently the financial plan submitted by LACMTA assumes an extension of the Measure R ½ cent sales tax that will be placed on the upcoming November election ballot and approved by voters. This vote would need to occur and be successful, or the financial plan would need to be revised to demonstrate other available and committed resources, before FTA could move forward with the FFGAs.

QUESTION 7: Last year DOT invited the Westside Subway to the Sea to file its final TIFIA loan application, which should lead to loan term negotiations. What is the status of this loan?

ANSWER: The Westside Subway to the Sea project is a major transit investment that is expected to improve mobility and connectivity in the city of Los Angeles. Recognizing these and other important benefits, DOT invited the project sponsor to apply for TIFIA financing in response to the FY 2011 TIFIA Notice of Funding Availability (NOFA). As with other major projects, there are a number of milestones that the project sponsor, the Los Angeles County Metropolitan Transportation Authority (LACMTA), needs to reach in order to move toward closure on a TIFIA financing. The environmental review of the project was finalized with the record of decision date of August 9, 2012. In addition, the project is advancing through the Federal Transit Administration (FTA) New Starts program with the eventual aim of financing the project in part through a full funding grant agreement. It is our understanding that with the progress that has been made in these areas, LACMTA plans to submit a TIFIA loan application for the project in the fall. When DOT receives the loan application the TIFIA office will commence its review of the application including a comprehensive credit evaluation of the

project.

QUESTION 8: “America Fast Forward” is a proposal to build transit more rapidly using subsidized bonding and low interest lending. The Transportation-HUD Subcommittee has increased the size of the TIFIA and TIGER TIFIA lending programs in recent years to grant your department more than three times the lending authority it had just a few years ago. Do you agree that expanding the TIFIA program has been an important step in implementing America Fast Forward?

ANSWER: In recent years National demand for TIFIA credit assistance has been overwhelming. The increased funding for TIFIA provided in MAP-21 will enable the Department to provide credit assistance to significantly more projects.

High Speed Rail:

QUESTION 9: Will you direct someone within your office to serve as the full time point person, trouble shooter, and leader of the department’s high speed rail effort full time?

ANSWER: FRA has organized its grant project development and delivery office into geographic teams with a leader of each of its nine regions spanning the U.S. This regional lead manages oversight efforts for projects and acts as single, centralized point of contact for state officials and other stakeholders. In turn, each regional lead coordinates an FRA team composed of project managers, engineers, environmental specialists, grant managers, attorneys, and other experts. Together these regional teams used a risk-based approach to track project progress, provide grantee technical assistance, and conduct grant monitoring and oversight efforts.

For the California HSR project in particular, FRA has recently hired a Senior Executive Service-level Project Manager, who has been designated as DOT’s senior point-person on high-speed rail issues to oversee the California High-Speed Rail project on a full-time basis. In addition,

Fuel Economy Labels:

QUESTION 10: The FY2012 Transportation-HUD Senate Report directed the Department of Transportation to develop fuel economy labels for medium duty vans and pickup trucks like the Ford F-250 within three model years. Small businesses – often in the construction business – buy many of these types of vehicle. But the business owner has no way to calculate the fuel costs of various models until this sticker is added to these vehicles. What is the National Highway Traffic Safety Administration doing to comply with this Subcommittee’s direction that these labels be required within three years?

ANSWER: NHTSA is currently focused on completing the final rulemaking for the Corporate Average Fuel Economy (CAFE) standards for model year 2017-2025 vehicles. On July 29, 2011, President Obama announced plans for these rules and charged NHTSA and the

Environmental Protection Agency with developing these rules. The two agencies issued a proposal last November, have held numerous public hearings around the country, and are working to complete the rulemaking. NHTSA is devoting all focus and energy to finalize this presidential priority rulemaking as expeditiously as possible. After the conclusion of this important rulemaking effort, the agency will determine the timing and resources needed to address the committee's concerns about fuel economy labels for medium trucks and pick-ups.

Truck Safety:

QUESTION 11: A few years ago I wrote to your Department supporting mandatory use of electronic onboard recorders to enforce hours of service limits on truck drivers. Some of my constituents have been killed by tired truck drivers who were falsifying paper records. I learned there is almost no enforcement to prevent this kind of hours of service violation, and it is believed to be widespread.

At the time, the Department of Transportation said that the electronic onboard recorders were too expensive. I understand that the Department has proposed a draft regulation to require these recorders in some cases, but costs remains an issue.

My staff informs me that there is now an i-phone application that can perform all of the key functions of an electronic onboard recorder at no substantial cost.

What is DOT doing to consider this technology in its rulemaking?

ANSWER: FMCSA is committed to the development of electronic logging device technical specifications focused on hours of service compliance, and fulfilling all of the requirements included in MAP-21. The Agency does not believe the technical specifications it is currently considering would preclude the use of low-cost innovative approaches to electronic logging, such as smart phones, provided such devices have a means of meeting the MAP-21 requirement concerning electronic communications between the device and the commercial motor vehicle to ensure accurate date, time and location information the beginning and end of driving time periods, i.e., integral synchronization of the device with the commercial motor vehicle. FMCSA acknowledges that an electronic logging device mandate would impose nearly \$2 billion in costs on the commercial motor vehicle (CMV) industry. This estimate is based on the Agency's Regulatory Impact Analysis (RIA) for the 2011 notice of proposed rulemaking (NPRM) in which the Agency estimated initial total costs of \$1.984 billion per year.

While the estimated costs are economically significant, the electronic logging device rulemaking would be considered cost-beneficial. The Agency estimated total benefits of \$2.699 billion resulting in an annual net benefit of \$715 million. A significant portion of these benefits would come from \$1.965 billion in annual paperwork reduction – a savings of \$688 per driver each year – due to drivers no longer completing and submitting logbooks. Therefore, FMCSA continues to believe that a mandate for electronic logging devices, potentially including smart phones with an hours-of-service application, would be cost-beneficial.

The Agency is currently preparing a supplemental NPRM that will re-examine the estimated costs and benefits (both paperwork savings and safety) associated with an electronic logging device mandate for carriers using handwritten records of duty status (RODS), and all of the MAP-21 requirements concerning this rulemaking.

QUESTION 1: The Obama Administration has yet to release a comprehensive National Rail Plan as required by my 2008 Amtrak law. This Amtrak law required DOT to develop a National Rail Plan in order to ensure that the Administration was focused on the long-term needs of the intercity passenger rail system, and to make sure that Amtrak and states can successfully meet the public's increasing demand for passenger rail. The Plan should also ensure a cohesive, efficient and optimized rail system for the movement of goods and people.

Yesterday, the Senate passed the surface transportation reauthorization, which further detailed the need for this Plan and clarified steps that the Department of Transportation should take to complete it. Additionally, the DOT Inspector General's office recently released a report and noted that DOT does not have an expected completion date for the entire plan.

When will we see a final National Rail Plan from DOT?

ANSWER: The Federal Railroad Administration (FRA) published a Preliminary National Rail Plan (NRP) in October 2009 following the direction of Congress, and a subsequent update of the NRP was made in the September 2010 Progress Report. These documents—combined with the policies and funding levels described in the Administration's FY 2013 budget proposal and 6-year investment strategy—articulate the future of intercity passenger rail for America.

In October 2011, FRA submitted to Congress a Public Investment and Business Case for four major corridor programs that were funded through FY 2010 appropriations (Los Angeles-San Francisco, Chicago-Detroit, Chicago-St Louis, and Chicago-Iowa City). Consistent with requirements established in the FY 2010 appropriations, these documents summarized the need for these investments, quantitatively and qualitatively assessed benefits and costs, and reviewed implementation and operating plans.

Since FY 2009, State and Federal rail planning has progressed significantly as well as their experience with new rail development. The need to revise and update the NRP will be incorporated as the program matures. FRA continues to undertake a number of interrelated planning and analysis efforts—all of which include substantial engagement with our State partners and other stakeholders—that will result in further iterations of the NRP and related documents.

Senator Patrick Leahy

QUESTION 1:

Emergency Relief Fund

Secretary LaHood, I want to thank you and your whole department for all of the help and support you have provided to the State of Vermont in the wake of Hurricane Irene's devastation last August. I am amazed at how quickly the engineers and construction crews have rebuilt roads, bridges, and rail lines that were completely washed away just a few months ago. I'm especially grateful that we were able to get the Federal Highway Administration the additional Emergency Relief funding that the states need and the flexibility to grant waivers lifting the state cap and emergency-operations deadline. I really appreciate you granting of these waivers, which have been crucial to Vermont's rebuilding efforts.

What is the current status of the Emergency Relief Fund? Do you anticipate needing more than the statutory \$100 million in ER funding in Fiscal Year 2013 to deal with the backlog? How do you plan to cover potential shortfalls as Vermont and other states continue to request funding as they rebuild from past disasters?

ANSWER: FHWA is authorized \$100 million annually in Emergency Relief (ER) funds. In addition, the Consolidated and Further Continuing Appropriations Act, 2012 (P.L. 112-55) provided a one-time general fund appropriation of \$1.662 billion. As of July 31, 2012, FHWA had a balance of \$197,573,131.79 in ER funds from both the annual funds and the one-time funds. A large portion of this balance is the result of FHWA's more aggressive review of unobligated ER balances that States have been holding for work that is complete. Since January of this year, FHWA has recovered over \$200,000,000 in unneeded ER funds for completed events that resided in State DOT accounts. These funds can now be used to cover expenditures for other events.

In addition, FHWA has \$19,000,000 in P.L. 107-117 and P.L. 107-206 funds which were appropriated for damages associated with 9/11. These funds are still needed to complete roadway infrastructure work when the reconstruction of the World Trade Center site is completed.

FHWA also has a balance of \$40,776,019.62 of FY 1990 Supplemental Appropriations (PL 101-130), which were appropriated for the Loma Prieta Earthquake and are no longer needed. Since the funds were specifically appropriated for the Loma Prieta Earthquake, they cannot be used for other events.

In October 2012, FHWA anticipates asking field offices for their 2013 obligation needs beyond the funding they have in hand.

The available funding is sufficient to cover immediate needs. However, a major disaster in the late summer or fall of this year could impact our ability to respond to that event along with previous events.

FHWA will continue to review unobligated balances and redistribute ER funding as necessary to maximize available ER resources.

QUESTION 2:

Restoring Amtrak Service to Montreal

Secretary LaHood, Vermont used to have cross-border Amtrak service along the old Montrealer line between Washington, DC, and Montreal, Que. Passenger rail access to Montreal went away in 1995, though, when St. Albans, Vt., became the terminus for Amtrak's new Vermonter train. The State of Vermont is very interested in reestablishing Amtrak service to Montreal – and our governor, Peter Shumlin, has made it one of his administration's top priorities.

One of the major obstacles to cross-border travel today is passenger security screening, and I am pleased that easing the burdens of cross-border train travel is a goal of the recently announced Beyond the Border initiative with Canada.

With other trains already operating across the Northern Border in New York State and Washington State, I know it can be done. We just need help and support from Amtrak and CBP to make it happen.

Will you work with me, the State of Vermont, the Department of Homeland Security, Amtrak, and the Canadians to explore reestablishing passenger train service to Montreal and finding reasonable solutions to the passenger screening issue?

ANSWER: DOT stands ready to support the improvement of existing rail corridors and the development of new rail corridors where markets exist. The development of such services is driven by the State and regional plans for intercity passenger rail. Vermont's initial planning efforts to extend intercity passenger rail service through the State and on to Montreal has focused on the cross-border and customs requirements of the proposed service. Those issues are the subject of the U.S.-Canada Transportation Border Working Group (TBWG), which includes U.S. and Canadian transportation agencies as well as FRA, the Department of Homeland Security, U.S. Customs and Border Protection, state and provincial governments, and other relevant agencies. The TBWG's passenger rail subcommittee, as well as other interested parties such as Amtrak, met on April 17-18, 2012, to address cross-border transportation issues including security and customs procedures that would affect service to Montreal. FRA will continue fully engaging with the TBWG, Congress, and other stakeholders to address these important issues.

When Vermont's planning process advances to the next stage, we're prepared to provide technical assistance where necessary for their full Service Development Plan (SDP). The SDP process includes the analysis of a multitude of technical, financial, and policy considerations unique to the corridor and a completed SPD will be a critical next step to securing federal funding, should additional funds become available, or identifying state and other funding resources to build the service.

QUESTION 1: The continued delay in issuing the final Notice of Proposed Rule Making for part 145 repair stations has created a growing problem for industry and a continued frustration for security regulatory agencies. Recognizing that much of the remaining work is dependent on TSA, can you provide a sense of when the final NPRM will be issued? What will be the process for new certifications once the final NPRM is issued?

ANSWER: The public comment period for TSA's *Proposed Aircraft Repair Station Security Rule* closed February 19, 2010. The rules are intended to improve the security of maintenance and repair work conducted on aircraft and aircraft components at domestic and foreign repair stations certificated by the FAA (14 CFR Part 145), thereby reducing the likelihood of a terrorist attack on civil aviation via a certified repair station. The NPRM proposed that repair stations (both foreign and domestic) would be required to adopt and carry out a standard security program developed by TSA and comply with TSA-issued security directives.

According to the Federal Register (July 7, 2011), the proposed rules were then in the final rulemaking stage. No additional information is available at this time as to when a final rule will be published.

Absent a final rule, current law prohibits FAA from certificating new foreign repair stations.

Upon the publication of the final rule, FAA intends to prioritize applications using the agency's Certification Services Oversight Process (CSOP).

QUESTION 2: GAO issued a report in 2009 with 47 recommendations addressing internal control weaknesses at the U.S. Merchant Marine Academy. What progress has MARAD made in addressing GAO's recommendations to improve the Academy's internal controls?

ANSWER: GAO completed a follow-up audit of the USMMA, and issued report GAO-12-369, in July 2012. The report confirms closure of 32 recommendations, and acknowledged agency actions and progress addressing all of the recommendations. The report identified no new issues in the areas of concern identified in the 2009 audit report. GAO reports "the Academy and MARAD had made substantial progress in addressing weaknesses related to specific control activities by successfully implementing 32 of the 46 control deficiency-related recommendations identified in our 2009 report. For example, the corrective actions taken to improve controls were sufficient for us to conclude that all recommendations related to training vessel use, personal service acquisitions, accountability for Academy reserves, and NAFI camps and clinics using Academy facilities were successfully implemented." Additionally, the July 2012 GAO report identified one new recommendation for the USMMA concerning capital improvement management.

The report indicated a need for additional documentation or action for 14 remaining recommendations, and identified one recommendation as overarching, for examination after all other recommendations have been addressed and closed. In those areas where GAO subsequently determined that additional detail would need to be taken to fully address recommended actions, MARAD is working to complete the actions by December 31, 2012.

QUESTION 3: While the FAA pursues new regulations overseeing the public and for-private use of unmanned aircraft, can you assure the modeling community that FAA will not promulgate new regulations for recreational use of model aircraft unless consistent with the language and intent of the Special Rule?

ANSWER: FAA can assure that any regulatory actions involving modelers will be consistent with the FAA Reauthorization and Modernization Act of 2012 regarding model aircraft.

QUESTION 4: FMCSA's Compliance Safety Accountability program counts crashes against motor carriers and truck drivers, including crashes they did not cause. For example, a wrong-way crash where a car is going the wrong direction on an interstate and runs into a truck could be counted against the truck by CSA. To better target those carriers and drivers accountable for crashes, I understand DOT is planning to screen accident reports for crashes that were unavoidable. I think that is extremely important; otherwise CSA, is unfairly labeling companies and their drivers guilty unless proven innocent. What is DOT's timetable for improving the CSA crash data and fully implementing a Crash Accountability program? Will you commit to making this change a priority?

ANSWER: The Federal Motor Carrier Safety Administration (FMCSA) agrees that better understanding a carrier's role in a crash is important. After discussions with stakeholders and taking an initial look at the use of police accident reports (PARs), FMCSA concluded that more work was necessary to develop a program that is fair, uniform and administratively feasible.

On July 23, 2012, FMCSA began conducting a study to research the safety benefits of adjusting crash weights in the Agency's Safety Measurement System (SMS) based on the carrier's role in the crash (i.e., preventability). FMCSA is considering modifying the Crash Indicator to weight crashes not only based on severity and timeliness but also on the role of the motor carrier in the crash. FMCSA designed the SMS to be continually improved as better data, information, and analysis become available. This research study is expected to conclude in the summer of 2013. Upon completion of the research study, FMCSA will publicize the results and announce next steps. FMCSA's Crash Weighting Research Plan can be found at http://csa.fmcsa.dot.gov/Documents/CrashWeightingResearchPlan_7-2012.pdf.

SMS is the Agency's system for identifying high-risk carriers, and it scores any carrier that meets our data sufficiency requirements. Currently, SMS uses all crashes within the Crash Indicator regardless of the role of the motor carrier in those crashes. This safety measurement area has proven to be one of the better predictors of future crash risk, irrespective of the cause of the crash. Recent analysis has demonstrated that SMS is an effective tool in identifying those

carriers most likely to have crashes. FMCSA's data system identifies 525,000 active motor carriers; 200,000 of those carriers have sufficient data to be assessed in at least one of our SMS Behavior Analysis and Safety Improvement Categories (BASIC). These 200,000 carriers have been involved in 92% of crashes reported to FMCSA.

QUESTION 5: I understand DOT's analysis of the recently published Hours of Service rule demonstrates the estimated safety benefits of the changes to the rule do not outweigh the costs. In this difficult economy, it is important the federal government adequately consider the costs of regulatory changes. I am concerned the elements of the final rule may violate this important cost-benefit principle. I understand the American Trucking Association recently filed a petition with the U.S. Circuit Court of Appeals for the District of Columbia asking the court to review the new rule. How does the Administration plan to address stakeholder concerns like those raised in the ATA's court petition?

ANSWER: In 2010 alone, large truck crashes resulted in 3,675 fatalities. In these large truck crashes, fatigue is a leading factor. In 2009, large truck crashes cost nearly \$20 billion in societal costs, including medical, insurance, infrastructure damage, lost wages and productivity. These far-reaching impacts on the economy and taxpayers point to the need for policies that reduce the causes of truck accidents, including driver fatigue, in order to prevent needless tragedies on our highways.

FMCSA's 2011 final rule concerning hours of service contains estimated costs of \$470 million per year, which are less than half the costs in FMCSA's preliminary plan published in the notice of proposed rulemaking, which were estimated to be \$1 billion. This new safety rule will result in many public safety benefits, as well as benefits due to improved driver health. The final rule provides \$280 million in annual economic benefits from reducing crashes and \$350 million in economic benefits from improved driver health, totaling \$630 million in benefits. Based on FMCSA's regulatory impact analysis, the economic benefits significantly exceed the \$470 million annual costs of the rule.

QUESTION 6: FAA has recently undertaken successful service-based programs including the surveillance broadcast services (SBS) for nationwide ADS-B deployment. In these times when budget constraints are the norm not the exception, what is FAA's view of expanding its use of fee for service contracts like SBS in areas including communication, navigation, surveillance and automation?

ANSWER: Automatic Dependent Surveillance – Broadcast (ADS-B) services are procured by the FAA in the same way that power and telecommunications services are secured. The FAA owns the surveillance and flight data transmitted and received between aircraft and the ATC ground stations, but does not own the actual hardware and other components necessary to provide the services.

The FAA will consider performance-based service contracts as a potential method of procuring communication, navigation, surveillance, automation and other services. The FAA's Acquisition Management System encourages the use of this method of contracting. As with all procurements, however, the acquisition strategy will be evaluated to determine the most cost-effective approach and the approach most likely to result in the best value for the agency and taxpayer. Should another major procurement be done utilizing the service-based approach, the agency will utilize lessons learned from the ADS-B and other performance based service acquisitions.

QUESTION 1:

Air Quality -- Union Station and Diesel Emissions

After the *Chicago Tribune* reported Metra passengers and workers were exposed to excessively high levels of diesel soot, Metra took quick action to improve air quality in their cars by installing cabin air filters, switching to cleaner-burning diesel fuel, and employing automatic idle shut-offs on many of their engines. Amtrak worked to identify additional solutions for the area around the train station itself. These actions had an immediate effect, reducing pollution emissions by as much as 75%.

QUESTION: Are other transit agencies taking similar steps to assess and, if needed, improve the air quality at their stations and in their train cars?

ANSWER: While transit agencies across the country work with local governments to meet air quality goals of the Clean Air Act administered by the Environmental Protection Agency (EPA), these goals are not specifically tied to individual transit stations or within transit vehicles. EPA regulates emissions from diesel-hauled rail transit vehicles and locomotives. The Federal Railroad Administration (FRA) regulates most aspects of intercity, regional, commuter and light (interurban) rail transit systems operating on the General Railroad System. This would include diesel-hauled commuter and interurban systems. Additionally, while the EPA maintains exhaust emission standards for heavy-duty highway compression-ignition engines and urban buses, these standards are focused on tailpipe emissions and not focused on specific environments such as the inside of a transit vehicle or station.

Federal agencies must ensure that their actions such as grants or approvals in nonattainment or maintenance areas conform to state air quality plans for achieving and maintaining air quality standards. Air quality factors are considered through DOT and metropolitan planning organization must comply with EPA's General Conformity or Transportation Conformity regulations, as applicable.

EPA's Office of Transportation and Air Quality's (OTAQ) mission is to reconcile the transportation sector with the environment by advancing clean fuels and technology, and working to promote more livable communities. OTAQ is responsible for carrying out laws to control air pollution from motor vehicles, including their engines, and fuels. Mobile sources include: cars and light trucks, large trucks and buses, farm and construction equipment, lawn and garden equipment, marine engines, aircraft, and locomotives. OTAQ's activities include: characterizing emissions from mobile sources and related fuels; developing programs for their control, including assessment of the status of control technology and in-use vehicle emissions; carrying out a regulatory compliance program, in coordination with the EPA Office of Enforcement and Compliance Assurance, to ensure adherence of mobile sources to standards; fostering the development of State Motor Vehicle Emissions Inspection and Maintenance Programs; and implementing programs for the integration of clean-fueled vehicles into the market.

QUESTION: Have any studies been conducted to assess which transit agencies and stations are most in need of taking corrective steps to improve air quality for their passengers and transit workers?

ANSWER: To our knowledge no specific study or synthesis report has been compiled specifically documenting transit agency stations in need of taking corrective steps to improve air quality specifically for transit passengers or transit employees. Within current operational environments, it is not unusual to detect a slight odor of diesel exhaust inside the one or two passenger cars directly behind the locomotive, inside diesel-hauled interurban trains, and on station platforms where such platforms are protected from breezes and other natural air circulation. This usually passes naturally once the vehicle is at speed or a few moments after the vehicle has departed the station. Operations in tunnels, covered stations and other below-grade configurations may exacerbate this issue.

While FTA does sponsor research centered on reducing transit emissions through advanced and innovative technologies, there is no specific research targeting the passenger environment in vehicles and on station platforms. Further, there are currently no transit industry standards or FTA Requirements that address air quality specifically for passengers.

QUESTION: How can DOT help improve the air quality in diesel powered trains and around train stations?

ANSWER: On a continuing basis, DOT, through its various modal administrations and programs, works with State and local communities to address air quality. FTA specifically has targeted its Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) program and its Clean Fuels program grant funds to transit agencies in both attainment and non-attainment areas to help them adopt new technologies that reduce vehicle idle time, overall energy usage, and harmful emissions. For example, using FY 2010 TIGGER funding, FTA provided Metra, through the Illinois Department of Transportation, federal funds to modify locomotives by implementing innovative automatic shut-down/start-up systems to reduce unnecessary idle time.

QUESTION 2:

FAA Airport Privatization Program – Midway & Other Airports

The recent FAA reauthorization doubled the number of airports that can apply for the FAA Airport Privatization Pilot Program from 5 to 10. The privatization of such large publicly-held assets naturally raises questions regarding responsible stewardship, particularly during times of economic uncertainty:

(a) MIDWAY AIRPORT:

- Midway Airport in Chicago is currently the only large-hub airport in this privatization program. How much total federal funding has gone to build and maintain Midway Airport?

ANSWER: Since 1982, Chicago's Midway Airport has received a total of \$378,350,793 in Federal Airport Improvement Program (AIP) funds under the Airport and Airway Improvement Act of 1982.

- How much federal funding would the City of Chicago need to repay if it were successfully privatized under the program and FAA did not use their authority to exempt repayment of previously received federal grants?

ANSWER: Since 1982, Chicago's Midway Airport has received a total of \$378,350,793 in Federal Airport Improvement Program (AIP) funds under the Airport and Airway Improvement Act of 1982. If a private operator is selected for the airport, it may apply for an exemption under the FAA's Airport Privatization Pilot Program. At that time, FAA will evaluate the application for exemption.

- What other large hub airports have expressed interest in the privatization program?

ANSWER: To date, no other large hub airport has approached FAA with a formal request to participate in the program. From time to time, we do receive informal inquiries from airports.

(b) OTHER AIRPORTS

- Puerto Rico is currently soliciting bids to sell or lease Luis Muñoz Marín International Airport. How much total federal funding has gone to build and maintain this airport?

ANSWER: Since 1982, Puerto Rico's San Juan Luis Munoz Marin International Airport has received a total of \$180,353,147 in Federal Airport Improvement Program (AIP) funds under the Airport and Airway Improvement Act of 1982.

- How much federal funding would Puerto Rico need to repay if it were successfully privatized under the program and FAA did not use their authority to exempt repayment of previously received federal grants?

ANSWER: Since 1982, Puerto Rico's San Juan Airport has received a total of \$180,353,147 in Federal Airport Improvement Program (AIP) funds under the Airport and Airway Improvement Act of 1982. If a private operator is selected for the airport, it may apply for an exemption under the FAA's Airport Privatization Pilot Program. At that time, FAA will evaluate the application for exemption.

- If an airport is required to repay federal funding, what would DOT do with those funds?

ANSWER: The existing privatization statute does not have any specific direction on how repayments are to be handled. In the 16 years that the airport privatization program has been in effect, no repayments have been required. Repayments would be handled on a case by case basis.

- Does DOT believe there are sufficient public interest protections in the current Airport Privatization Pilot Program law and regulations?

ANSWER: The statute and regulation creating the FAA Airport Privatization Pilot Program (Program) specify how FAA evaluates the competencies of a proposed private operator. The FAA will not grant a Part 139 airport operating certificate to a private operator that is unable to demonstrate the ability to meet or exceed existing airport operating requirements and standards. The FAA must also be satisfied, under the Program, with the private operator's plans to maintain, modernize and improve the airport, including its five-year capital improvement plan. The Program also requires the FAA to find that the public sponsor undertook a process consistent with aeronautical users' interests, including consultation, limitations on fees, rights to object to the sponsor's planned use of proceeds, and impact on general aviation users, and that the private operator's plans with respect to aeronautical users are also consistent with their interests under the Program. Further, pursuant to the Program, the FAA must find that the privatization transaction will not abrogate any collective bargaining agreement that covers airport employees and that is in effect on the date of the transaction. In addition, the FAA must find that operations of the privatized airport will not be interrupted in the event of bankruptcy. Finally, all airports that

have accepted federal grants, regardless of public or private ownership, must meet the same grant assurance and safety requirements.

QUESTION 2:

General Highway Privatization

A 2008 GAO report was critical of highway privatization deals. The report recommended several actions for Congress and the Administration. Specifically, GAO recommended Congress require the Secretary of Transportation to develop and submit objective criteria for identifying national public interests in highway public-private partnerships.

- Does DOT currently have the legal authority to develop public interest criteria for highway public-private partnerships?
- What additional legal authority does DOT need to develop public interest criteria to ensure national public interests are protected in future highway public-private partnerships?
- What action is DOT taking now to ensure that national interests are considered in proposed highway public-private partnerships like the Ohio Turnpike?

ANSWER: USDOT does not have any statutory authority to require States to use any particular public interest criteria when determining whether and how to pursue a public-private partnership (P3) for highway infrastructure development. However, Section 1534 of P.L. 112-141 Moving Ahead for Progress in the 21st Century Act (MAP-21) directs the Department to develop and post information on best practices in P3s, including “policies and techniques to ensure that the interests of the traveling public and State and local governments are protected” in any P3 agreement. That section also allows USDOT to provide technical assistance to a State, public transportation agency, or other public official “in analyzing whether the use of a public-private partnership would provide value compared with traditional public delivery methods” if requested to do so. USDOT is currently working to implement this provision and could provide such technical assistance for the Ohio Turnpike if requested to do so.

QUESTIONS FOR THE RECORD
To
THE HONORABLE KAREN HEDLUND
DEPUTY ADMINISTRATOR,
FEDERAL RAILROAD ADMINISTRATION
FROM
THE HONORABLE CORRINE BROWN
RANKING DEMOCRAT, SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS
MATERIALS, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
HEARING ON
“NORTHEAST CORRIDOR FUTURE:
OPTIONS FOR HIGH-SPEED RAIL DEVELOPMENT AND OPPORTUNITIES
FOR PRIVATE SECTOR PARTICIPATION”
DECEMBER 13, 2012

- 1. In your testimony, you discussed the FRA’s Service Development Plan which will define the vision for the Northeast Corridor (NEC) rail network in 2040. Some in Congress have recommended that development and operation of high-speed and intercity passenger rail on the NEC be turned over to the private sector. Some have also recommended splitting operations from infrastructure on the NEC and then bidding those out to various private entities. What are DOT’s views on these proposals? What are the risks of turning over the entire project to the private sector? As part of the NEC plan, will there be a role for the private sector?**

Any proposal for private investment or involvement in a rail corridor would need to be subject to detailed study and consideration. Any agreements would need to address such issues as operating standards, capital and ordinary maintenance, performance guarantees, and hand-back conditions.

As part of the Service Development Plan, NEC FUTURE will evaluate options for funding and operating the NEC, including the participation of the private sector in:

- financing and development of NEC facilities and improvements
- management of operation of the NEC assets.

Section 502 of PRIIA looked at restructuring the NEC through a private/public partnership. No proposals for NEC restructuring were received in the PRIIA-mandated initial solicitation.

DOT and FRA are open to private sector investment and participation in all high-speed rail corridors and projects.

- 2. A witness at the hearing stated there are private sector entities interested in investing in or bidding on development and operation of high-speed rail on the NEC. Did any entities apply to develop or operate high-speed rail on the NEC when the DOT issued its request for proposals? If not, are you aware of any serious interest from the private sector that does not involve funding or some sort of financial guarantee from the federal government?**

See answer to question 1. There was no interest from the private sector without the involvement of federal funding.

- 3. In your testimony, you mentioned that maintaining momentum and forward progress beyond Phase 1 is critical to the ultimate success of NEC FUTURE. Can you please talk a little more about what your needs are in order to continue to move NEC FUTURE forward? If you do not receive additional funding next year, what will happen? What risks are involved if funding is delayed?**

Continuation of work beyond Phase 1 is contingent on additional Federal funding. Phase 1 is currently under contract for \$8.7M and this contract terminates in early February 2013. The additional funding needed to complete NEC FUTURE is \$30M. The effort has been structured in phases due to the limited funding - Phase 2 is \$20M and Phase 3 is \$10M. It is critical to keep the momentum going. Thousands of people – from the public to local elected officials to business leaders – are engaged in this effort, and it is imperative we keep it moving forward without delay. There are significant risks involved if funding is delayed. The work would stop, resulting in a loss of momentum in public outreach, agency efforts/buy-in, data collection and technical analysis/resources. Delay in the planning process may also result in preclusion of development opportunities as a result of needed properties being put to other uses in the interim. The results of NEC FUTURE will serve as a critical component to future funding for maintaining and improving the NEC, and it is important that the NEC states remain competitive for funding for capital improvements.

- 4. As we look toward reauthorization next year, is there anything Congress can do to help move NEC FUTURE forward?**

As described in the response to Question #3, above, Congress needs to provide funding for Phases 2 and 3 of NEC FUTURE in order for this important and historic effort to move forward. FRA views this project as providing a template for effective multi-state corridor planning throughout the U.S., a proposal we have described in the President's FY 2013 Budget.

- 5. We are likely going to reauthorize the Passenger Rail Investment and Improvement Act next Congress. What high-speed/intercity passenger rail-related issues would you recommend we address in a reauthorization bill?**

The Administration looks forward to working with Congress to authorize a sustainable, long-term rail program upon the expiration of PRIIA. Many of the Administration's priorities have been laid out in budget proposals over the past few years. We will make staff available to discuss any aspects of our passenger rail programs and policy changes that Congress should suggest during the legislative process.

REPUBLICAN MEMBER QUESTIONS FOR THE RECORD

To Karen Hedlund, Deputy Administrator, FRA

Full T&I Committee Hearing – Northeast Corridor Future: Options for High-Speed Rail
Development and Opportunities for Private Sector Participation

Thursday, December 13, 2012

- 1. What role does FRA expect the private sector to play in the NEC high speed rail project? From your perspective, what are the possibilities for the private sector in the NEC? If you do not know, what are your plans to develop that role?**

The private sector is currently playing a robust role in the development and redevelopment of the major train stations serving the Northeast Corridor, including Washington Union Station, Moynihan Station in New York City, and Boston, South Station. Private investment in the commercial development in and around these stations has and will continue to provide a source of revenue for the development of the transportation functions of these stations, including new concourses and train halls.

As part of the NEC FUTURE planning process, FRA will be evaluating potential funding scenarios as part of its development of a Service Development Plan for the Corridor. As part of that process, we will also be reviewing the work recently undertaken by Amtrak regarding potential private investment as part of its NEX Business and Financial Plan. We will also be engaging with the business community to obtain input from private sector entities interested in the Corridor.

- 2. Secretary LaHood last week also explained that “There are lots of private investors working with the state of California, the Governor’s office, and others about the ability to privately invest in this project.” What has the Administration done to reach out to those investors for participation in the NEC?**

Administration officials have had numerous conversations with potential private sector participants in various rail projects throughout the United States. Many of these entities have expressed interest in potential opportunities, not only California but also elsewhere in the country, including the Northeast Corridor.

DOT and FRA are open to private sector investment and participation in all high-speed rail corridors and projects.

As part of the Service Development Plan, NEC FUTURE will evaluate options for funding and operating the NEC, including the participation of the private sector in:

- financing and development of NEC facilities and improvements
- management of operation of the NEC assets.

- 3. Your testimony mentioned that NEC FUTURE is part of a pilot program with CEQ. Can you please detail what this pilot program entails, how it will save time in the environmental review process, and how much time you estimate it will save? What are the prospects for implementing a similar pilot for other rail project reviews?**

On January 13, 2012, the Council on Environmental Quality (CEQ) and the U.S. Department of Transportation's Federal Railroad Administration (FRA) announced the selection of the NEC as their fourth National Environmental Policy Act (NEPA) pilot project, to establish best practices for large-scale, multi-state integrated and tiered decision-making, including the early engagement and coordination of federal and state resource and regulatory agencies and other local and regional stakeholders. The CEQ Pilot focuses on early and intensive coordination among stakeholders, identifying areas of concern and generally informing the process in an unprecedented way. The focus on early engagement sets the stage for continued strong coordination amongst the federal and state agencies critical in the planning and delivery of transportation projects in the region. While the CEQ Pilot is not designed to specifically reduce the time to complete the Tier 1 EIS where timing is driven in large part by the development of the Service Development Plan, the strength in investing in early coordination on environmental issues will allow for a more targeted Tier 2 NEPA process as the agencies will have been engaged from such an early stage – allowing for efficiencies and a reduction in the overall project delivery timeline. The approach used in the CEQ Pilot has been identified as a best practice and establishes a framework that can be modeled in future environmental review and permitting processes for other complex, multi-jurisdictional projects.

- 4. As discussed at the hearing, have you evaluated and identified any ways in which you could speed up the NEC FUTURE process, so that we can have it completed sooner than 2015? If so, please explain. If not, why?**

The FRA has worked closely with the States and the operating railroads on the NEC throughout the NEC FUTURE process. This coordination was critical leading into the procurement process in defining the actual scope of the effort. It is important to the FRA and the NEC stakeholders that the NEC FUTURE process be comprehensive. To date, planning efforts in the northeast have been done in a piece meal fashion as this is a complex, multi-state region with multiple operators and users of the infrastructure. NEC FUTURE will develop an integrated framework for future passenger rail capacity and service improvements through 2040. This work provides the opportunity and planning framework for all of the regional stakeholders to work collaboratively in defining the future of the NEC. It is acknowledged that in order to accomplish this, the FRA is operating under an aggressive schedule given the complexity of the region and the multi-state nature of NEC FUTURE, but the effort is focused on comprehensiveness and accuracy to streamline future investments. The close coordination will set the stage for more efficient delivery of the projects that result from NEC FUTURE, which will yield overall time savings.

- 5. Has the FRA considered ways to expedite the entire project of bringing high-speed rail to the NEC? If so, please explain. If not, why?**

Measuring the future demand for high-speed rail in Northeast is a critical component of NEC FUTURE. FRA is advancing with a market-based approach to determine how best to prioritize improvements to the NEC, including advanced high-speed rail technologies. Understanding the markets and customer needs allows for more informed decisions about the services that will be necessary to accommodate the growth of the future. However, NEC FUTURE is just not a high-speed rail study. It is the first effort in 35 years to

develop a comprehensive, integrated blueprint for future investment in the NEC to accommodate growing commuter, intercity and freight demand.

6. **As was requested at the hearing, please provide for the record the current market share of air travel and passenger rail travel between major markets in California served by both modes. Also, please provide for the record the California High-Speed Rail Authority's study on the projected shift of air passengers to rail passengers upon completion of the California High-Speed Rail Project.**

There is currently no direct passenger rail service connecting San Francisco to Los Angeles, which is the market that will be served by Phase I of the California High-Speed Rail Project. (The once-per-day *Coast Starlight* long-distance train runs from Los Angeles to Oakland, with continuing service to Seattle. In spite of the lack of service, 200,000 passengers per year take an Amtrak bus between Bakersfield and Los Angeles on the San Joaquin Corridor, one of the busiest in the nation.) In 2030, under the low ridership projections, the California High-Speed Rail Authority estimates that high-speed rail will capture 30.9% of the Los Angeles-San Francisco end-to-end travel market, versus 28.8% for air and 40.3% auto. (See Table 5.15, <http://www.cahighspeedrail.ca.gov/assets/0/152/431/7b890372-19c0-4ba7-aa98-aa1d49deal1b.pdf>.)

The current air/rail market shares for the major city pairs served by direct, commercial service on both modes are provided in the following table¹:

City Pair	Est. Air Passengers	Est. Rail Passengers
Los Angeles-San Diego	40,000 (7%)	570,000 (93%)
Sacramento-San Francisco/Oakland	3,500 (1%)	682,000 (99%)
Bakersfield-San Francisco/Oakland	7,000 (8%)	86,000 (92%)

7. **As requested at the hearing, could you please provide the applicable budget requests that include further funding for the NEC FUTURE project?**

The Administration strongly supports rail planning efforts, including the NEC FUTURE program.

Continuation of work beyond Phase 1 is contingent on additional Federal funding. Phase 1 is currently under contract for \$8.7M and this contract terminates in early February 2013. The additional funding needed to complete NEC FUTURE is \$30M. The effort has been structured in phases due to the limited funding - Phase 2 is \$20M and Phase 3 is \$10M.

¹ Figures for both modes only include passengers traveling directly between these markets, and do not include travelers connecting to other destinations. Each market is served by multiple airports and train stations, which are aggregated in this table. Source: FRA analysis of Amtrak and FAA data from FY 2012.

Both the FY 2012 and FY 2013 President's budget requests for FRA included significant funding for a proposed new Network Development program. The program would fund planning and development of infrastructure, stations, equipment, and capacity necessary to implement the National High Performance Rail System (NHPRS).

The Administration's FY 2013 budget request includes \$1 billion for the Network Development program. These resources would be competitively allocated to particular planning and development projects based on the evaluation and selection criteria described in PRIIA. The NEC FUTURE program, which is a comprehensive planning effort to define, evaluate and prioritize future investments in the Northeast Corridor, would be a strong candidate to receive support.

8. Last week's hearing discussed the vast array of high speed and intercity passenger rail projects throughout the country. How does the NEC FUTURE project compare in terms of priority with other passenger rail projects in the U.S.?

FRA has provided more than \$2.5 billion in grants and loans to the Northeast Corridor, and the NEC FUTURE planning process is one of FRA's top priorities.

FRA has dedicated a full-time project manager to the effort (the first FRA rail planning/environmental project with such a resource), and several FRA technical experts are playing lead roles on technical working groups, as well as contributing to data collection and analysis. Additionally, FRA's leadership team is closely engaged on the effort, frequently participating in status meetings, delivering briefings to stakeholders, and attending public meetings and workshops throughout the study area.

9. What are the lessons learned from your experience with the High Speed and Intercity Passenger Rail Program that can and should be applied to future high speed rail projects, including the NEC project?

Several lessons learned and best practices from the early years of the HSIPR program have been applied to NEC FUTURE and will continue to guide future projects. These include:

- **Early engagement of all stakeholders.** Ensuring all stakeholders are at the table early in a project can save substantial amounts of time and resources in later stages, as well as provide for a stronger project. The NEC FUTURE team has made stakeholder engagement a top priority, and through a partnership with the Council on Environmental Quality has developed an innovative environmental review approach that is bringing all resource agencies together early in the process.
- **Multi-state coordination.** Few intercity rail corridors are entirely located within a single state. Cross-jurisdictional coordination and cooperation in planning and developing rail corridors is essential to successful projects. The NEC Commission is playing a critical role in the NEC FUTURE process by providing an institutional framework that can aid in the facilitation of multi-state coordination.

- **Strong planning foundation.** Projects that have been developed based on a consensus long-term vision, and which have a sound planning and technical analysis foundation, can be funded and implemented in an efficient and logical sequence that maximizes potential public benefits.

Senate Committee on Commerce, Science, and Transportation
Field Hearing on “Pipeline Safety: An On-the-Ground Look at Safeguarding the Public”
Charleston, West Virginia
January 28, 2013

Questions for the Record Submitted by Senator Barbara Boxer

For PHMSA:

Question 1: Similar to the tragic 2010 accident in San Bruno, California that killed 8 people and injured 52, the preliminary results of the NTSB’s investigation on the Sissonville accident suggest that Columbia’s failure to detect serious flaws in its transmission pipeline may have been a contributing factor to the accident. What is the status of PHMSA’s rulemakings to improve oversight and communication to pipeline safety operators regarding proper recordkeeping and inspection protocols?

Response 1: PHMSA issued an advance notice of proposed rulemaking (ANPRM), entitled “Safety of Gas Transmission Pipelines”, RIN 2137-AE72 regarding natural gas transmission pipelines on August 25, 2011. That ANPRM requested public comments on issues raised by the San Bruno incident, including integrity management principles for gas transmission pipelines and gas gathering. PHMSA intends to issue a notice of proposed rulemaking related to those issues later this year. In order to support the required regulatory analysis for that rulemaking PHMSA took several actions last year. On January 10, 2011, PHMSA issued an Advisory Bulletin (AB) (76 FR 1504) to remind operators of gas and hazardous liquid pipeline facilities of their responsibilities, under Federal integrity management (IM) regulations, to perform detailed threat and risk analyses that integrate accurate data and information, especially when calculating Maximum Allowable Operating Pressure (MAOP) or Maximum Operating Pressure (MOP). On May 7, 2012, PHMSA issued an AB (77 FR 26822) to remind operators of gas and hazardous liquid pipeline facilities to verify their records relating to operating specifications for MAOP and MOP required by 49 CFR 192.517 and 49 CFR 195.310, respectively. On December 21, 2012, PHMSA issued an AB (77 FR 75699) to inform owners and operators of gas transmission pipelines that if the pipeline pressure exceeds MAOP plus the build-up allowed for operation of pressure-limiting or control devices, the owner or operator must report the exceedance to PHMSA (and States with regulatory authority) on or before the 5th day following the date on which the exceedance occurs. On December 5, 2012, the Office of Management and Budget (OMB) approved revisions to the gas transmission and gathering annual reporting requirement (PHMSA F-7100.2-1). On January 28, 2013, PHMSA issued a federal register notice (78 FR 5866) to owners and operators of gas transmission and gathering lines regarding significant changes to the annual reporting requirements. Those new annual reporting requirements require owners and operators to validate their Operator Identification Number data, and requests supplemental reports to correct gas transmission and liquefied natural gas annual report data issues when filing their next annual reports on June 15, 2013. This data will be used to support regulations required by the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, which requires operators to conduct tests to confirm the material strength of previously untested natural gas transmission pipelines that operate at a pressure greater than 30 percent of specified

minimum yield strength and are located in high-consequence areas. The pipeline in Sissonville was not such a pipeline, however, we are doing further analysis.

Question 2: Also similar to the San Bruno incident, the time it took to shut off the gas in the Sissonville incident may have been a factor contributing to the extent of the damage. It took several minutes for the Columbia Gas controller to even learn of the explosion, despite numerous pressure drop alerts beforehand. It then took company officials over an hour to isolate the section of pipeline where the explosion occurred. Could requiring automatic or remotely-controlled shutoff valves wherever technically and economically feasible help minimize damages in future transmission pipeline explosions?

Response 2: In the ANPRM mentioned above, PHMSA also discussed the subject of automatic and remote controlled shutoff valves. PHMSA held a workshop on this subject on March 27, 2012. PHMSA also commissioned an independent study performed by Keiffner and Associates on this topic and held a workshop on the draft of the study and accepted comments on the draft. A copy of that study was submitted to Congress on December 27, 2012. Based on the study, PHMSA is considering a rulemaking action on the benefits and costs of both automatic shutoff valves as well as remote control valves.

Question 3: Why did PHMSA wait until January 31, 2013, to issue its Advisory Bulletin to pipeline owners and operators recommending that they contact the National Response Center within one hour of discovery of a pipeline incident?

Response 3: PHMSA had issued a series of Advisory Bulletins' regarding the importance of operators promptly reporting incidents to the NRC. PHMSA's predecessor—Research and Special Programs Administration—issued AB's regarding these issues during the 1980s, and more recently on September 6, 2002 (67 FR 57060)' to advise owners and operators of gas distribution, gas transmission, hazardous liquid pipeline systems, and liquefied natural gas (LNG) facilities to ensure that telephonic reports of incidents to the NRC are prompt (within 1 to 2 hours). In addition, on October 11, 2012, PHMSA issued an AB (77 FR 61826) to remind operators of gas, hazardous liquid, and liquefied natural gas pipeline facilities to immediately and directly notify the Public Safety Access Point (PSAP) that serves the communities and jurisdictions in which those pipelines are located when there are indications of a pipeline facility emergency. Furthermore, the AB stated operators should have the ability to immediately contact PSAP(s) along their pipeline routes if there is an indication of a pipeline facility emergency to determine if the PSAP has information which may help the operator confirm an emergency or to provide assistance and information to public safety personnel who may be responding to the event.

Question 4: In 2003, 2005, and 2010, PHMSA hosted public workshops on pipeline operator public awareness programs. Why has PHMSA not conducted any additional public workshops in 2 ½ years?

Response 4: Since late 2010, PHMSA has been conducting inspections on the effectiveness of pipeline operators public awareness programs. Those inspections were completed at the end of December 2012 and we are currently analyzing the results. Once those results have been

analyzed, PHMSA is planning to conduct a Public Awareness workshop in June 2013 to bring public awareness stakeholders together to share the inspection results and discuss ways to strengthen and expand public awareness for the public, emergency response officials, public officials, and excavators. The workshop will be webcast live to allow for broad public participation.

Question 5: PHMSA's current Strategic Plan calls for "increase[ing] the visibility of our prevention and response efforts to better prepare the public." Please describe the three major actions PHMSA plans to take to address this objective and its approach to evaluating the effectiveness of these actions?

Response 5: PHMSA has already taken significant actions to increase the visibility of our prevention and response efforts and has much more planned. PHMSA is evaluating a number of major actions to increase the visibility of our prevention and response efforts to better prepare the public, including:

- PHMSA has pursued a strategy of institutionalizing pipeline awareness in the emergency response community over the past 18 months. The strategy commenced with a public, webcast Pipeline Emergency Response Forum on December 11, 2011. Since the forum, PHMSA has undertaken a variety of initiatives to better prepare emergency responders to safely and effectively respond to pipeline emergencies. PHMSA convened a Pipeline Emergency Response Working Group of emergency responders, pipeline operators, and government officials. PHMSA has also partnered with the National Association of State Fire Marshals, the U.S. Fire Administration, and Transportation Community Awareness and Emergency Response (TRANSCAER®). PHMSA has led a pilot project in Virginia to incorporate pipelines into the statewide emergency response plan and has led a pilot project in Georgia to ensure adequate pipeline training for emergency responders. PHMSA has also been represented annually at five major firefighter/emergency response conferences across the country. PHMSA has written several articles for major firefighter magazines and developed a brochure that highlights pipeline safety resources that PHMSA makes available to emergency responders. PHMSA is also funding a research project that will produce a guide for effective communication practices between pipeline operators and emergency responders. Additionally, the National Fire Protection Association (NFPA) is making a variety of changes to their standards that will elevate the importance of pipelines in the training competencies of firefighters.
- PHMSA also produced and distributed an 811 television and radio Public Service Announcement, expanded its efforts in supporting National Safe Digging Month and National 811 Day, and incorporated social media messages into the 811 campaign. An annual survey is conducted to measure 811 awareness. PHMSA is also planning to conduct a public awareness workshop in June 2013 to bring public awareness

stakeholders together to discuss recent public awareness inspections and to discuss ways to strengthen and expand public awareness.

- PHMSA is executing damage prevention initiatives and will, in the coming months, issue a Final Rule entitled “Pipeline Safety: Pipeline Damage Prevention Programs, RIN 2137-AE 43. The rule will focus on the enforcement of One Call laws; address exemptions in One Call laws through a study; grants to States for the purpose of strengthening damage prevention programs; and work with State stakeholders who seek to improve their One Call laws and programs through meetings, data analysis, and letters of support. Incidents caused by excavation damage have decreased by 30 percent since 2008.

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Response 1: PHMSA issued an advance notice of proposed rulemaking (ANPRM), entitled “Safety of Gas Transmission Pipelines”, RIN 2137-AE72 regarding natural gas transmission pipelines on August 25, 2011. That ANPRM requested public comments on issues raised by the San Bruno incident, including integrity management principles for gas transmission pipelines and gas gathering. PHMSA intends to issue a notice of proposed rulemaking related to those issues later this year. In order to support the required regulatory analysis for that rulemaking PHMSA took several actions last year. On January 10, 2011, PHMSA issued an Advisory Bulletin (AB) (76 FR 1504) to remind operators of gas and hazardous liquid pipeline facilities of their responsibilities, under Federal integrity management (IM) regulations, to perform detailed threat and risk analyses that integrate accurate data and information, especially when calculating Maximum Allowable Operating Pressure (MAOP) or Maximum Operating Pressure (MOP). On May 7, 2012, PHMSA issued an AB (77 FR 26822) to remind operators of gas and hazardous liquid pipeline facilities to verify their records relating to operating specifications for MAOP and MOP required by 49 CFR 192.517 and 49 CFR 195.310, respectively. On December 21, 2012, PHMSA issued an AB (77 FR 75699) to inform owners and operators of gas transmission pipelines that if the pipeline pressure exceeds MAOP plus the build-up allowed for operation of pressure-limiting or control devices, the owner or operator must report the exceedance to PHMSA (and States with regulatory authority) on or before the 5th day following the date on which the exceedance occurs. On December 5, 2012, the Office of Management and Budget (OMB) approved revisions to the gas transmission and gathering annual reporting requirement (PHMSA F-7100.2-1). On January 28, 2013, PHMSA issued a federal register notice (78 FR 5866) to owners and operators of gas transmission and gathering lines regarding significant changes to the annual reporting requirements. Those new annual reporting requirements require owners and operators to validate their Operator Identification Number data, and requests supplemental reports to correct gas transmission and liquefied natural gas annual report data issues when filing their next annual reports on June 15, 2013. This data will be used to support regulations required by the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, which requires operators to conduct tests to confirm the material strength of previously untested natural gas transmission pipelines that operate at a pressure greater than 30 percent of specified

minimum yield strength and are located in high-consequence areas. The pipeline in Sissonville was not such a pipeline, however, we are doing further analysis.

Question 2: Also similar to the San Bruno incident, the time it took to shut off the gas in the Sissonville incident may have been a factor contributing to the extent of the damage. It took several minutes for the Columbia Gas controller to even learn of the explosion, despite numerous pressure drop alerts beforehand. It then took company officials over an hour to isolate the section of pipeline where the explosion occurred. Could requiring automatic or remotely-controlled shutoff valves wherever technically and economically feasible help minimize damages in future transmission pipeline explosions?

Response 2: In the ANPRM mentioned above, PHMSA also discussed the subject of automatic and remote controlled shutoff valves. PHMSA held a workshop on this subject on March 27, 2012. PHMSA also commissioned an independent study performed by Keiffner and Associates on this topic and held a workshop on the draft of the study and accepted comments on the draft. A copy of that study was submitted to Congress on December 27, 2012. Based on the study, PHMSA is considering a rulemaking action on the benefits and costs of both automatic shutoff valves as well as remote control valves.

Question 3: Why did PHMSA wait until January 31, 2013, to issue its Advisory Bulletin to pipeline owners and operators recommending that they contact the National Response Center within one hour of discovery of a pipeline incident?

Response 3: PHMSA had issued a series of Advisory Bulletins' regarding the importance of operators promptly reporting incidents to the NRC. PHMSA's predecessor—Research and Special Programs Administration—issued AB's regarding these issues during the 1980s, and more recently on September 6, 2002 (67 FR 57060)' to advise owners and operators of gas distribution, gas transmission, hazardous liquid pipeline systems, and liquefied natural gas (LNG) facilities to ensure that telephonic reports of incidents to the NRC are prompt (within 1 to 2 hours). In addition, on October 11, 2012, PHMSA issued an AB (77 FR 61826) to remind operators of gas, hazardous liquid, and liquefied natural gas pipeline facilities to immediately and directly notify the Public Safety Access Point (PSAP) that serves the communities and jurisdictions in which those pipelines are located when there are indications of a pipeline facility emergency. Furthermore, the AB stated operators should have the ability to immediately contact PSAP(s) along their pipeline routes if there is an indication of a pipeline facility emergency to determine if the PSAP has information which may help the operator confirm an emergency or to provide assistance and information to public safety personnel who may be responding to the event.

Question 4: In 2003, 2005, and 2010, PHMSA hosted public workshops on pipeline operator public awareness programs. Why has PHMSA not conducted any additional public workshops in 2 ½ years?

Response 4: Since late 2010, PHMSA has been conducting inspections on the effectiveness of pipeline operators public awareness programs. Those inspections were completed at the end of December 2012 and we are currently analyzing the results. Once those results have been

analyzed, PHMSA is planning to conduct a Public Awareness workshop in June 2013 to bring public awareness stakeholders together to share the inspection results and discuss ways to strengthen and expand public awareness for the public, emergency response officials, public officials, and excavators. The workshop will be webcast live to allow for broad public participation.

Question 5: PHMSA's current Strategic Plan calls for "increase[ing] the visibility of our prevention and response efforts to better prepare the public." Please describe the three major actions PHMSA plans to take to address this objective and its approach to evaluating the effectiveness of these actions?

Response 5: PHMSA has already taken significant actions to increase the visibility of our prevention and response efforts and has much more planned. PHMSA is evaluating a number of major actions to increase the visibility of our prevention and response efforts to better prepare the public, including:

- PHMSA has pursued a strategy of institutionalizing pipeline awareness in the emergency response community over the past 18 months. The strategy commenced with a public, webcast Pipeline Emergency Response Forum on December 11, 2011. Since the forum, PHMSA has undertaken a variety of initiatives to better prepare emergency responders to safely and effectively respond to pipeline emergencies. PHMSA convened a Pipeline Emergency Response Working Group of emergency responders, pipeline operators, and government officials. PHMSA has also partnered with the National Association of State Fire Marshals, the U.S. Fire Administration, and Transportation Community Awareness and Emergency Response (TRANSCAER®). PHMSA has led a pilot project in Virginia to incorporate pipelines into the statewide emergency response plan and has led a pilot project in Georgia to ensure adequate pipeline training for emergency responders. PHMSA has also been represented annually at five major firefighter/emergency response conferences across the country. PHMSA has written several articles for major firefighter magazines and developed a brochure that highlights pipeline safety resources that PHMSA makes available to emergency responders. PHMSA is also funding a research project that will produce a guide for effective communication practices between pipeline operators and emergency responders. Additionally, the National Fire Protection Association (NFPA) is making a variety of changes to their standards that will elevate the importance of pipelines in the training competencies of firefighters.
- PHMSA also produced and distributed an 811 television and radio Public Service Announcement, expanded its efforts in supporting National Safe Digging Month and National 811 Day, and incorporated social media messages into the 811 campaign. An annual survey is conducted to measure 811 awareness. PHMSA is also planning to conduct a public awareness workshop in June 2013 to bring public awareness

stakeholders together to discuss recent public awareness inspections and to discuss ways to strengthen and expand public awareness.

- PHMSA is executing damage prevention initiatives and will, in the coming months, issue a Final Rule entitled “Pipeline Safety: Pipeline Damage Prevention Programs, RIN 2137-AE 43. The rule will focus on the enforcement of One Call laws; address exemptions in One Call laws through a study; grants to States for the purpose of strengthening damage prevention programs; and work with State stakeholders who seek to improve their One Call laws and programs through meetings, data analysis, and letters of support. Incidents caused by excavation damage have decreased by 30 percent since 2008.

Questions for the Record
Submitted by Rep. Herrera Beutler
THUD Hearing: Federal Rail Administration
April 25th, 2013

1. MAP-21 made great strides in streamlining the NEPA process, which will save money and decrease project completion time. Unfortunately, due to a lack of a rail title these streamlining measures do not extend to rail. Would you support similar streamlining efforts for rail infrastructure, and what impact do you believe the savings would have on the agency's budget and the nation's ability to complete projects?

Response:

Some MAP-21 provisions are broadly applicable to include coverage of rail projects. FRA would be pleased to work with Congress to consider other appropriate streamlining proposals. Any budgetary impact from NEPA efficiencies would result from project development cost savings and would allow more funds to be spent on construction. Efficiencies of this nature could save some project planning time and could allow FRA staff to devote more support to rail project refinement that would enhance outcomes.

2. How does FRA work with other USDOT agencies, such as FHWA, on environmental compliance when projects have multiple agency participation?

Response:

FRA follows CEQ NEPA regulations that call for identification of a lead Federal agency. Other Federal agencies can serve as a cooperating agency or in limited circumstances as a joint-lead agency. FRA serves as the lead agency for some projects and for those led by FHWA or FTA, FRA typically serves as a cooperating agency. DOT operating administrations coordinate project planning and review where joint investments and joint benefits are expected. Multi-modal coordination among DOT operating administrations is evident on projects across the country, such as Denver Union Station and the CREATE program in Chicago.

3. What role do you see the Railroad Rehabilitation & Improvement Financing (RRIF) loan program playing in addressing strategic national freight system needs?

Response:

As described in FRA's FY 2014 budget request, FRA is interested in working with Congress on rail reauthorization proposals for the RRIF program that improve project and program administration, as well as to better integrate the program with the goals and objectives of the proposed National High-Performance Rail System (NHPRS). The goal of the NHPRS is to improve both passenger and freight rail networks, with a particular focus on increasing the share of intermodal goods that are transported by freight rail. The RRIF program will continue to play an important role in achieving these goals.

FRA works to ensure that all financial assistance programs (both grants and loans) work together in a cohesive and comprehensive fashion, improving the Nation's passenger and freight rail networks through an integrated investment portfolio. FRA will work with Congress on RRIF-related reauthorization proposals aimed at increasing the use of the authorized amounts under this program to address the nation's freight needs through potential changes to eligibility requirements, application processes, administrative provisions, technical assistance, or other program elements, consistent with the priorities set forth in Section 502(c) of Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended.

4. How does FRA plan to participate in the more integrated multi-modal national freight strategy? How will national rail corridors be supported through the strategy?

Response:

In August 2012, the Secretary announced the formation of the Freight Policy Council, which will focus on improving the national freight network. The Council, which will be chaired by the Deputy Secretary, brings together DOT leadership from highways, rail, ports, and airports, as well as others, into a coordinated multimodal initiative that focuses on freight and cross-modal solutions. As Administrator of the Federal Railroad Administration, I am a member of the Council. Part of the Council's business will be the implementation of the freight provisions of MAP-21. The Secretary and Deputy Secretary stated that we will take a systems approach in meeting our freight transportation needs.

In addition, on May 30, the Secretary announced the members of the newly formed National Freight Advisory Committee. This diverse group will advise and make recommendations to the Secretary aimed at improving our freight transportation system.

These initiatives represent a multimodal approach in developing the National Freight Strategic Plan. FRA has played a major role ensuring that rail is a part of the multimodal conversation and will continue to play a role as we move forward in implementing MAP-21. The Freight Policy Council and the National Freight Advisory Committee will recommend strategies on how best to support our freight corridors, which include rail.

FRA has also taken the lead on TIGER projects that require intermodal coordination and strengthen intermodal teams, including the Tower 55 project, a major rail chokepoint that upon completion will reduce rail congestion for both passenger and freight as well as improve the highway/rail interface by replacing at grade crossings in some cases with underpasses. Idling trains waiting to clear this chokepoint block traffic and create highway congestion at these crossings. In addition, a small but important project is the Oklahoma Freight Rail Upgrade. This project improves a rail line in Oklahoma to move crude oil from the developing oil fields of the Anadarko Basin, to connect with the pipeline in Cushing, OK. Crude oil at the fields is trucked to the railroad, where it is then loaded onto rail tank cars, then transported to Cushing, where it will go into the pipeline to the Gulf coast.

Question for the Record

Submitted by Rep. David Joyce

Federal Railroad Administration FY 2014 Budget Request

Question: As you know, the Rail Safety Improvement Act of 2008 established a completion date for the installation of Positive Train Control systems by December 31, 2015, but most railroads will likely not be able to complete full implementation by this date. Can you walk me through the challenges that railroads are facing as Positive Train Control is implemented?

Answer: The challenges listed below are explained in further detail in FRA's August 2012 Report to Congress, "Positive Train Control: Implementation Status, Issues, and Impacts." I have included a copy of the report in my response for your reference. As stated on page 1 of the report:

The technical obstacles that have been identified to date fall into seven different categories:

- Communications Spectrum Availability
- Radio Availability
- Design Specification Availability
- Back Office Server and Dispatch System Availability
- Track Database Verification
- Installation Engineering
- Reliability and Availability

The programmatic obstacles fall into two categories:

- Budgeting and Contracting
- Stakeholder Availability

To date, railroads have raised and expended more than \$1.5 billion of private capital to try and resolve these issues. The Federal Government has distributed \$50 million through the Railroad Safety Technology Grant Program. PTC implementation is also an eligible activity for grants to Amtrak and commuter railroads under the FRA's FY14 budget proposal.

Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
Hearing on “The Impacts of the DOT’s Commercial Driver Hours of Service Regulations”
June 18, 2013
Questions for the Record

Questions from Rep. Petri:

Question: What is the status of the 34-hour restart field study mandated by MAP-21? When will the study be completed and when will the report on the study be submitted to Congress?

FMCSA Response: FMCSA has initiated the 34-hour restart field study required by MAP-21 and is in the process of collecting data from the participating fleets and drivers. The Agency anticipates completion of the field study later this year.

Question a: Also, why did FMCSA not conduct a restart field study prior to implementing the rules?

FMCSA Response: During the notice-and-comment rulemaking process that led to the December 2011 final rule, FMCSA examined many studies on the relationship between work hours and health and safety, both in trucking and other industries. The Agency also reviewed the comments and information submitted to the rulemaking docket, and completed elaborate analyses in accordance with Executive Order 13563, “Improving Regulations and Regulatory Review,” issued on January 18, 2011. FMCSA concluded there was sufficient scientific basis, without a field study, for moving forward with changes to the 34-hour restart. FMCSA does not believe the subsequent MAP-21 mandate for a field study warranted a delay in implementing the 2011 final rule on July 1, 2013.

To study the effectiveness of the 2-night restart provision, FMCSA sponsored research by Washington State University (WSU) that tested subjects in a controlled sleep lab environment. This was done under the premise that if a provision was not effective in a lab, it would not be effective in a field-related environment. That is, if people cannot obtain adequate sleep in the best-case environment (a dark, quiet room, with no possibility of interruption), they would not be able to obtain adequate sleep in a sleeper berth at a truck stop or at roadside. The first phase of the WSU study FMCSA cited found that the 34-hour restart was effective at mitigating sleep loss and consequent performance impairment for daytime drivers, but not for nighttime drivers. The second phase, which tested a 2-night recovery period for nighttime drivers, found that the 2-night provision works better than 1-night to mitigate driver fatigue in nighttime drivers.

Question b: And, if the results of the restart study mandated by MAP-21 do not support the change scheduled to go into effect July 1st, what will FMCSA do to modify the rule?

FMCSA Response: The FMCSA welcomes the opportunity to consider new, peer-reviewed research in making a determination whether it is appropriate to initiate a new rulemaking concerning truck drivers’ hours of service. The Agency anticipates completion of the

MAP-21 mandated field study later this year. Agency experts will review the report to determine whether the findings suggest the need for additional regulatory action, and if so, the specific changes that should be considered.

Question: Does the mandatory 30-minute rest break apply to all local, short-haul drivers who are not currently required to complete a logbook? If so, why did FMCSA decide to apply this rule to this particular segment of drivers?

FMCSA Response: Yes. The rest break requirement is applicable to all interstate drivers of property-carrying vehicles who are subject to the HOS requirements, irrespective of whether the drivers are required to prepare records of duty status (RODS) or “logbooks.” The Agency did not have basis for excluding local and short-haul drivers from the mandatory break. Research studies cited in the December 2011 final rule indicate any break from driving reduces crash risk in the hour following the break, and off-duty breaks produced the largest reduction in risk.

However, the HOS requirements have historically been enforced differently for short-haul and long-haul drivers, and the new rule does not revisit this. The Agency recognizes the complexity of short-haul operations and the frequent changes of duty status these drivers experience during a shift; as a result, FMCSA does not require short-haul drivers to maintain logbooks. Instead, FMCSA requires an employer of a short-haul driver to use a time card that tracks the time an employee begins and ends each shift, plus total time he or she worked. This makes it difficult to track HOS compliance unless (1) a driver files a whistleblower complaint with the Occupational Safety and Health Administration, or (2) an enforcement official observes a systematic disregard for the safety rules.

Question: Has FMCSA considered the safety risks to armored car drivers and our nation’s financial infrastructure of requiring armored car drivers to comply with the 30-minute rest break requirement given that armored vehicles are significant targets for criminals and leaving the armored vehicle unoccupied could pose a significant risk to the driver and the goods being transported?

FMCSA Response: FMCSA has not conducted an analysis of the impact of the 30-minute rest break requirement on armored car operators. However, the Agency has received an application for an exemption from this unique segment of the motor carrier industry. In accordance with the statutory requirements concerning applications for exemptions, the Agency will publish a Federal Register notice seeking public comment on their exemption application. At the end of the 30-day comment period, FMCSA will consider the responses to the notice and issue a decision on the application.

Questions from Rep. Nolan:

In discussions during the hearing regarding fault in truck crashes, the FMCSA’s Compliance, Safety, Accountability (CSA) program was said to be an impractical tool.

Question: Is it true that by dispensing more data it gives the Agency the ability to reach more carriers without a dramatic increase in resources?

FMCSA Response: Yes. The Agency's staff of approximately 1,100 is responsible for overseeing a population of over 525,000 active interstate motor carriers. So it is imperative that FMCSA effectively allocate its enforcement resources. Therefore, one of the founding principles of the CSA program was the goal of extending the reach of the Agency's intervention efforts to a broader segment of the motor carrier population.

The CSA Safety Measurement System (SMS) uses all safety-based citations recorded during roadside inspections, rather than just out-of-service violations, as a performance-based means to more precisely identify the specific compliance problems of a motor carrier for intervention.

Prior to CSA, FMCSA generally conducted a full compliance review of motor carriers without regard to the scope of their known compliance deficiencies. Under the CSA program, the Agency has implemented less resource-intensive interventions designed to induce compliance and remedy on-road performance deficiencies identified by the more extensive SMS data. Specifically, FMCSA now issues automated warning letters and undertakes focused investigations to augment full compliance reviews. A motor carrier that has not demonstrated past safety and compliance deficiencies, but is beginning to do so, will receive a warning letter from FMCSA highlighting the specific compliance areas identified by SMS that may require attention. This letter serves to notify carriers of the SMS results and provides them an opportunity to address any safety management practices prior to a more significant intervention taking place. In fiscal years 2011 and 2012, FMCSA reached over 65,000 motor carriers through the CSA warning-letter process.

The specific nature of the more extensive SMS data is also used to conduct focused investigations. These investigations target the noted deficiency for review. As focused investigations are not looking at all safety management systems, they are less labor intensive than full compliance reviews, thereby allowing FMCSA to reach more motor carriers. Summary information regarding FMCSA interventions can be viewed at: <http://www.fmcsa.dot.gov/facts-research/art-safety-progress-report.htm>.

Question: Do you agree that CSA has been successful in starting a cultural change in the industry by forcing carriers to focus on the details of safety management?

FMCSA Response: Yes. FMCSA's deployment of the CSA SMS has significantly raised safety awareness throughout the motor carrier industry. In 2012, the public website that summarizes a motor carrier's status in the SMS prioritization system hosted 48 million user sessions, up 60 percent from 2011, and more than a tenfold increase from the approximately 4 million user sessions per year under the prior public SafeStat system. FMCSA continues to hear that this increased awareness and transparency have raised the status of safety within corporate cultures, and we are seeing this increased awareness in improved safety compliance and performance data. For example, since rollout of the CSA SMS, the Agency has seen the most dramatic decrease in violation rates in a decade – violations per roadside

inspection are down nearly 14 percent and driver violations per inspection are down 17 percent.

Question: What is the logic and scientific evidence for including all crashes, regardless of fault in the Crash Indicator BASIC?

FMCSA Response: The Agency receives over 100,000 crash reports involving commercial motor vehicles from the States each year. These reports do not indicate a motor carrier's role in the crash. However, FMCSA, the University of Michigan Transportation Research Institute (UMTRI), and the American Transportation Research Institute (ATRI) have studied past crash involvement as a predictor of future crashes. The studies show that crashes, regardless of the carrier's role in the crash, are a strong predictor of future crashes. As a result, the Agency's SMS uses all reportable crashes to identify motor carriers for intervention even though the carrier's role (i.e., fault, if any) is not known. This Crash BASIC score for the carrier is not publically revealed because the Agency understands that this information may be misinterpreted.

In July 2012, the Agency released the scope and schedule for a crash weighting study. As part of this study, FMCSA is determining if a carrier's role in the crash is a better predictor of future crash risk. The Agency is also reviewing the uniformity and consistency of Police Accident Reports; the process for making "final" crash determinations; the process for accepting public input; and the actual effect on SMS' ability to better identify carriers that have a high crash risk. The Agency intends to release the results of this study later this year.

Throughout the hearing there was much discussion on practical experience and data as it relates to the physical capacity of truck drivers. The FMCSA has reported that, in a survey sponsored by the agency, nearly 48 percent of the drivers said that they sometimes or often had trouble staying awake while driving. Moreover, truck-involved crash fatalities have increased the last two years.

Question: Has the FMCSA determined precisely what, if any, affect the current hours of service rule has had on truck crash rates?

FMCSA Response: No. The Agency has not conducted a study attempting to determine the impact of the August 25, 2005, final rule concerning truck drivers' hours of service. The cycle of rulemaking and litigation in the last few years has made such a study essentially impossible. The Agency will consider options for research or analysis on fatigue-related crashes as part of its effort to complete a regulatory effectiveness review of the December 2011 final rule.

Question: What specific requirements in the 2011 HOS final rule address the widespread problem of truck driver fatigue? And how do they reduce driver fatigue?

FMCSA Response: The December 2011 final rule limits the use of the 34-hour restart to once a week (168 hours); the restart must include 2 nighttime periods between 1:00 a.m. and 5:00 a.m. based on the driver's home terminal time zone. These changes reduce maximum

possible weekly on-duty hours by 15 percent – from an average of 82 to an average of 70 hours. This affects truck drivers with the most extreme driving schedules. The changes to the 34-hour restart reduce the risk of chronic fatigue. This translates to an estimated 1, 444 crashes avoided, 19 lives saved, and 560 injuries prevented.

In addition, the final rule requires that if more than 8 consecutive hours on duty have passed since the last off-duty (or sleeper-berth) period of at least half an hour, a driver must take a break of at least 30 minutes before continuing to drive. The rest-break requirement reduces the risk of acute fatigue.

You testified that even though the current weekly limits on driving is 60 hours in 7 days or 70 hours in 8 days, the 2011 final rule allows truckers to work an average of 70 hours a week.

Question: Does this mean that some drivers can work and/or drive in excess of the 60- and 70-hour limits?

FMCSA Response: No. The HOS rules prohibit driving after the driver has accumulated 60 hours of on-duty time (including any driving time) in a 7 consecutive day period if the motor carrier does not operate commercial motor vehicles (CMVs) every day of the week (60-hour rule). Drivers are prohibited from driving after accumulating 70 hours of on-duty time (including any driving time) in an 8 consecutive day period if the motor carrier operates CMVs every day of the week (70-hour rule). Prior to July 1, 2013, drivers were allowed to restart their calculations of the 60- and 70-hour rule after taking 34-consecutive hours off-duty, and there were no restrictions on how often the restart could be used in a given time period. With the implementation of the new requirements on July 1, use of the 34-hour restart is limited to once a week (168 hours). This change limits a driver's work week to 70 hours a week on average, compared to the previous rule, which allowed up to approximately 82 hours when the restart was used more than once in a week.

Question: What specific steps is FMCSA taking to address the increase in truck-related crashes and fatalities in the past two years?

FMCSA Response: Since FMCSA's inception in 2000, the fatality rate has dropped from 0.205 fatalities in large truck and bus crashes per 100 million vehicle miles traveled by all motor vehicles to 0.136 in 2011, the most recent calendar year for which we have the final highway safety data. Fatalities in large truck and bus crashes dropped from 5,620 in 2000 to 4,018 in 2011, a reduction of nearly a third. The successes in reducing crashes, injuries, and fatalities are noteworthy, but clearly there is more to be done. The Agency will continue to execute a strong and aggressive safety agenda to raise the bar to entry into the industry, maintain high standards to remain in the industry, and remove unsafe truck and bus operators.

Among other things, FMCSA will strengthen its new applicant screening process and its New Entrant Safety Assurance Program to raise the bar to entry into the industry. This includes implementation of the MAP-21 requirements concerning oversight of new entrant carriers.

The Agency will maintain high standards for carriers to remain in the industry by implementing the CSA program fully, including the publication of a new Safety Fitness Determination (SFD). The new SFD will be supported by data in the Agency's Safety Measurement System and provide a critical tool to help the Agency oversee safe operations by approximately 500,000 motor carriers. Increased enforcement and compliance are proven to increase safety and reduce commercial truck and bus crashes, injuries, and fatalities.

In addition, FMCSA will move forward with a rulemaking agenda to implement MAP-21 provisions such as the requirement for a controlled substances and alcohol testing clearinghouse, and rules mandating the use of electronic logging devices.

Questions from Rep. Graves:

Question: One way truckers may try to save time under the new HOS regulations is by qualifying for pre-clearance, pre-screening, or other programs to bypass weigh stations. FMCSA has announced its intent to approve mobile device apps for this purpose. These apps may collect user data from truck drivers that may be used for purposes other than weigh station bypass. What has FMCSA done to ensure driver privacy is not compromised?

FMCSA Response: The electronic screening process does not involve driver information. However, where access to Federal government information is provided, FMCSA requires compliance in accordance to OMB A-130 Appendix 3, Security of Federal Automated Information Resources. Electronic screening is used to identify enrolled vehicles and screen them based on the safety history of the carrier, vehicle weight, and credential status (e.g., registration, fuel tax payment, operating authority), and other criteria determined by the participating States. On July 19, 2013, FMCSA published a *Federal Register* notice announcing that Commercial Mobile Radio Services (CMRS) network devices can be used as transponders for the purposes of Commercial Vehicle Information Systems and Networks (CVISN) electronic screening inspection station bypass systems. This announcement makes it clear that States may now use CMRS networks to screen trucks equipped with wireless mobile data devices used as transponders. CMRS network devices such as smartphones, tablets, fleet management systems, GPS navigational units, and onboard telematics devices capable of transmitting and receiving multiple forms of wireless mobile data are considered transponders for the purposes of the CVISN program.

Question: One way truckers may try to save time under the new HOS regulations is by qualifying for pre-clearance, pre-screening, or other programs to bypass weigh stations. FMCSA has announced its intent to approve mobile device apps for this purpose. These apps also give truckers another reason to look at their phones instead of the road while driving at highway speeds. This seems to encourage, rather than discourage, distracted driving. However, there are long-standing, proven technologies that do not require a driver to interface with a mobile device to communicate with enforcement. Why would FMCSA encourage truck drivers to use their mobile devices during highway driving?

FMCSA Response: FMCSA's policy announcement concerning CMRS network devices does not affect the applicability or enforcement of FMCSA's regulations under 49 CFR part 392 prohibiting texting and the use of hand-held wireless mobile phones by CMV drivers.

CMRS transponders use commercially available mobile radio transmission frequencies to access cellular data networks and exchange carrier and vehicle credentials utilizing web-based technologies. Triggered via GPS signaling, CMRS transponders communicate through the internet to electronic screening systems that issue traditional red light/green light responses for in-cab displays mounted on the dashboard. Given the automated operation of the CMRS network devices, drivers would not have to take actions that would put them in conflict with FMCSA's rules prohibiting texting and the use of hand-held wireless mobile phones.

Questions from Rep. Barletta:

I understand FMCSA recently withdrew funding from the organization (the University of Michigan's Transportation Research Institute) that administered the "Trucks Involved in Fatal Accidents" database – [which] **is the only truck crash database that tracked the incidence of fatigue in fatal truck crashes.** The database is no longer being populated with crash data, and no new analyses are being conducted.

Question: Are you currently studying the incidence of fatigue in fatal truck crashes? How do you plan to evaluate whether these new fatigue rules are meeting your goal of reducing fatigue-related crashes without studying fatigue-related incidences?

FMCSA Response: No. FMCSA does not have any studies in progress concerning the incidence of fatigue in fatal truck crashes. The Agency will consider options for conducting research or analysis of fatigue-related crashes as part of its regulatory effectiveness review of the December 2011 final rule. Regulatory effectiveness reviews are typically conducted several years after the implementation date of a new rule to ensure the availability of sufficient data to isolate the impact of the rule itself from other factors or trends. Therefore, FMCSA would consider initiating the review within approximately 3 to 5 years of the July 1, 2013, implementation date to determine the impact of the new requirements on reducing fatigue-related crashes.

Questions from Rep. DeFazio:

Administrator Ferro, earlier this week the American Transportation Research Institute (ATRI) issued a report assessing the impacts of the 34-hour restart provision in the hours of service regulations set to take effect on July 1. This report calls into question many of the underlying assumptions provided in the Regulatory Impact Analysis justifying the new rule, so I am curious about your reaction to this report. Additionally, I am curious about your reaction to a number of assumptions in the ATRI report, including:

Question: Is it correct that ATRI counts each off-duty period of 34 or more hours as a "restart," whether or not the driver required a restart due to reaching the 60- or 70-hour limits?

FMCSA Response: ATRI appears to have counted any off-duty period of 34 hours or more as a restart, whether or not the driver would have been required to take a restart to avoid an HOS violation. This is indicated by the fact that their report states that drivers in the "moderate" working group – those who average 45 hours of work per week – are the most likely to have a "conflict" with the once-a-week restart limitation. Drivers have to work more than 60 hours in 7 days, or 70 hours in 8 days, before a restart is required by the new HOS regulations. Drivers in the moderate group do not approach these limits, and therefore would not be required to take a restart, nor would any extended off-duty period have to contain two periods between 1:00 a.m. and 5:00 a.m.

Since drivers in the moderate working group are working far less than the weekly working limits, these drivers should not have a conflict with either aspect of the new restart requirement. The fact that ATRI attributes conflicts with the new provision to these drivers indicates that any period of 34 hours or longer was counted as a restart, whether or not that off-duty period was required under the new rule.

Question: Given that less than 3 percent of drivers are working more than 65 hours per week, why does ATRI think all drivers would be losing time due to the 34-hour restart?

FMCSA Response: As the Agency did not conduct the study in question, we cannot say with certainty why ATRI believed that all drivers' schedules would be affected on a weekly basis by the new restart provision. However, it is clear from the report that relatively few drivers are working more than 70 hours in 8 days, which is roughly equivalent to working 61 hours in 7 days. The report also indicates that nearly 90 percent of restarts – as defined by ATRI – comply with the 1:00 a.m. to 5:00 a.m. requirement.

Since the majority of restarts contain two night-time periods, even drivers working close to the weekly maximum would be compliant with the new requirement on most weeks. These drivers could designate one off-duty period as their restart, and log any other extended off-duty period as off-duty time. They would have to make no adjustments to their schedules. The majority of drivers in the study appear to work well within the weekly limits, and they would also not have to adjust their schedules to avoid an HOS violation. Given that most drivers in ATRI's sample are compliant with the new rule on most, if not all, weeks, it appears that ATRI's conclusion that all drivers would be affected on a weekly basis is the result of an error in interpreting the new rule, or a misapplication of that rule to the data.

Question: Is the sample of drivers listed in the study representative of the industry as a whole?

FMCSA Response: As the Agency was not consulted on the development and implementation of the sampling methodology for this study, we do not know whether the sample is representative of the industry. However, if the sample is representative, it appears

that the new restart provision would impose minimal costs. Very few drivers would have to adjust their schedules to comply with the new provision, and of those few, most would have to make only minor adjustments. As a result, the industry would suffer few if any adverse impacts from the new restart provision.

The data available to the Agency at the time the Regulatory Impact Assessment was developed indicated that drivers were working longer hours on average than ATRI's data indicates. The Agency expressed concern at that time that the data was biased in the direction of overestimating weekly work hours. The ATRI data tend to confirm that concern. Overestimating weekly work would have resulted in overestimating costs as well as benefits. If drivers are working the shorter hours the ATRI data indicate, the estimated costs and benefits of the 2011 rule should decline in roughly equal measure.

Questions from Rep. Michaud:

Administrator Ferro – As you know, many drivers plan their schedules to be on the road during nighttime hours when there is less traffic and thus fewer safety hazards. Yet in order for drivers to utilize the 34 hour restart, FMCSA's new rules require that the restart period include two consecutive nighttime shifts from 1 AM to 5 AM. This encourages additional commercial traffic to start their Hours of Service clock at 5 AM – putting more trucks on the road during the heavily-congested morning commute.

Question: How is highway safety served by forcing more commercial traffic on the road during the heavily-congested morning rush hour?

FMCSA Response: Based on the information FMCSA reviewed in developing the 2011 final rule, the Agency does not believe the changes to the 34-hour restart would result in more CMV traffic on the road during the morning rush hour. The impact of the 2-night requirement on the restart length will vary with the time a driver goes off duty and the time he/she resumes work. For solo drivers who work a regular schedule that starts at night, the 2-night provision will generally require the driver to take 2-plus days off to maintain the regular work schedule. For solo drivers who work at night occasionally, the restart length may be much shorter because the driver may be able to stop in time to get 2 nights into a shorter time frame; a driver who can stop between 7:00 p.m. and 1:00 a.m. can take the minimum 34 hours off while obtaining 2 periods that include 1:00 a.m. to 5:00 a.m.

For team drivers, the time that the truck would have to remain stopped for both drivers to meet the restart requirements would depend on the time of day that the truck stopped. If it stopped at midnight instead of 1:00 a.m., for example, the team would have to be off-duty for 29 hours for both drivers to be off-duty for two consecutive periods between 1:00 a.m. and 5:00 a.m. Similarly, if the truck stopped at 10:00 p.m., it would have to remain parked for 31 hours to reach 5:00 a.m. a second time, and so forth. The earlier the truck stopped, the longer it would have to remain stopped, but the time could be minimized by planning on the part of the team drivers.

The Agency is not aware of any specific reason why drivers would stop driving at night, putting more trucks on the road during rush hours, to avoid the extra hours that may be needed to meet the 2-night requirement.

Question: What objective facts does FMCSA use to support this 34 hour restart change and will it produce quantifiable crash reduction?

FMCSA Response: FMCSA examined many studies on the relationship between work hours and health and safety, both in trucking and other industries. In the course of the notice-and-comment rulemaking process that led to the December 2011 final rule, the Agency reviewed the comments and information submitted to the rulemaking docket and completed elaborate analyses in accordance with Executive Order 13563, "Improving Regulations and Regulatory Review," issued on January 18, 2011. The Agency concluded there was sufficient scientific basis for moving forward with changes to the 34-hour restart when the rule was published in December 2011. To study the effectiveness of the 2-night restart provision, FMCSA sponsored research by Washington State University (WSU) that tested subjects in a controlled sleep lab environment. This was done under the premise that if a provision was not effective in a lab, it certainly would not be effective in a field-related environment. That is, if people cannot obtain adequate sleep in the best-case environment (a dark, quiet room, with no possibility of interruption), they would not be able to obtain adequate sleep in a sleeper berth at a truck stop or at roadside. The first phase of the WSU study FMCSA cited found that the 34-hour restart was effective at mitigating sleep loss and consequent performance impairment for daytime drivers, but not effective for nighttime drivers. The second phase, which tested a 2-night recovery period for nighttime drivers, found that the 2-night provision works better than 1-night to mitigate driver fatigue in nighttime drivers.

Question: As we heard today from Mr. Hinkle, ready mixed concrete drivers are a rather unique subset of commercial drivers. They spend far less than 50% of their on duty time actually driving, typically drive less than 15 miles per delivery, and transport an extremely perishable product. What data does FMCSA have to justify that the new HOS rules will actually improve safety specifically within the concrete industry?

FMCSA Response: FMCSA has not conducted an analysis of the impact of the 30-minute rest break requirement on ready mixed concrete operators. However, the Agency has received an application for an exemption from this segment of the industry. In accordance with the statutory requirements concerning applications for exemptions, the Agency will publish a *Federal Register* notice seeking public comment on their exemption application. At the end of the 30-day comment period, the Agency will consider the responses to the notice and issue a decision on the application.

Senator Cantwell
Hearing on “Airline Industry Consolidation”
June 19, 2013
Questions for the Record

For Ms. Kurland

Question #1

Ms. Kurland, do you believe that American Airlines could succeed as an independent airline after emerging from Chapter 11?

Answer: Prior to the merger transaction, the management of American Airlines stated that its proposed “Standalone Plan” would enable American Airlines to compete and grow, without a merger, following its emergence from Chapter 11 reorganization. American Airlines is currently a profitable airline.

Question #2

Ms. Kurland, do you believe that US Airways could succeed as an independent airline if it doesn’t merge with American Airlines?

Answer: Prior to proposing the merger transaction, the management of US Airways stated that US Airways could succeed on its own without a merger, but would be stronger and more competitive if it merged with another airline. US Airways is currently a profitable airline.

Question #3

Ms. Kurland, we have seen four legacy carriers merge in the past five years. To what extent have the projected synergies or benefits been realized with the Delta-Northwest and United-Continental mergers? In general, how have these mergers affected fares and service levels?

Answer: Airline mergers are typically very complex. It usually takes over two years to realize projected synergies and benefits. We are only now beginning to see the some of these effects.

The industry overall has decreased capacity. It is therefore difficult to determine, at this point in time, the extent to which consolidation has contributed to this capacity reduction. Other factors, such as persistently high fuel prices and the economic recession, also played a role in the reduction of capacity over the last several years.

Question #4

Ms. Kurland, a few years ago, Delta Air Lines proposed swapping slots it controlled at Reagan-National Airport with U.S. Airways for slots it controlled at New York LaGuardia Airport. Under their original proposal, US Airways would have controlled approximately 60 percent of the slots at Reagan-National Airport. When USDOT approved the swap, it required US Airways to divest approximately five percent of the

airport's total slots, so that the airline now controls almost 56 percent of the slots at Reagan-National Airport. If USDOT considered the control of 60 percent of the slots at Reagan-National to be too much in 2011, has anything changed in the competitive landscape at the airport since then to believe that one airline controlling 68 percent of the slots would be any less anti-competitive?

Answer: In the Delta/US Airways slot swap proceeding, DOT did express concerns about the high concentration of slots held by US Airways at Reagan-National Airport. For that reason, the Department required the carriers to divest a percentage of their slots for use by competitors. A transaction which leads to one airline controlling 68 percent of the slots requires careful analysis by DOJ and DOT, and that is ongoing. That analysis will include any competitive factors that may have changed.

**Questions for the Record from Senator Portman
For Secretary of Transportation Ray LaHood
Hearing re: The President's FY 2013 Budget Request for the U.S. Department of
Transportation
February 15, 2012
Senate Budget Committee**

Question 1: The FAA bill that the President signed into law yesterday includes language that establishes six test sites to work on the integration of unmanned aircraft systems into the National Air Space. One of the criteria in selecting those sites is to take into consideration the "location of ground infrastructure and research needs". Another is to consult with NASA and the Department of Defense. How does the FAA plan on selecting the test sites, how will they factor in existing research infrastructure into the selection of the test sites, and how will you be taking NASA and DOD's input into consideration?

Answer: The recently signed FAA Authorization included language directing the Secretary to establish a pilot program to integrate unmanned aircraft systems (UASs) into the National Airspace System at six test ranges. The research done at the test sites will help the FAA develop regulatory standards to foster UAS technology and operational procedures.

Due to the high interest in the test ranges (to date we have heard from at least 25 states) the Department will use a competitive process to select these sites. The process of selecting the test sites began with publication of a Request for Comments (RFC) in the Federal Register on March 7, 2012. The RFC asks for public comment on a number of questions to help develop UAS test site requirements, designation standards and oversight activity. The RFC contains the specific criteria identified in the legislation: geographical location and climatic diversity; ground infrastructure and research needs; and consultation with NASA and the Department of Defense. The existing research infrastructure of potential test site operators will also be factored into the weighted selection criteria. The FAA will host national webinars to provide further information and obtain feedback regarding the six test ranges. All comments are due on or before May 8, 2012.

The Department will carefully review and consider the feedback provided in developing the actual solicitation. Consultation with DOD and NASA will be continuous throughout the process. The Department expects to make site selections late in 2012 and for the first site to be operational in 2013.

Question 2: As states are struggling to pay for their transportation needs, some states are looking for innovative ways to generate revenue. One of those ways is the concept of privatizing rest areas. The maintenance and operations of rest areas can be quite expensive. In Ohio, it is estimated ODOT spends around \$50 million per year to maintain and improve its rest areas. As our transportation system has developed over time and we now have countless restaurants, gas stations and interchanges, do you support allowing states to privatize rest areas and use the proceeds to help pay for infrastructure projects in the state?

Answer: The Administration has not taken a position on this proposal; the Administration appreciates the struggles that so many States face in generating sufficient revenues to sustain their transportation systems. As a result, the President's Budget requests a targeted economic boost, and jump-start for the creation of jobs throughout America. This proposal includes an additional \$50 billion in Immediate Transportation Investments this year, of which \$26 billion would be used to maintain and improve the National Highway System. Furthermore, it would provide this funding with a 100 percent Federal share – freeing up State funds for other projects that would otherwise have been reserved for a non-Federal match.

Question 3: Last year President Obama visited my hometown to do an event at the Brent Spence Bridge that connects Ohio and Kentucky on Interstates 71 and 75. The bridge is one of the busiest trucking routes in the country, but is way over capacity. The estimated cost to build a new bridge is between \$2 billion and \$3 billion. Now to put that into perspective—if we used 100% of the stimulus funds for highways and bridges that *both* Ohio *and* Kentucky received, we would still be over a billion dollars short. Do you support a program that funds these types of large infrastructure projects that are critical to our nation's commerce corridors?

Answer: The Administration recognizes the role that projects of regional or national significance, such as those serving major freight corridors, can play in supporting the national economy. We acknowledge the challenges that States and communities can face in funding (and financing) these large-scale – and typically extremely expensive – projects. Within the realities of budgetary constraints, we realize the need to increasingly leverage limited local, State, and Federal funds. Consequently, the President's FY 2013 Budget includes four elements that are designed to address these needs:

- 1. Increased TIFIA funding.** The Budget proposes to dramatically increase funding for the Department's Transportation Infrastructure Finance Innovation Act (TIFIA) Program. In recent years, the Department has seen an overwhelming demand for TIFIA, which offers credit assistance to advance large-scale projects that otherwise might be delayed or deferred due to size, complexity, or uncertainty over the timing of revenues. To respond to this demand, the Budget would increase TIFIA funding from \$122 million in FY 2012 to \$500 million in FY 2013.
- 2. Continuation of the TIGER discretionary program.** The Administration is currently in the process of administering the fourth year of the Transportation Investment Generating Economic Recovery (TIGER) discretionary grant program. TIGER provides a unique opportunity for the Department to fund (predominantly via grants, but also through other credit assistance) road, rail, transit and port projects that promise to achieve critical national objectives. In each of its four years, TIGER has been heavily oversubscribed. In response, the Budget proposes to provide \$500 million for TIGER in FY 2013.
- 3. Immediate funding for Transportation Infrastructure Grants and Financing.** As part of the Budget's proposal for \$50 billion in Immediate Transportation Investments in

FY 2012, the Administration proposes to provide \$4 billion for Transportation Infrastructure Grants and Financing. This program, similar to TIGER, would provide grants and credit assistance to State and local governments and transit agencies for capital investments in the Nation's surface transportation infrastructure, including roads and highways, public transportation facilities, freight and passenger rail, and ports.

- 4. Establishment of a National Infrastructure Bank.** The President's Budget calls for the establishment of an independent National Infrastructure Bank (NIB) and an initial investment of \$10 billion in FY 2012, which would help finance infrastructure projects that demonstrate the most merit but that may be difficult to fund under the current patchwork of Federal programs. The NIB would issue loans and loan guarantees on a competitive basis to support a broad range of large-scale (\$100 million minimum) transportation, water, and energy infrastructure projects.

Question 4: Deficits for the Highway Trust Fund (HTF) are projected for the foreseeable future, and the Federal gas tax coming into the HTF has not adequately funded the surface transportation program enacted by Congress since 2007, resulting in General Fund transfers of \$34.5 billion. Now that the Interstate Highway System is complete, do you think it is time to turn the power back to the states, allowing them to use their Federal gas tax as state dollars or phasing out the Federal gas tax to allow states to have more control of their gas tax dollars and infrastructure funding?

Answer: To maintain and improve our nation's surface transportation system, create jobs, and spur economic growth the U.S. needs to increase its investment in surface transportation infrastructure. The President's Budget supports this necessary additional investment by including a fully-offset, deficit-neutral alternative; which funds additional transportation investment with half of the savings generated by ramping down overseas military operations. In addition, the National economy depends on high quality infrastructure for interstate and local travel, which can be supported by a continued investment at the Federal level.

The Administration also supports increasing State flexibility in the use of Federal-aid highway funds, and has called for dramatic consolidation of the current assortment of Federal highway programs. Under the President's surface transportation authorization proposal, States would be able to use their highway funds in the way that best met their individual geographic, economic, and demographic needs as long as they met performance targets. Overall there remains a clear and compelling Federal interest and Federal role in surface transportation. If the United States is to effectively compete in the global economy, we cannot devolve the system to the States and risk the fragmentation of the nationwide system that we have spent decades building and maintaining.

With transit investments, there remains a need for a strong Federal commitment to surface transportation as part of the ongoing partnership between Federal, State, and local governments. States and local governments already have a significant amount of authority over how Federal transit funds which they are allocated are spent. In addition, there remains a strong Federal interest in seeing that the assets provided with Federal funds attain a State of Good

Repair and are maintained and operated in a safe manner.

Question 5: Senator Stabenow and I have worked together to introduce the Great Lakes Short Sea Shipping Enhancement Act of 2011. This bill would amend the Internal Revenue Code of 1986 to exempt from the Harbor Maintenance Tax (HMT) non-bulk commercial cargo loaded or unloaded at United States ports in the Great Lakes or St. Lawrence Seaway. According to the Joint Committee on Taxation, “the impact [of this bill] on Treasury revenues is minimal.” Do you support the exemption of HMT for short sea shipping in the Great Lakes?

Answer: We have not taken a formal position on the bill, but understand that it aims to increase the viability of using short sea shipping operations in the Great Lakes, which could help reduce current highway and rail congestion, encourage alternative freight transportation options, and improve the flow of commerce, and foster the maritime industry and workforce.

Questions for the Record from Senator John Cornyn
For Secretary of Transportation Ray LaHood
Hearing re: The President's FY 2013 Budget Request for the U.S. Department of Transportation
February 15, 2012
Senate Budget Committee

Question 1: Secretary LaHood, as I'm sure you know, the formula proposed under MAP-21 is tied to each state's share of funding under SAFETEA-LU. I'm concerned that, as drafted, MAP-21 continues old earmark payments contained in SAFETEA-LU over and above a state's normal allocation.

While the Administration supports MAP-21, I understand that you will not agree with everything in it. In my view, this is a basic matter of fairness. Do you have a position on this issue?

Answer: The Administration has long called on Congress to reduce or eliminate its practice of earmarking funding for projects in individual districts, and we applaud the decision not to include earmarks in MAP-21. However, the Administration has traditionally deferred to Congress regarding the distribution of formula funding among the States. We have not taken a position on MAP-21's apportionment formula.

Question 2: Secretary LaHood, the TIFIA program has been successful in helping communities to leverage their transportation resources and accelerate project delivery. As demand has increased, my understanding is that the Department of Transportation has developed its own supplemental evaluation criteria, with no basis in legislation, rules or published guidelines, based on notions of "livability" and "sustainability." Could you comment on the criteria used in approving TIFIA applications? If we do have additional resources for the TIFIA program, as contemplated by the Senate and House transportation bills, do you believe that the USDOT should have discretion to turn down credit-worthy projects that meet statutory criteria?

Answer: The demand for TIFIA credit assistance exceeds program resources by a ratio of more than 10:1. To help manage that demand, the Department of Transportation solicits Letters of Interest (LOIs) from project sponsors interested in applying for TIFIA support. The Department evaluates the LOIs against the TIFIA statutory selection criteria of Regional and National Significance, Private Participation, Environmental Benefits, Project Acceleration, Creditworthiness, Use of Technology, Consumption of Budget Authority, and Reduced Grant Assistance. In the Notice of Funding Availability (NOFA) issued December 3, 2009, the Department provided clarification to potential project sponsors about how the statutory selection criteria would be applied, noting that Livability, Economic Competitiveness, and Safety would be considered as part of the Regional and National Significance criterion and that Sustainability and State of Good Repair would be considered as part of the Environmental Benefits criterion. The Department's evaluation of the Letters of Interest is based on the TIFIA statute, the TIFIA regulation, and TIFIA NOFA.

Because the TIFIA program is oversubscribed, the Department currently has to choose between meritorious, creditworthy projects. If TIFIA resources were augmented to where the program was no longer oversubscribed, the Department would still evaluate projects in accordance with the statutory selection criteria which correlate with the Department's strategic goals. However, the increased funding would allow for more projects to be invited to submit an application. In this way, the benefits of TIFIA financing would be available to additional project sponsors, accelerating project delivery, encouraging new revenue streams and private participation, lowering costs, and leveraging budgetary resources.

Questions for the Record **from Senator Bernie Sanders**

For Secretary of Transportation Ray LaHood

Hearing re: The President's FY 2013 Budget Request for the U.S. Department of Transportation

February 15, 2012

Senate Budget Committee

Question 1: Mr. Secretary, I very much appreciate your comments about the need to have a “vision” for a transportation future that includes a national network of high-speed intercity rail. Rail is not just an issue for urban areas, but also to provide 21st century connections between our rural communities and other parts of our great nation.

My state of Vermont was fortunate to have received funding through the Recovery Act to improve the rail line on which Amtrak's Vermonter runs from St. Albans, Vermont to Washington D.C. The improvements being made are creating jobs in my state, and are essential for increasing reliability of the service and reducing travel times.

However, a second proposal, to improve the Ethan Allen Express – which currently terminates at Rutland, Vermont – has not yet been successful in its various applications to FRA for funding. This line badly needs improving, and should be expanded north to serve Vermont's largest city, Burlington.

I would very much like to know how my office, and how the Governor of Vermont, can work more closely with you to see that these improvements are made in as short a time as possible.

Additionally, as you know, we are also trying to extend the Vermonter line to Montreal, but there have been unresolved questions regarding how the U.S. Customs and Border Protection and U.S. Citizenship and Immigration Services would process passengers. I know those agencies are not in your jurisdiction, but I would like to know can your office work more closely with these federal agencies to facilitate a direct rail connection between Canada's largest city and our Nation's capital?

Answer: The President's FY 2013 Budget includes \$2.55 billion for passenger rail. It is unfortunate that no additional funding was made available in FY 2011 or FY 2012. As you know, high demand for this program exists. For the \$2.4 billion made available from redirected funding, FRA received nearly 100 grant applications from 24 states totaling more than \$10 billion, making the program more than four times oversubscribed.

To reach final funding selections, FRA executed an extensive review process using the pre-defined criteria outlined in each solicitation. A panel of DOT subject matter experts reviewed each application first for eligibility then to ensure alignment with broad program objectives and with the Department's strategic transportation goals.

While the *Ethan Allen Express* extension project is eligible for funding under the high speed and intercity passenger rail program, it was not among the selected FY10 projects due to funding limitations. As you noted, the Amtrak *Vermonter* rehabilitation project was selected and

funded through the American Reinvestment and Recovery Act. Construction is ongoing, and the project is scheduled to be completed in fall of 2012.

If additional funding is provided in FY 2013, the *Ethan Allen Express* would receive full consideration in an open competition. The Department is happy to work with you to identify other funding opportunities for the *Ethan Allen Express*.

With regard to the extension of the *Vermont* line to Montreal, both the United States and Canada have an interest in increasing safe, reliable travel options across their shared border. In December 2011, Transportation Secretary LaHood met with Department of Homeland Security (DHS) Secretary Napolitano and Canadian Transport Minister Denis Lebel to discuss, among other things, passenger rail issues related to our border with Canada. While these issues are complex and subject to resource considerations over which DOT has no authority, we are glad to facilitate ongoing discussion through our bi-national Transportation Border Working Group (TBWG), of which DHS is also a member.

The State of Vermont participates in the TBWG and is welcome to join the recently-formed TBWG Passenger Rail Sub-Committee. The next meeting will be held on April 17-18, 2012, in Seattle, Washington. At this meeting the members of the TBWG will be discussing cross border passenger rail issues between the State DOT's, AMTRAK, DHS/Customs and Border Protection, and our Canadian counterparts.

Deputy Secretary Porcari
Questions for the Record
Hearing on
The Role of Innovative Finance in Intercity Passenger Rail

July 9, 2013

DENHAM

- 1. Northeast corridor is one of the busiest rail corridors in the world, with 2,000 daily commuter and intercity trains. How can we take this proven ridership and revenue and use it with innovative finance to jump-start the large list of state of good repair projects?**

As part of the Service Development Plan, NEC FUTURE will evaluate options for funding and operating the NEC, including the participation of the private sector in:

- Financing and development of NEC facilities and improvements; and
- Management of operation of the NEC assets.

Section 502 of PRIIA looked at restructuring the NEC through a private/public partnership. No proposals for NEC restructuring were received in the PRIIA-mandated initial solicitation.

Nonetheless, DOT and FRA are open to private sector investment and participation in all high-speed rail corridors and projects.

- 2. Many in the railroad industry believe that the RRIF loan process is cumbersome and slow. What changes to the application process would help DOT expedite its processes, while still ensuring the necessary credit worthiness?**

The RRIF program office is developing additional guidance to assist applicants. This will improve the transparency of the process for applicants and lead to applications with a higher level of readiness that can advance through the review process faster. As an example, FRA will review and comment on pre-application materials to ensure the submitted application is substantially complete and can move through review without having to go through a repetitive clarification process.

- 3. What has DOT's experience been utilizing value capture methods to finance transportation projects?**

DOT's innovative financing programs are designed to help leverage both existing and future funding flows associated with infrastructure projects, and DOT welcomes the opportunity to work with applicants who've been able to structure value capture-related

revenues into the repayment streams included in their loan packages. The Denver Union Station Project (DUSP) received just over \$300 million in federal loans through an unprecedented and historic innovative financing arrangement using the Department's RRIF and Transportation Infrastructure Finance and Innovation Act (TIFIA) Program. The redevelopment project, which included new intermodal transportation facilities, was funded through a unique structure and for the first time combined credit assistance from both programs. Together the TIFIA and RRIF loans constitute approximately 58% of all funding sources for the project. Under the financing plan, a Regional Transportation District (RTD) bond as well as tax increment revenues pledged to DUSPA will be used to repay the debt.

The Transbay Transit Center project in San Francisco is another example of the successful use of value capture to partially finance transportation projects. A \$171 million TIFIA loan for Phase 1 of the project will be repaid using local revenue from a property tax increment in the surrounding area of the station. The total cost of Phase 1 is approximately \$1.6 billion, with other sources including bridge tolls, sales tax revenue, transit capital funding, and state and federal grants.

BROWN

- 1. What does the Administration believe is the proper role of the federal government in financing intercity passenger rail? What lessons from other countries show us with respect to financing passenger rail?**

No country has successfully set up a passenger rail system without a substantial commitment and investment from the national government. The Administration believes that a similar commitment is necessary from the United States government if passenger rail is to succeed in America.

The Administration's FY2014 Budget Proposal includes a bold plan for funding a five-year \$40 billion reauthorization from a new Rail Account of the Transportation Trust Fund. That includes a \$6.4 billion investment in the National High Performance Rail System (NHPRS) to maintain and improve the performance of the Nation's rail services, in addition to focusing on innovative research efforts aimed at improving safety.

- 2. You quoted the road builders in your statement: "The U.S. public transportation, rail transit, intercity passenger rail, and freight rail systems are integral and vital components of the nation's intermodal transportation network." Some Members believe that we should eliminate long distance routes or make the states pay for them. What are your views on that?**

Amtrak created and is currently implementing Performance Improvement Plans for each long distance route, as required by PRIIA Section 210. Incremental improvements have

already been made and more efficiencies are expected with the implementation of pending initiatives (targeting enhanced reliability, customer service, connectivity, and financial performance).

One such initiative is the introduction of 130 new passenger cars to the long distance fleet between the end of 2013 and 2015, which will improve financial and on time performance. Furthermore, FRA increased its Amtrak oversight efforts in FY 2013 by hiring a Long Distance Passenger Train Oversight Manager. The agency believes that increased oversight coupled with continued implementation of Amtrak's Performance Improvement Plans will result in greater efficiencies and reduced losses for the current long distance system.

3. You mention Rail Line Relocation grants in your written testimony. That program has expired. Do you believe it should be reauthorized? Can you talk about some of the projects that have been funded through the program?

The Administration's FY 2014 budget request included funding for a program of capital improvements to mitigate the impact of freight rail operations on local communities. This new program would fund activities previously supported under the Rail Line Relocation Program, while making the program scope more robust through eliminating at-grade crossings with roads, building sound walls, or other measures. FRA believes that boosting the share of goods moved by rail is a substantial benefit to the public, but acknowledges that increased freight operations can have adverse impacts on local communities.

FRA currently manages several active Rail Line Relocation grants to projects intended to reduce the risk of train derailments through track rehabilitation and/or to avert highway-rail grade crossing collisions by moving tracks to less densely populated areas.

In North Carolina, the Department of Transportation has just completed, on time and under budget, a project on the Aberdeen & Rockfish line to upgrade approximately five miles of track, install a 700 foot siding, and reconstruct 11 unpaved crossings.

In New York, Schuyler County completed, on budget, the Watkins Glen Track Relocation project, which moved a rail line running through downtown with direct track to salt plants outside of town.

4. You mentioned that the Administrator proposes to fund Amtrak through business lines rather than traditional operating and capital/debt service grants. Last week, the Federal Railroad Administrator testified that financing along business lines would not make sense with the low appropriations levels proposed by the House Appropriations Committee for Amtrak. Why?

FRA's FY 2014 budget request provides the full funding needed to effectively deliver passenger rail services in each business line, plus additional funding to clear the substantial backlog of infrastructure repair and equipment replacement needs. At this funding level, managers within each business line would have the necessary flexibility and accountability to make investment decisions based on long-term planning and strategic service objectives.

However, current funding levels are not sufficient to fully meet the needs of each business line, requiring Amtrak to make trade-offs and essentially fund the most critical needs each year. If Amtrak was locked-into business line-based appropriations at current funding levels, managers would not have sufficient flexibility to make these decisions, or to adequately respond to natural disasters or other unanticipated events which may disproportionately affect certain business lines over others.

5. In light of the recent court decision regarding metrics and standards ruling them unconstitutional, what are FRA's next steps? Do you need Congress to do anything?

USDOT/FRA is reviewing the decision by the U.S. Court of Appeals for the DC Circuit in order to determine the best path forward in implementing metrics and standards for passenger rail. The DC Circuit's decision held that Section 207 of PRIIA was unconstitutional because it impermissibly delegated regulatory authority to Amtrak. If that decision stands, Congress could correct the Section 207 delegation with legislation.

HANNA

1. How often does Amtrak review its ticket fares, and the models used to derive those fares?

Amtrak has three primary tools it uses in the market place to adjust fares: (1) ticket prices (fares) for a given city pair – Amtrak may have up to 6 available for use at any given time, (2) inventory settings – through which Amtrak can change the share of seats available at any given fare, and (3) promotional fares – short-term special offers.

Performance is reported and adjustments to fares are made on a daily, monthly, and annual basis. Additional review may take place on an *ad hoc* basis per market conditions.

Daily: Amtrak's revenue managers review inventory settings (the share of seats at a given price) daily and may make adjustments in response to actual market demand. In practice, inventory settings are entered 11 months prior to departure and then reviewed with increasing frequency to ensure the train is selling as planned as the departure date nears.

Monthly: Monthly performance reviews seek to identify how well Amtrak's pricing strategy is working in the market. Inventory settings and fare adjustments are then considered based on individual route and/or market situations. For price, this may extend to either (a) an acceleration of a planned fare increase, (b) delaying a planned increase, (c) implementing a fare action off cycle, or (d) implementing a short-term promotional fare.

Annual Route Review: Each year, a subset of routes are identified for a complete fare structure re-evaluation. This is important because competitive changes, such as the introduction of new bus competition, can alter the relative success of a given fare structure along a train's route. The purpose of this review is to ensure the integrity of the fare structure along the entire route, and make adjustments as appropriate.

Annual Budget Planning: All routes are examined each year as part of the budgeting process, and fare increases are planned. The planned fare actions build to ticket revenue forecasts, which form the basis of the annual ticket revenue budget.

2. Could DOT give some recent examples of routes on which Amtrak adjusted fares, based on ridership trends?

There are a number of examples of this. As noted above, the primary short-term method is through inventory settings, where changes are made regularly. These changes affect the shares of fares available for a given departure. Beyond changes to inventory settings, Amtrak has reported the following examples:

Summer of 2012 to present: Northeast Regional and Cascades have each been affected by the entry of low-cost bus competition on certain city pairs. Entry of new viable competitors will naturally cause an initial market share shift to the new competitor. In both these situations, Amtrak created a new promotional fare that is in the market only briefly, requires advance purchase, and is limited to off-peak departures. These fares, coupled with corresponding advertising, target the price-sensitive leisure passenger to ensure continued awareness and trial of Amtrak's product in the face of bus competition whose primary competitive asset is generally price.

Winter of 2012: Strong Acela ridership trends resulted in many sold-out departures. Consequently, an additional, unplanned fare increase (increasing all price points) was released in order to capitalize on stronger demand and drive increased ticket revenue.

Summer 2011 – Spring 2012: Amtrak's Pacific Surfliner is an "unreserved" train. Unreserved trains are not revenue managed, but instead, in the absence of the multiple price points available to a reserved, revenue-managed train, revenues are controlled through fares alone. In 2011, it was experiencing strong ridership on many departures. The pricing team conducted extensive analysis to determine potential fare change opportunities for revenue growth. The result was a multi-stage fare action plan

implemented through the Spring of 2012 that included eliminating seasonal fares that no longer worked effectively, followed by fare increases. These combined to deliver revenue improvements. Additional optional actions were identified that remain under consideration today.

3. Does DOT believe that Amtrak has adequately captured the pricing power of its fares? If so, please provide some evidence, by line of business (Northeast corridor, State-Supported Routes, and Long Distance Routes). If not, how does DOT believe Amtrak could take better advantage of pricing opportunities?

Amtrak retains control over pricing and revenue management and manages both price and inventory, monitoring its yield (revenue per passenger mile), load factor (percent of seats sold), and ticket revenue per available seat-mile on an on-going basis by route for all three lines of business. This information is shared with DOT.

In certain cases, where states have authority by contract agreement, some states have elected to operate unreserved services or to make pricing decisions based on their understanding of the local market. These decisions may be made in a broader public interest, such as to support commuter travel in a developing commuter market. Doing so may sub-optimize revenues in favor of public transportation, but this is the states' prerogative by contract.

4. Does DOT monitor Amtrak's pricing policies and models, as part of its Amtrak grant oversight responsibilities? If so, how often does the Department do such reviews?

The U.S. DOT, through the Federal Railroad Administration, does monitor Amtrak's pricing and ticket revenue performance. This is done through examination of its monthly reports on revenue management performance as well as its participation on the Amtrak Board of Directors, at whose meetings ticket revenue performance is reviewed.

Periodically, the FRA also meets with Amtrak personnel to discuss ticket revenue (and overall financial) performance in detail.

5. What role, if any, do states play in setting Amtrak fares for the State-Supported Routes?

States and Amtrak often collaborate on development and promotion of pricing strategies, as was the case in the work described above for the Pacific Surfliner with Caltrans (the Department of Transportation for the State of California). In those cases, Amtrak generally starts with a detailed examination of recent revenue and ridership performance against pricing (and inventory settings, where appropriate), identifies opportunities for improvement, and works with the state representatives to select a preferred option. In

some cases, states also defer to Amtrak for pricing review and decision-making. In all cases, Amtrak is responsible for implementing the final agreed recommendations, including publishing and communicating the fares.

MICA

1. How many employees work in the RRIF program office to process RRIF loan applications?

RRIF is managed through the Credit Programs Division within the Office of Passenger and Freight Programs. There are 5 full-time employees and one employee dedicated half time to working for the RRIF program, which includes analysts and one Division Chief.

Approximately half of the team workload involves processing pending loan applications and conducting pre-application meetings. The other half of the workload involves managing the substantial, existing loan portfolio. This includes monitoring and reporting on the portfolio, as well as processing payments and contract change requests. The Credit Programs Division also receives support from engineering and environmental staff within the Office of Passenger and Freight Programs, as well as assistance from legal staff in FRA's Office of Chief Counsel and subject-matter support from the Office of Safety and the Office of Financial Management.

2. What is the annual budget for the RRIF program office for FY 2012?

There is no federal appropriation specifically for the RRIF program. FRA pays for its RRIF program costs out of the Safety and Operations account. Costs of RRIF activities paid out of the Safety and Operations account include contracting support, payroll for 3.75 FTEs, and travel expenditures.

3. How many loans does the program office review per year, on average?

Over the last three years, the RRIF program office has reviewed an average of 9 loan applications per calendar year. In addition, the program office frequently conducts pre-application meetings and subsequent follow-up meetings during which FRA staff meet with potential applicants and review proposed projects. In FY 2012, the RRIF program office held 19 pre-application meetings with potential RRIF applicants in which staff provided an overview of the RRIF process and provided guidance on project specific questions. Additionally, RRIF program staff continue to manage the ongoing portfolio of loans.

Senator Conrad [Insert on page 27]

How many jobs per billion would be supported by your proposal?

- The Department estimates for every \$1 billion of Federal dollars spent on highway projects there are 34,779 jobs created, and for every \$1 billion of Federal dollars spent on transit projects there are nearly 37,500 jobs created.

Senator Sessions [Insert on page 34]

Secretary LaHood offered to submit for the record how far deficient we are in fixing our roads and bridges.

- The Department's most recent estimate of the backlog of highway and bridge investments totaled \$648 billion as of 2008. This amount represents all highway and bridge improvements for immediate implementation and is based solely on the current conditions and operational performance of the highway system. Almost two thirds of the backlog is attributable to system rehabilitation needs, including \$302 billion needed for the resurfacing or reconstruction of pavements and \$121 billion needed for the rehabilitation or replacement of bridges. The remainder of the backlog, \$225 billion, is associated with system expansion improvements to address existing capacity deficiencies.

Senator Ayotte [Insert on page 46]

Secretary LaHood offered to provide information for the record on Amtrak ridership on the Northeast Corridor and data showing that the Northeast Corridor is able to sustain itself financially.

- Amtrak's Northeast Corridor (NEC) from Washington, D.C. to Boston is the busiest passenger rail corridor in the country. In fiscal year 2011, Amtrak's core Northeast Corridor services, the *Acela Express* and *Northeast Regional*, carried nearly 10.9 million passengers:

<i>Acela Express</i>	3,379,126
<u><i>Northeast Regional</i></u>	<u>7,514,741</u>
Total NEC	10,893,867

In FY 2011, Amtrak covered 85% of its operating costs system-wide (i.e. Northeast Corridor, long-distance services, and state-supported services).

For the period ending fiscal year 2010, the Northeast Corridor Acela and Regional service revenues were \$920 million compared with \$858 million in expenses (not including depreciation or interest) for a surplus of \$61 million or a 1.07 ratio.

Senator Begich

[Insert on page 55]

Requested the schedule on the timetable for determining the six UAS sites.

- The recently signed FAA Authorization included language directing the Secretary to establish a pilot program to integrate unmanned aircraft systems (UASs) into the National Airspace System at six test ranges. The research done at the test sites will help the FAA develop regulatory standards to foster UAS technology and operational procedures.

Due to the high interest in the test ranges (to date we have heard from at least 25 states) the Department will use a competitive process to select these sites. The process of selecting the test sites began with publication of a Request for Comments (RFC) in the Federal Register on March 7, 2012. The RFC asks for public comment on a number of questions to help develop UAS test site requirements, designation standards and oversight activity. The RFC contains the specific criteria identified in the legislation: geographical location and climatic diversity; ground infrastructure and research needs; and consultation with NASA and the Department of Defense. The existing research infrastructure of potential test site operators will also be factored into the weighted selection criteria. The FAA will host national webinars to provide further information and obtain feedback regarding the six test ranges. All comments are due on or before May 8, 2012.

The Department will carefully review and consider the feedback provided in developing the actual solicitation. Consultation with DOD and NASA will be continuous throughout the process. The Department expects to make site selections late in 2012 and for the first site to be operational in 2013.

[Insert on page 57]

Senator Begich requested an explanation of how the \$100 fee would be implemented and how it does not impact smaller GA aircraft.

- If authority to establish the \$100 user fee is enacted, the FAA will specify the mechanisms for the collection of user fees for air traffic control and related services provided to aircrafts who fly in controlled airspace. The fees would be established by FAA rule-making. Revenues from the \$100 per flight surcharge would be deposited into the Airport and Airway Trust Fund and used for airport investments and air traffic control costs. Military aircraft, public aircraft, recreational piston aircraft, air ambulances, aircraft operating outside of controlled airspace, and Canada-to-Canada flights would be exempted from the user fee. Since most general aviation aircraft are recreational piston aircraft, the fee will not impact most of the general aviation community. The Department estimates that over 80 percent of general aviation aircraft would be exempted from paying the fee.

Senator Johnson [Insert on page 62]

Requested what percent of spending on transportation/highways is from state and local government vs. federal spending.

- Based on 2009 highway statistics, 80% of total spending on roads comes from State and local governments and 20% comes from the Federal government. State funding was at \$100 billion, local spending was at \$53 billion, and Federal spending was at \$37 billion.

Questions for the Record (QFR)

Senate Commerce Committee Hearing on the Nomination of
Anthony R. Foxx to be U.S. Secretary of Transportation. May 22,
2013

Senator Blunt's QFRs for Mayor Foxx

1. In the past year, both the Federal Highway Administration (FHWA) and the Federal Transit Authority (FTA) have been taking the position that the provisions of the Buy America Act apply to utility relocation work, which is a new interpretation of that law. In the specific case of the FHWA, it appears that the agency would extend the Buy America Act requirements to projects being funded directly by cities/municipalities if the utility relocation project is part of an overall federally-funded project. Would you agree it important to assess the impact of extending these types of requirements on cities/municipalities' current projects and those in the pipeline before such interpretations become effective?
 - a. Do you believe that a formal rulemaking would be a better vehicle for DOT and its sub-agencies to examine whether these types of requirements even apply to utility relocations and the effect of taking that interpretation?
 - b. If you are confirmed as Secretary of Transportation, would you commit to reviewing the current status of the FHWA and FTA interpretations of the Buy America Act requirements and their effect on cities/municipalities and affected utilities?

Response:

I agree with supporting American workers. I further understand that MAP-21 amended the Buy America statute and those amendments have been interpreted to broaden the application of Buy America requirements to any contract eligible for Federal highway funding within the scope of an applicable NEPA document regardless of the contract's funding source, including utility relocation work even when not paid for with Federal-aid funds. If, in fact, MAP-21 requires this practice, I would be obligated to follow it. I understand that Secretary LaHood has heard from concerned stakeholders about this issue. If confirmed, I will listen to stakeholders, and I would be happy to meet with you to discuss the Department's implementation of the provision.

2. In the President's FY 2014 Budget, the Administration requested \$6.6 billion as part of a proposal to upgrade current, intercity passenger rail systems to become high speed rail systems. Do you believe that expanding high speed rail in the United States should be a spending priority of the federal government? Knowing that we are facing a funding shortfall for transportation programs, how would you prioritize high speed rail funding compared to funding which updates outdated bridges and interstates?

Response:

I believe that we should be multimodal in our national transportation approach and advance projects and programs that address our nation's pressing transportation needs in the most cost-effective and market-responsive way, while also dealing with the state of good repair and safety needs of all modes. The President's budget request has proposed significant funding for both

new rail infrastructure and “Fix-It-First” activities on our roads, rails and bridges, and I support his approach.

I do believe that intercity rail, including high-speed rail, shows promise and presents opportunities in many markets. Recently, for example, I understand that the Brookings Institution noted that rail has been the fastest-growing intercity travel mode during the past 15 years in the US, suggesting that substantial market demand exists for further investments.

3. We all share a common goal of making our passenger rail networks safe. As part of the Passenger Rail Reauthorization in 2008, Congress required all train operators to have Positive Train Control systems operational on their locomotives and track by the end of 2015. If that deadline is not workable, either because of a lack of funding or, equally likely, because the technology to implement this new requirement simply isn't ready yet, would you support a move by Congress to delay the implementation date for PTC to be in use on all passenger rail systems?

Response:

I strongly support the implementation of positive train control systems. I understand, however, that there are a number of technical and programmatic challenges associated with positive train control system implementation that may preclude the full deployment of positive train control on all required rail lines by the December 31, 2015 deadline. If confirmed, I hope to work with Congress to further address positive train control issues.

Senator Boxer's Questions for the Record

Hearing on the Nomination of Mayor Anthony Foxx for Secretary of Transportation, U.S. Department of Transportation

Senate Commerce, Science, & Transportation Committee

May 22, 2013

MAP-21 Implementation and Reauthorization:

1. One of the major landmarks of MAP-21 is the greatly expanded and improved TIFIA (*Transportation Infrastructure Finance and Innovation Act*) program. Will you commit to personally ensuring that the TIFIA program receives all the attention and resources it needs so that the TIFIA funds provided by Congress in MAP-21 are fully and effectively utilized to address the great demand that we have seen from across the country?

Response:

I understand the importance of leveraging Federal funding to encourage broader investment of private capital in transportation infrastructure, and TIFIA is a great resource to help States invest in major transportation projects and create jobs in the process. It is my understanding that since passage of MAP-21, the Department has taken a number of steps to implement the changes to the TIFIA program and expand the TIFIA Joint Program Office to meet increasing demand. If confirmed, I will continue to engage the project sponsors and will move expeditiously in advancing eligible projects.

2. MAP-21 expires at the end of September 2014 and it is projected that the Highway Trust Fund will run out of funds early in Fiscal Year 2015. Developing the next surface transportation bill and addressing the transportation funding shortfall is of critical importance and key to fixing our crumbling infrastructure. Can you discuss how the Department will work together with Congress to address these looming challenges?

Response:

There seems to be bipartisan agreement that current funding mechanisms are insufficient to meet our national infrastructure needs. Addressing funding issues for transportation requires close coordination with the Department's partners within the Administration, as well as with Congress, and if confirmed, I will work hard to do so. The President in his FY 2014 Budget proposed that savings from winding down military operations overseas should be go toward supporting significant new infrastructure investments through a long-term surface transportation reauthorization. I know others have made different proposals to fund this country's infrastructure needs. If confirmed, I will work with Congress on a bipartisan basis to find a solution to this challenging issue.

3. MAP-21 included significant policy changes which substantially transformed our federal transportation programs. These include instituting performance measures and targets, consolidating programs, and establishing a focus on goods movement. Can you explain how the Department will work with Congress, states, cities, and stakeholders to ensure that these reforms are implemented in a meaningful and responsible way?

Response:

In MAP-21, Congress gave the DOT a clear directive to make our transportation system more strategic and performance-driven. The challenges facing our Nation's public transportation system cannot be solved by Federal action alone. Therefore, to meet this directive, the Department needs to work closely with Congress, the public and private sectors, transportation advocates, and industry representatives. The Department should continue to conduct aggressive outreach with stakeholders and to work with each modal administration to issue well-defined guidance to help the Nation's Federal, State, local, and tribal transportation agencies carry out MAP-21 programs and provisions. By actively listening to their concerns and incorporating their feedback into rulemakings, guidance, and policy, the Department will help States and MPOs make efficient use of limited resources and achieve better outcomes.

I understand that the Department has taken a number of actions to implement MAP-21. These efforts have included numerous outreach meetings with transportation stakeholders, implementing the project delivery sections of MAP-21, and moving forward on the freight provisions. The Department has already announced a National Freight Advisory Committee (NFAC), which is composed of stakeholders, under the Federal Advisory Committee Act (FACA), which will help the Department assess national freight needs and identify policies and investments needed to improve the national freight system.

I think the Department has made great strides in the implementation of MAP-21 and, if confirmed, I will continue this successful approach.

Rental Car Safety/ Vehicle Recalls:

4. On May 21, 2013, in this Committee, we held a hearing on legislation I have co-authored to require rental car companies to fix vehicles under a safety recall before renting or selling them (*S. 921, the Raechel and Jacqueline Houck Safe Rental Car Act of 2013*). To me, this bill is basic common sense, and I was pleased that the NHTSA Administrator, David Strickland, agreed.

One issue that arose in the hearing is that apparently, some auto manufacturers fail to make enough parts to fix vehicle safety recalls in a timely fashion. This raises *very* serious safety concerns for all consumers – whether it's a mom trying to get a recall on her own minivan fixed, or a family renting a car that is under recall. We need to do more to get these recalls fixed right away.

Will you commit to personally ensuring that the Department provides strict oversight over manufacturers' recall policies, including making repair parts readily available to all who need them?

Response:

I share your safety concerns regarding recalls for rental vehicles, and yes, I will certainly commit to ensuring that NHTSA carefully monitors how promptly recall remedies are made available. Under existing law, I understand that NHTSA can require a manufacturer to accelerate its recall program if it is not being implemented within a reasonable time.

Pipeline Safety:

5. In 2010, a tragic natural gas transmission pipeline explosion occurred in San Bruno, California, killing 8 people and injuring 52 others. Since then, I have worked with other Members of this Committee to enact many new safety requirements into law – but much work still remains to be done.

Will you commit to working to ensure: 1) continued progress on improving the safety of our nation's pipeline infrastructure, and 2) providing strict federal oversight to hold pipeline operators accountable for their safety measures?

Response:

Thank you for your leadership in helping to secure passage of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Act). I believe the Act has given the Pipeline and Hazardous Materials Safety Administration (PHMSA) additional tools and authority needed to help achieve its mission. I understand that PHMSA has taken the lead on implementing this important safety legislation and completed all of the mandates that were due by January 3, 2013. If confirmed, I will ensure that everyone at PHMSA remains dedicated and committed to fulfilling the remaining mandates and improving the safety of our Nation's pipeline infrastructure.

Train Safety/ Positive Train Control:

6. Following a tragic train collision in Southern California in 2008 that killed 25 and injured 138, I worked with this committee to enact legislation requiring the installation of Positive Train Control (a collision avoidance technology) on major passenger, commuter, and freight lines by 2015.

Will you commit to holding railroad operators accountable for doing everything possible to implement this technology on their systems quickly?

Response:

I am a firm believer in the ability of advanced technologies, such as Positive Train Control, to reduce the potential for accidents such as those that occurred at Chatsworth, California, and Graniteville, South Carolina. I understand, however, that there are a number of significant technical and programmatic challenges associated with Positive Train Control implementation that the Federal Railroad Administration identified in its August 2012 report to Congress that must be successfully resolved to enable the successful deployment of this vital technology. If confirmed, I look forward to working with Congress to resolve these challenges.

Will you also work with Congress to ensure the Department provides funding to assist railroad operators with the implementation of this technology?

Response:

I understand that the President's FY 2014 budget for the Department of Transportation provides money for Positive Train Control installation on Amtrak and commuter railroads. I further understand that the costs associated with the procurement and deployment of Positive Train Control technologies are significant, and represent major capital expenditures by the railroad industry. Funding this effort, without adversely impacting service will be challenging and will require close collaboration between the Department and Congress. If confirmed, I hope to work with Congress to address Positive Train Control issues, as well as other critical national transportation infrastructure safety investment needs.

Questions for the Record
Nomination of Anthony Foxx to be Secretary of the Department of Transportation
Hearing on May 22, 2013
Chairman John D. Rockefeller IV

On Behalf of Senator Brown:

QUESTIONS:

- If confirmed, will you ensure that the basic motorcoach safety regulations in the Motorcoach Enhanced Safety Act of 2012, included in MAP-21, are issued within the statutory timeframes and without delay?

Response:

I understand that motorcoach safety regulations in the Motorcoach Enhanced Safety Act of 2012 are in various stages of development, and in one case, nearly completed. If confirmed, I will ensure that the Department does its best to meet the balance of its responsibilities within the timeframes identified in MAP-21.

- The MAP-21's motorcoach safety regulations were based on longstanding recommendations made by the National Transportation Safety Board and was sponsored by members of the Senate and the House, supported by industry and safety advocates -- including crash victims and their families. Can you give your pledge that you will do everything in your power to make motorcoach safety a top priority of your administration?

Response:

Safety is my number one priority and, if confirmed, I am committed to improving motorcoach passenger safety. The Department is currently undertaking an extensive array of research activities and considering rulemakings to improve passenger safety on motorcoaches.

The insights offered by bus manufacturers and operators, consumer advocates, the National Transportation Safety Board, researchers, and many others will be critical to developing a strategic approach for making motorcoach transportation safer for the American public.

U.S. Senate Committee on Commerce, Science, & Transportation
Nominations Hearing: Hon. Anthony R. Foxx to be U.S. Secretary of Transportation
Wednesday, May 22, 2013

Senator Maria Cantwell
Questions for the Record

Question #1: I-5 Skagit River Bridge

Mayor Foxx, as you're well aware, on May 23, 2013, the northern-most span of the Interstate-5 Skagit River Bridge in Washington state collapsed after being struck by an oversized vehicle. Secretary LaHood has pledged the full support of USDOT and the Federal Highways Administration in establishing a temporary repair by mid-June, and a permanent repair by late September 2013.

- Can I have your commitment that you will do everything in your power as Secretary of U.S. Department of Transportation to support efforts to repair the Interstate 5 Bridge over the Skagit River in Washington state?
- Under MAP-21, transit is eligible for Emergency Relief funding from the Federal Highways Administration. Can you confirm that passenger rail transit service and van-pool transit service are appropriate uses of Emergency Relief funding? In Washington state, many alternatives will be necessary to help reduce congestion on the temporary replacement.

Response:

If confirmed as Secretary, I would do everything in my power to support efforts to repair the I-5 Skagit River Bridge. Ensuring the continued safety and reliability of our transportation infrastructure is central to the responsibilities of the Secretary of Transportation, and, if confirmed, I would offer this same level of commitment regarding any other instance where our country's transportation infrastructure may be compromised by a similar event.

With respect to the Emergency Relief program, I understand that transit service is only an eligible expense under the program when providing substitute traffic service around a damaged facility. The actual and necessary costs of operation and maintenance of ferryboats and additional transit service providing temporary substitute highway traffic service, less the amount of fares charged, are eligible for Emergency Relief funding.

Question #2: Freight Mobility

As we've discussed, I'm glad that you've committed to continuing the national freight policy I worked on with Secretary LaHood, including continuation of the federal Freight Policy Council and National Freight Advisory Committee. Freight mobility will be one of my top priorities in the next surface transportation reauthorization bill.

- With that in mind, I'm interested in your initial thoughts on what more can be done on the federal level to improve federal freight mobility policy?

Response:

I think we need a stronger multi-modal funding source for surface transportation that would include funding for freight projects. The President's proposal for a National Infrastructure Bank embodies most of what I consider important to include in such a program. It is multi-modal, so that funding can be directed to projects in whichever mode most effectively addresses the transportation problem we are trying to solve. It provides a national perspective on our transportation problems, so that we can focus funding on freight transportation projects that benefit the Nation as a whole. It uses a combination of grants and loans, so that we can provide funding and financing for a wide range of projects—both those that can generate a revenue stream and those that cannot—while leveraging our limited resources as much as possible. And it uses robust economic analysis to select projects that provide us with the greatest benefits relative to their costs. But to make such an infrastructure bank effective, we need to have a robust freight planning process so that we can identify where the freight infrastructure investment needs of our Nation are greatest. MAP-21's requirement for a National Freight Strategic Plan is a good start in that direction. Finally, we need to make effective use of the performance management provisions in MAP-21 so that we can keep track of where our freight transportation system is performing well, and where it needs improvement.

Question #3: Last Mile Connections

Mainline capacity – whether for waterways, highways, or rail – is important to the movement of goods. But many major freight bottlenecks occur in the “last mile” as goods are arriving to, or leaving, a major transfer point.

Washington state has been taking a strategic look at freight planning for more than a decade now, and – building on those plans – our state freight investment board has invested more than \$100 million to address those last mile challenges. The funding comes from a mix of our state gas tax and transportation fees.

One dollar of state investment board money leverages five dollars in private, local, and federal investment – putting nearly four hundred million into critical projects over the past decade. But despite this, there is still a lot more need.

- In light of your experience in Charlotte with the new intermodal hub, do you believe that states, local governments, and industry have enough resources to address last mile and intermodal connection infrastructure needs?
- If not, do you believe that we need stronger federal role for assisting last mile and intermodal connections, which are key components of our national network? Or are they more of a state and local transportation policy issue?

Response:

The short answer is “no” – we don’t have enough resources to address critical last-mile and intermodal connections. There are a large number of freight projects that are delayed or not built at all because of lack of funding. The experience of DOT’s TIGER Grant program has been that many highly recommended projects, including freight projects, lack the necessary funding. These projects often have wide-ranging benefits on the overall global competitiveness of the United States, so it is important for the Federal Government to take the lead in funding them.

Transportation policy is a partnership, where the Federal Government needs to partner with State and local governments to ensure that these national needs are met. Freight supply chains are often interstate or international in scope, so it is important for the federal government to have the resources to provide the transportation networks needed to support these supply chains. The National Freight Strategic Plan, which DOT is directed to develop under MAP-21, will allow the federal government to identify those last-mile and intermodal connectors that are most critical for the Nation’s economy, and we must all work together to create capacity to these projects in place.

Question #4: Highway and Vehicle Safety, and Unsecured Loads

Mr. Foxx, one thing that I am interested in is the collection of data and the safety issues associated with unsecured loads - that is, goods being carried by vehicles that are improperly tied down to the roof, trunk, or truck bed.

The GAO looked into this issue in November 2012 and found that while unsecured loads are a safety risk, improvements must be made to data collection so that NHTSA can better understand the scope of this problem. According to the report, NHTSA is updating its current data collection system this year and is likely to recommend changes to the Model Minimum Uniform Crash Criteria during the next update cycle.

We do know that in 2010, there were 51,000 crashes and 440 known fatalities resulting from a vehicle striking a non-fixed object in the roadway; unfortunately, the exact number of crashes due to unsecured loads versus natural elements (for instance, a fallen tree) is unclear. However, the Environmental Council of the States (ECOS) believes that our nation spends \$11.5 billion dollars on litter cleanup, education, and/or disposal programs - and between 20 to 40 percent of all litter found on roadways comes from unsecured loads.

- Could you share your thoughts on what you would do as Secretary about unsecured loads and their impact to driver safety and our environment?
- Can you discuss your broader approach to highway and vehicle safety and how you will continue making it a priority for USDOT?

Response:

I agree both that this is an important highway safety concern and that data deficiencies, plus the Federal Motor Carrier Safety Administration's jurisdictional limitation to commercial vehicles, means that more effort is needed in this area. I would place greater emphasis on data collection improvements if confirmed and try and raise public awareness of the risks of unsecured loads. More broadly, safety across all transportation modes would be my highest priority if confirmed as Secretary. I believe that a comprehensive approach, including heightening public awareness, such as Secretary LaHood has done successfully in the case of distracted driving, enacting good laws, and promoting effective enforcement would contribute significantly to real progress.

Question #5: Jones Act

Mayor Foxx, as you know, the Obama Administration strongly supports the Jones Act. I also support the Jones Act because it preserves American shipbuilding capacity, fosters a highly skilled maritime workforce, and provides our government, when we need it, access to a U.S.-owned and operated fleet.

- Can I count on your strong support for this fundamental American maritime law?

Response:

Yes, if confirmed, I will continue the Department's strong and historic support of compliance with the Jones Act.

Question #6: Long Term Challenges for Investment

Mayor Foxx, as you know, the projections for the highway trust fund are fairly dire – the Congressional Budget Office estimates that bringing the trust fund into balance in 2015 would require cutting obligation authority under current law from \$51 billion to \$4 billion, or raising motor fuel taxes by 10 cents per gallon.

At the same time, our infrastructure is struggling under our current rate of investment, with roads and transit systems ranked a "D" by the American Society of Civil Engineers. And the United States was ranked 20th internationally for the quality of road infrastructure by the World Economic Forum.

- Mayor Foxx, can you discuss your thoughts on how America can adequately invest in infrastructure when the challenges – and trust fund shortfall – is so large?
- Do you believe that transportation financing tools – like bonds and the federal Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program can meet our current infrastructure needs? Can you share how financing and federal funding work in tandem for cities that need to make transportation improvements?

Response:

As the President has stated, we need to invest more resources in our infrastructure. Particularly when interest rates are low and Americans need the jobs that can help us recover from the recession, we should be spending more on the transportation networks necessary to enhance our economic competitiveness. Also, clearly, the Highway Trust Fund will not provide the resources required to meet our transportation infrastructure needs. That is why I continue to support the President's National Infrastructure Bank proposal, which brings to bear all the resources of the federal government on addressing these critical transportation investment requirements. The National Infrastructure Bank concept uses a combination of grant and loan funding to leverage and stretch our dollars as far as possible. Transportation financing tools like TIFIA, the Railroad Rehabilitation and Improvement Financing program (RRIF), and Private Activity Bonds are valuable options, but they cannot meet all of our needs. Some projects, by their nature, cannot generate the revenue streams that are necessary to repay the capital borrowed under these financing approaches. So we need to have surface transportation grant funding at the Federal level to address needs that cannot be met by financing approaches. In developing the Charlotte Regional Intermodal Facility, for example, we used a combination of funding from the Norfolk Southern Railway, which would be repaid from Norfolk Southern's revenues, and grant funding from the State and federal government (with complementary roadway improvements paid for by the City of Charlotte). We could not have paid for it if we had relied solely on loan financing repaid from the facility's revenues.

Question #7: Municipal Bonds

Mayor Foxx, as you know, the tax status of municipal bonds is under debate.

- Can you discuss if you used municipal bonds during your time as Mayor of Charlotte, and the potential impacts removing the tax-exempt status of these bonds would have on the ability of state and local government to fund needed transportation infrastructure projects?

Response:

Charlotte, like many cities around the country, relies on flexible financing mechanisms such as municipal bonds to address infrastructure needs. We have made roadway improvements, expanded the airport, and built new police and fire stations through tax exempt municipal bonds. As a Mayor, I know how much basic state and local infrastructure relies upon this financing tool. As our country works to reduce deficits in a balanced way, I look forward to sharing my perspective as a product of local government within the Administration.

I would also note that the President's Budget presents a comprehensive economic plan that on net provides substantial additional support for infrastructure, and additional funding for ongoing surface transportation investments; proposing a "Rebuild America Partnership" to leverage private capital; and turning off the sequester.

As part of that comprehensive plan, the President's Budget calls for \$1.8 trillion of balanced deficit including entitlement savings, a \$50 billion up front-infrastructure investment, and \$580 billion of additional revenue from closing loopholes and reducing high-income tax benefits. The

Budget would obtain this revenue in part by limiting the value of high-income tax benefits to 28 percent.

Whether one looks at the broadest elements in the budget or focuses on the package that was put forward as an offer to the Republicans House leadership, one thing that remains the same is a commitment that the budget be a net positive for infrastructure. While the President understands that no one gets 100 percent of what they want in a budget agreement, he also is clear that he would only support a budget that, on net, includes provisions that led to State and local governments being in a more positive position to invest in the modern infrastructure our economy needs for both jobs and our future competitiveness.

Question #8: Vehicle Miles Traveled (VMT)

Mayor Foxx, as revenues deposited to the Highway Trust Fund revenues have continued to shrink, many people have begun debating how to better finance surface transportation programs, including the merits of “Vehicle Miles Traveled” (VMT) tax. As you know, transportation funding based on a VMT, rather than a gas tax like we currently have, would not be impacted by improvements to fuel economy standards and adoption of hybrid/electric vehicles – two of many factors currently eroding revenue deposited into the trust fund. While there are challenges to implementing a national VMT, a recent GAO report identified pilot projects around the country that are demonstrating ways to address privacy concerns and exploring appropriate, practical, and low-cost technology options for collections.

- Can you share your philosophy related to VMT?
- Do you believe that, if technological and privacy hurdles are overcome, VMT is a viable option for sustainable long-term revenue for transportation projects?

Response:

Addressing funding issues for transportation requires close consultations within the Administration and with Congress, as well as with key external stakeholders. The President in his FY 2014 Budget proposed that savings from winding down military operations overseas should be go toward supporting significant new infrastructure investments through a long-term surface transportation reauthorization. I know others have made different proposals to achieve the similar end of funding this country’s infrastructure needs. If confirmed, I will work with Congress on a bipartisan basis to find a solution to this challenging issue.

Senator Coats QFRs for Mayor Foxx

1. In a time of decreasing resources for the federal budget the Department of Transportation, like many Hoosier families, will have to do more with less and make hard decisions on where to make fiscal cuts. I can't imagine you would take on the responsibility of leading an organization like the Department of Transportation without doing substantial due-diligence into the challenges the organization faces.
 - a. As you've gone through and reviewed the department's operations, what areas have you identified early on for reorganization, consolidation, and elimination in order to provide savings to the taxpayer?
 - b. How will you prioritize the Department's functions in order to do more with less?

Response:

Safety is my number one priority. If confirmed, I plan to thoroughly consider the Department's existing programs to find cost savings that do not compromise safety. I have not yet identified areas for reorganization, consolidation, and elimination, but I look forward to the opportunity to work with the people at DOT to find these efficiencies.

2. I'd like to discuss the concept of aviation user fees, which I hope you have done some in-depth research on given the city's management of the airport and the fact that you've been nominated to lead the DOT. I think the current mechanism for funding infrastructure and services via the fuel tax remains the best plan. The system for collecting these funds is simple and allows for any necessary increases to fund services or infrastructure enhancements to be easily implemented. The President continues to propose a \$100 per flight user fee in his budget to fund everything from deficit reduction to air traffic control services. General and business aviation is very important to Indiana, and I continue to hear from Hoosiers who tell me that they are not opposed to paying more for such services, but the mechanism should be an increase in the tax on jet fuel and not user fees. I think this is the wrong way to fund our aviation system.
 - a. What do you think about these user fees in general, and specifically will you be an advocate for the President's proposal?

Response:

I support the Administration's goal of achieving balanced deficit reduction without compromising a safe and efficient national infrastructure system. While I am not privy to the policy considerations that went into the Administration's FY 2014 budget proposal, this issue presents one of the many tough choices we face as a Nation. If confirmed, I will work with Congress and all of the relevant stakeholders on this issue.

3. An issue that I know a number of us feel strongly about is the lack of responsiveness by the DOT to the members of the Commerce Committee. I personally have two letters that I have recently sent to the FAA and the DOT. The first is a letter from April 23rd, almost one month ago now, to Secretary LaHood and Administrator Huerta on the FAA's

decisions relating to the sequester. The second is a letter from last week signed by 17 Senators to Administrator Huerta on bonuses at FAA.

- a. If confirmed, how will you improve the Department's, and its agencies', responsiveness to the Committee's requests?

Response:

It is my understanding that the Department has provided a response to both of the above mentioned letters. You have my commitment that, if confirmed, the Department's communication with Congress will be handled in a manner so as to provide accurate information as quickly as possible.

QUESTION FOR THE RECORD
SENATOR WILLIAM M. COWAN
UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
HEARING
“THE NOMINATION OF MR. ANTHONY R. FOXX TO BE
SECRETARY OF TRANSPORTATION”
MAY 22, 2013

1) We all know that our highway infrastructure is critical to our nation's success, and also that it needs to be improved. Part of that improvement includes better ways to communicate and provide information to alleviate congestion while at the same time enhancing safety.

What are your thoughts on how to improve our highway information and communications systems? Specifically, what are your thoughts today on the value of technologies that are (or will be) integrated into our highway system and vehicles?

Response:

I understand that one of the most effective tools we can use to increase safety and reduce congestion on our roadways is technology. Intelligent Transportation Systems (ITS) applications connect information and communications technologies with infrastructure, and with State Department of Transportation partners, DOT has already deployed ITS applications for improved traffic management, mobility and emergency management across many sectors of the highway system. I am becoming more familiar with the work that the Department is doing with its partners in the private and academic sectors to develop technology that would allow vehicles to communicate with one another—vehicle-to-vehicle technology—and that would allow vehicles to communicate with the roadways, traffic signals, and other infrastructure—vehicle-to-infrastructure technology.

I believe that this technology has the potential to significantly reduce the number of crashes on our roadways and save lives. That same connectivity also can help manage traffic on roadways, use the existing infrastructure more efficiently, and reduce congestion for drivers. Reduced congestion saves both time and fuel, and reduces emissions.

While these technologies offer enormous potential, I would, if confirmed, want to make sure that these systems protect driver privacy, avoid driver distraction, and are secure. If confirmed, I look forward to working with the Department to ensure that the Department continues to work with its partners throughout the public, private, and university sectors to deploy this and other developing technologies to increase the safety and capacity of our roads.

Senator Klobuchar QFR for Mayor Foxx

Air Traffic Controllers and Towers

I am committed to investing in our nation's infrastructure and making sure we have the safest skies from airport to airport, both large and small. I have fought with my colleagues to keep both towers open and controllers on the job.

- *Will you commit to protecting the safety of our national airspace system and investing in local communities of all sizes with economies that depend on their local towers and air fields?*

Response:

I can assure you that safety will be my primary focus, and that I will do what I can to avoid furloughs and contract tower closures.

Fortunately, the Reducing Flight Delays Act of 2013 (P.L. 113-9) provided FAA with the budget flexibility needed to end employee furloughs across the agency and keep low-activity contract towers originally slated for closure open for the remainder of Fiscal Year 2013. The transfer authority allowed FAA to forestall some of the most acute impacts of sequestration to the flying public. However, as you well know, the current sequestration environment, if it continues, will require painful choices in the future, particularly at FAA.

SENATOR FRANK R. LAUTENBERG
COMMERCE COMMITTEE HEARING ON THE NOMINATION OF
MAYOR ANTHONY FOXX TO BE TRANSPORTATION SECRETARY
QUESTIONS FOR THE RECORD
Wednesday, May 22, 2013

Questions for Mayor Anthony Foxx:

1. Following Superstorm Sandy, the Northeast Corridor (NEC) was shut down due to flooding. To prevent future shutdowns, it is critical that the Department of Transportation (DOT) moves forward on Amtrak's Gateway Tunnel project, which would build a new, modern tunnel into New York under the Hudson River. The NEC is currently operating at 95 percent capacity, and commuter demand is projected to double in the next 20 years. The project would expand service capacity and prepare the corridor for high-speed rail, all while hardening rail infrastructure against future storms. The Administration has previously committed their support for this project.
 - Funding the Gateway project will take cooperation from federal, state, and local entities. Can we count on the Department's continued support for this critical project?

Response:

Yes. I understand the Department is working closely with the regional stakeholders as the Gateway project develops. It is also my understanding that the Federal Railroad Administration, in developing a regional planning framework and a rail investment plan for future investments in the Northeast Corridor as part of NEC FUTURE, will analyze the long-term trans-Hudson capacity needs.

- The Gateway project is estimated to cost \$13 to \$15 billion. What existing or new tools would you recommend for financing a project of this magnitude?

Response:

The private sector is currently playing a robust role in the development and redevelopment of the major train stations serving the Northeast Corridor, including Washington Union Station and Moynihan Station in New York City. Private investment in the commercial development in and around these stations has and will continue to provide a source of revenue for the development of the transportation functions of these stations, including new concourses and train halls.

Furthermore, I am aware that as part of the NEC FUTURE planning process, the Federal Railroad Administration will also be evaluating potential funding scenarios, including private sector opportunities as part of a Service Development Plan for the Corridor. I also hope to review work that I understand was recently undertaken by Amtrak regarding potential private investment in the Northeast Corridor.

- A provision in the “Disaster Relief Appropriations Act” (P.L. 113-2) effectively restricts Amtrak’s ability to use funding appropriated to protect critical Northeast Corridor rail infrastructure from future storms and flood events. The law prevents Amtrak from utilizing its working capital to transfer funding between its capital and operating accounts as a condition of accepting the disaster relief assistance. Will you commit to working with me to address this issue?

Response:

I understand that the law does effectively prevent Amtrak from being eligible to receive \$86 million in funding to make the Northeast Corridor more resilient to future disasters and I look forward to working with you to address this important funding issue.

2. Unlike highways and transit, which receive dedicated long-term funding through the Highway Trust Fund, Amtrak’s funding is subject to the annual appropriations process. This makes it difficult to execute complex, multi-year infrastructure projects needed to increase passenger rail capacity, improve reliability, and add higher-speed rail service. Recent budget difficulties, such as sequestration, have made it difficult for Amtrak to plan for short-term and maintenance projects. The President’s FY 2014 budget called for a dedicated, multi-year capital funding commitment for passenger rail development.
- As Congress looks to reauthorize Amtrak this year, will you support dedicated funding for Amtrak?

Response:

I understand that the President's FY 2014 Budget Proposal includes dedicated funding for rail infrastructure and services through the National High Performance Rail System (NHPRS) program. The NHPRS program is proposed at \$6.4 billion in FY 2014 to maintain, modernize, expand, and improve the Nation’s rail capacity and services.

This is part of the Administration’s five-year \$40 billion reauthorization proposal funded from a new Rail Account of the Transportation Trust Fund. Dedicated funding from the Transportation Trust Fund for rail would bring it to parity with other modes who can make educated planning decisions for capital investments and service levels based on predictable funding levels.

- When will we receive the Administration’s Amtrak reauthorization proposal?

Response:

I understand that the President's FY 2014 Budget Proposal is intended to serve as a detailed blueprint for reauthorization, as well as a mechanism to enhance safety, modernize our infrastructure and workforce, meet growing market demand, and ensure transparency. If confirmed, I look forward to working with Congress to accomplish these important goals as soon as possible.

3. Superstorm Sandy devastated the region's transportation systems. New Jersey estimated more than \$1 billion in damage and Amtrak estimated \$336 million. Congress has appropriated \$13 billion for Sandy transportation damage and future mitigation.

- Will you commit to working with me to ensure that New Jersey transportation systems get their fair share to rebuild stronger and prevent future damage from storms?

Response:

Thank you, Senator, for your continued work and support of public transportation, especially as we continue to recover from the single greatest transportation disaster ever to hit our country.

I can assure that I will continue to work with you and all stakeholders to ensure that the impacted transportation network is fully recovered and that we take the necessary steps to build a more resilient system better able to withstand future storms.

4. The U.S. airspace system remains the most complex air traffic control (ATC) network in the world, and the current ATC system simply does not have the capacity to accommodate projected traffic growth in a safe and efficient manner. Further, the air traffic control tower at Newark Liberty International Airport—one of the most complex and busiest airports in the country—is consistently understaffed. To maintain our global competitiveness, we must make substantial improvements to upgrade our aviation system by adequately supporting current air traffic control efforts and implementing Next Generation Air Transportation System (NextGen) modernization.

- At FAA Administrator Michael Huerta's 2010 confirmation hearing, Administrator Huerta committed to fully staff the Newark tower with certified controllers; however, as of April 2013, Newark had 22 certified professional controllers—the recommended range is 29 to 36. Will you commit to ensuring that the Newark Liberty air traffic control tower is fully staffed with certified professional air traffic controllers by the summer of 2014? Please provide a plan for how you will meet this staffing level.

Response:

I understand that some of the FAA's air traffic control facilities currently face staffing challenges. In addition, as a result of the reduced funding levels with sequestration, the FAA has a hiring freeze in place, which may only be modified with the approval of the Administrator. I will be pleased to work closely with Administrator Huerta to ensure that we have sufficient staffing levels at Newark and other facilities, given the budget constraints that the FAA is experiencing.

- Additionally, a high rate of attrition among controller trainees continues to be an issue at Newark Liberty. In addition to the simulator at the tower, what steps will you and Administrator Huerta take to improve and increase training?

Response:

I understand that the FAA is in the process of revamping training programs for controllers and technicians and I will be pleased to follow up with Administrator Huerta on the overall training strategy and schedule.

- Budget cuts imposed by the sequester have threatened to disrupt the efforts of the more than 1,000 employees at the FAA William J. Hughes Technical Center in New Jersey—efforts critical to the successful implementation of NextGen. As the Department continues to face difficult budget decisions, what steps will you take to ensure efforts at the Technical Center to modernize our air traffic control system are not delayed?

Response:

I understand that the FAA is continuing to analyze the effects of sequestration on the implementation of NextGen. The William J. Hughes Technical Center is an integral part of NextGen's success and I will be pleased to keep you updated on any effects of sequestration on the program and the facility.

5. Each year, on average 4,000 people are killed in truck crashes in the U.S. and another 80,000 are injured. Bigger and heavier trucks pose safety risks, including longer stopping distances and increased risks of rollover or trailer swaying. And long hours and demanding schedules contribute to truck driver fatigue, which has been recognized as a major safety concern and a contributing factor to fatal truck crashes—nearly half of truck drivers admit that they had actually fallen asleep while driving in the previous year.
- The 2012 surface transportation law, MAP-21, requires DOT to complete a two-year comprehensive study on the effects of increasing truck sizes and weights on our nation's roads. Concerns have been raised by safety advocates about the contractor that was chosen to do the study because the contractor has previously done a number of studies in favor of heavy trucks.
 - Will you commit to working with the safety advocates to address their concerns?
 - Additionally, will you take steps to make sure that there is careful scrutiny of the key features of the study, including the study plan, data collection and analysis, the work of the contractor and subcontractors, as well as the Federal Highway Administration's supervision of that work?

Response:

Let me begin by assuring you that I understand that safety advocates have expressed their concern that the study be objective and free of any bias. I am aware that since the enactment of MAP-21, the Department has been working hard to accommodate requests to maximize stakeholder input, provide for independent peer review, and ensure the highest degree of impartiality of the entities that will be assisting with the study. Although I was not involved in the hiring decision of the contractor, if confirmed, I am committed to ensuring that the

Department will waste no time in advancing work that will ultimately produce a comprehensive, objective, and data-driven report.

- MAP-21 also requires the Department to complete a rulemaking to mandate all commercial trucks have Electronic On-Board Recorders, which help monitor the number of hours that truck drivers can be on the road to reduce fatigue-related crashes. This rule has already faced some delays. Will you work to ensure that this rulemaking is completed and submitted to the Office of Management and Budget before the end of the year?

Response:

If confirmed, I will work with FMCSA and the Office of Management and Budget to better understand the delays associated with this rule, and I will work toward accomplishing the requirements identified in MAP-21.

- The National Highway Traffic Safety Administration (NHTSA) has been considering a rulemaking to require the installation of speed limiting devices on heavy trucks since 2011. However, the expected date for a proposed rule was recently delayed by another six months, until December 2013. Will you commit to working with me to ensure that this rulemaking is completed in a timely manner?

Response:

If confirmed, I commit to working toward the completion of this rulemaking as expeditiously as possible.

- MAP-21 requires NHTSA to issue eight regulations to improve motorcoach safety. Will you ensure that the basic motorcoach safety regulations are issued within the timeframes in the statute and without delay?

Response:

I understand that the motorcoach safety regulations in the Motorcoach Enhanced Safety Act of 2012 are in various stages of development, and in one case, nearly completed. If confirmed, I will ensure that the Department does its best to meet the balance of its responsibilities within the timeframes identified in MAP-21.

6. Although driving injuries and fatalities have decreased significantly over the past several decades, alcohol-impaired driving continues to result in more than 30 percent of motor vehicle fatalities. In 2011, 9,878 people were killed in drunk driving crashes, and 50 to 75 percent of drunk drivers whose licenses are suspended continue to drive.
 - The Centers for Disease Control and Prevention found that re-arrest rates for drunk driving decreased by 67 percent for convicted drivers that had ignition interlocks as

compared to those who just had their license suspended. What would be the safety benefits of requiring ignition interlocks for all first time drunk-drivers?

Response:

Ignition interlocks have been shown to be highly effective in preventing repeat drunk driving offenses when installed on vehicles driven by drunk driving offenders. This preventative effect has been demonstrated for both those who have been convicted for their first drunk driving offense and those who have had one or more previous offenses. If confirmed, I will ensure that DOT continues to support the strategy of requiring that drunk drivers use ignition interlocks and to continue the progress that DOT has made in reducing the problem of drunk driving.

- Since 2008, the auto industry has collaborated with NHTSA to invest in emerging technologies that would stop drivers from operating a vehicle if drunk, such as Driver Alcohol Detection System for Safety technology. The Insurance Institute for Highway Safety estimates the project, once fully realized, could save 7,000 lives each year. How can DOT expedite the technology development?

Response:

I understand that DOT is currently in discussions about a new research and development agreement with auto industry partners. The new agreement could represent a significant increase in the Department's investment in technologies that would prevent drunk drivers from operating vehicles. This increased investment should allow additional technology development and testing. If confirmed, I will ensure that DOT remains committed to these types of efforts and to the development of vehicle technologies that reduce the problem of drunk driving.

7. The American Society for Civil Engineers estimates a five-year investment need of \$2.2 trillion to meet the needs of our nation's infrastructure, including our nation's rails, bridges, roads, transit systems, and ports. A number of proposals have been introduced that would create an infrastructure bank to finance and fund large-scale, multimodal transportation infrastructure projects. The Administration has been supportive of utilizing both financing tools, such as the TIFIA loan program, and multimodal grant programs, such as TIGER, to build critical infrastructure.
- If you are confirmed, will you support including the authorization of a multimodal grant program in any national infrastructure fund or bank created to support transportation infrastructure projects?

Response:

A well-functioning transportation system is critical to America's economic future, and we need to increase our investment if we are going to maintain a well-functioning system. I believe both financing programs, such as TIFIA, and grant programs, such as TIGER, have an important role to play.

In the Charlotte area, we've taken advantage of both financing and grant programs to get projects off the ground and start investing in the future. Through the TIGER program, DOT has invested \$18 million in our light rail system, expanding its capacity to meet larger than expected demand. Without the TIGER program, it may have taken several years to assemble the funding to make the necessary improvements. TIGER also provided \$10 million in funding for the I-85 Yadkin River Bridge outside of Charlotte to help get that project moving. The I-77 HOT Lanes project North of Charlotte has received a Private Activity Bond allocation and is also pursuing a TIFIA loan.

Some projects can generate a revenue stream, and can be financed with loan programs; other projects cannot generate a revenue stream, and must be funded with grants. Some projects require a combination of loans and grants. I think that an effective infrastructure bank should have available both kinds of funding, with multimodal eligibility, so that it can assemble funding packages that can combine grant and loan funding to meet the unique needs of each project. This will allow us to leverage our limited funds by using grant funds only when they are necessary for a project to move forward.

Senator Nelson's QFRs for Mayor Foxx's Nomination Hearing

1. We must ensure the highest possible level of safety for children in and around cars. Do you believe the Department of Transportation and NHTSA should lead industry to develop, and adopt or require technology to improve children's safety in non-traffic related scenarios, such as back-over prevention requirements or alerts when a child may be left in a vehicle?

Response:

I am very concerned about the safety of children in and around cars, and I am committed to finding the most appropriate countermeasures to reduce the frequency of incidents involving children. I understand that NHTSA proposed a requirement for improvements to passenger vehicle rear visibility to prevent backovers and is currently working on a final rule. NHTSA also has developed a national education campaign (through radio, online, social media, and stakeholders) to educate parents and caregivers about the dangers of heatstroke to children left in cars. Children are our most vulnerable population, and I take safety risks to children very seriously.

2. Do you think our communities are prepared for the unique mobility challenges of an aging population? Are there steps that you took as Mayor of Charlotte to ensure that area residents could comfortably age in place?

Response:

Communities should help seniors stay connected as they age. One way to ensure connectivity is by offering communities a variety of transportation options, including transit, walking, and biking. As our demographics shift, so will the need to improve safe and effective transportation options for seniors. Whether the transportation activities include increased sidewalks, improved bus services, safer curbs, adjustments to pedestrian signal timing, or increased safety for older drivers, we must be prepared to provide transportation choices that accommodate the unique mobility challenges of an aging population.

During my tenure as Mayor, I took numerous steps to ensure that area residents could comfortably age in place. With initiatives such as the light rail blue line extension and Charlotte Streetcar Project, I strove to put all Charlotte residents in close proximity to good transportation choices. To enable new housing choices for seniors along new transit corridors, we also have adopted significant land use plans of pre-zoned adjacent parcels for dense, multi-family accessible dwelling units.

More specifically, through the Charlotte Area Transit System's (CATS) program, Seniors in Motion, CATS serves to provide seniors the mobility and freedom to maintain their lifestyles. As part of the program, CATS staff visit seniors at residential facilities, church groups, and senior centers and introduce their services to interested parties. CATS staff members take seniors on demonstration rides, assist them with reading public timetables, and answer any questions they

may have about using the system, which runs throughout the city. Notably, because seniors ride for half price on CATS, the service is more affordable to them.

3. Aviation manufacturing is an important industry in Florida, with commercial and general aviation manufacturing providing good jobs. For this industry to grow the FAA must efficiently certify their products, unfortunately, the current system suffers frequent delays. FAA Administrator Huerta has sought to improve the system, but improvements must be implemented moving forward. Do you think that improving the certification process is a priority for the FAA?

Response:

I believe that the FAA is continually improving the certification process to enhance the industry's ability to bring products to market quicker and make them more competitive in an international arena. If confirmed, I will support Administrator Huerta's initiative to improve the system.

4. Domestic shipbuilding and repair is important for our maritime industry and our national defense preparedness. As Secretary will you be supportive of the Jones Act and of programs to maintain the strength of our maritime industry?

Response:

If confirmed, I would support the Jones Act and the programs available to maintain the strength of our maritime industry, including proper funding and administration of the Maritime Security Program. The America's Marine Highways program also could be used to offer an important new market for Jones Act vessels. I would work closely with the Department of Defense, industry, and labor to monitor the health of the U.S.-flag fleet, facilitate the retention of vessels and mariners, and develop a national sealift strategy that ensures the long term viability of the U.S. Merchant Marine as a naval auxiliary and as a U.S. presence in international trade. I would work to ensure the viability of the cargo preference programs by providing efficient administration and regulation, while gaining a broader base of support through education and a transparent approach to enforcement. I would continue to promote the education and preparation of individuals entering the maritime workforce through the U.S. Merchant Marine Academy and by providing assistance to the six State maritime academies.

Questions for the Record
Nomination of Anthony Foxx to be Secretary of the Department of Transportation
Hearing on May 22, 2013
Chairman John D. Rockefeller IV

1. Truck Safety

In MAP-21, Congress made substantial truck and bus safety improvements, such as requiring electronic logging devices to prevent fatigued drivers from getting behind the wheel. DOT has been working on implementation, but we continue to see delays. As truck-related deaths and crashes continue to be a substantial safety problem, I am concerned about the pace of implementing MAP-21's safety provisions, especially the electronic logging device rule.

Q: What actions will you take to ensure that the FMCSA substantially reduces truck crash deaths and injuries?

Response:

If confirmed, I will strive to prioritize FMCSA's actions that will result in the largest safety benefit, including implementing the provisions contained in MAP-21, and will direct the Agency to continue to work with all large truck and bus safety stakeholders to continue to identify new and improved methods to improve commercial motor vehicle safety.

Q: The government is unlikely to be able to cover the entire cost of improving our infrastructure. To what extent should the Federal government use its resources to incentivize private investment?

Response:

There is no doubt that private investment can play a critical role in expanding our Nation's transportation infrastructure in the same way it can support our energy, water, and social infrastructure.

Public Private Partnerships (PPPs) can offer an innovative new delivery approach for some of our country's most complex and challenging projects when they are appropriately structured, when they provide better value as compared to traditional public sector delivery approaches, and when the underlying projects are well-aligned with public policy objectives.

The TIFIA loan program is a successful example of how the Federal Government currently incentivizes private investment. MAP-21 has rightly expanded the program to meet demand.

TIFIA can benefit private sector investors by providing flexible terms and low cost financing that often makes the difference between whether a project does or does not make sense financially .

The President's Rebuild America Partnership proposal recognizes the important role private sector investment can play in transportation infrastructure. It strengthens existing programs such as TIFIA and Private Activity Bonds and introduces America Fast Forward Bonds to ensure that we continue to incentivize private investment in transportation infrastructure. If confirmed, I will support these efforts.

2. National Freight Strategic Plan

MAP-21 requires DOT to create a national freight strategic plan.

Q: What will you do to ensure that the National Freight Strategic Plan does not favor one mode of transportation over another, and that it produces a balanced approach to intermodal freight movement?

Response:

Section 1115 of MAP-21 directs the Secretary of Transportation to develop a national freight strategic plan. While some of the legislative language describing this strategic plan focuses on highway freight transportation, other provisions refer to freight transportation in general. I strongly believe that, for a national freight strategic plan to be useful, it must look at the national freight system as an integrated whole, with freight moving along different modes of transportation depending on the distance to be traveled, the commodity to be carried, and the delivery deadline to be met. We need to provide our freight shippers with the full range of freight transportation modes so that they can choose the mode that meets their needs most efficiently. Only with this kind of multimodal freight system can we ensure that our Nation remains globally competitive. The Secretary of Transportation has broad authority under Title 49 of the United States Code to initiate policies to promote efficient intermodal transportation in the United States, and I would, if confirmed, use that authority to ensure that the national freight strategic plan produces a balanced approach to intermodal freight movement that allows each mode of freight transportation to play the role that it can play most efficiently in the overall national freight transportation system.

3. Maritime Industry

The U.S.-flag maritime industry plays an important role in U.S. national and economic security. Programs like the Maritime Security Program, cargo preference, food aid, and the Jones Act are important not only to the maritime industry, but also to the nation's military sealift and transportation needs. What are your plans for promoting, maintaining, and encouraging continued investment in the U.S.-flag maritime fleet?

Response:

If confirmed, I would work to ensure that the programs that assist all sectors of the maritime industry work together in promoting, maintaining and encouraging investment in the U.S.-maritime fleet to the greatest extent.

I understand that due to Continuing Resolution and sequestration, funding for all Maritime program has been reduced.

4. **Passenger Rail**

The Administration has made passenger and high-speed rail a central part of their transportation agenda. As Secretary, you will serve on the Amtrak Board and play an important role in advancing this agenda.

Q: What is your vision for the future of intercity passenger rail in the nation?

Response:

The U.S. rail industry is currently experiencing a resurgence. Safety, ridership, reliability, investment levels, and financial performance are setting records or trending in positive directions. I will strive to build on the positive developments and will work to further enhance safety and strengthen both passenger and freight rail. In particular, I hope to enhance world-class safety; modernize our rail infrastructure; meet growing market demand; promote innovation; and to ensure transparency and accountability in all investments.

Q: Amtrak's authorization expires this year and we have already started holding hearings. When will we see a reauthorization proposal from the Administration?

Response:

I understand that the Administration's Budget Proposal is intended to serve as a blueprint for reauthorization and as a mechanism to enhance safety, modernize our infrastructure and workforce, meet growing market demand, and ensure transparency. If confirmed, I look forward to working with Congress on legislation to accomplish these important goals as soon as possible.

Q: What role do you think the private sector plays in supporting passenger and high-speed rail projects?

Response:

I recognize the critical role the private sector must play in improving the overall rail system. I am open to private sector investment and participation in high-speed rail corridors and projects. Private investment will likely be attracted to rail operations that are highly reliable and efficient, generating high ridership and producing an operating surplus. Therefore, the best way to encourage private investment is to execute projects successfully.

If confirmed, I look forward to working with Congress to ensure that all of the programmatic tools available to the Department of Transportation to encourage private investment are used to their fullest extent.

5. Rural Transportation

Rural areas face new transportation challenges. For example, the development of shale gas production in my state of West Virginia has provided positive economic outcomes. However, as I heard at a hearing last year on this issue, the development of this industry has also resulted in increased truck damage to roadways and rail traffic at unprotected grade crossings.

Q: In light of the vast industrial development in parts of West Virginia and rural areas across the country, how can DOT make sure that transportation infrastructure in rural areas receives the support it needs to be safe and in good repair?

Response:

I understand that rural areas are important economic generators that need transportation infrastructure. The example you describe in West Virginia illustrates the importance of a comprehensive approach to addressing the many challenges facing the U.S. transportation system. It is vital that we consider the specific needs of each community as Federal, State, and local governments work together to move this country forward. MAP-21, with its emphasis on data-driven, outcome-oriented investment in surface transportation, should result in more effective use of our transportation resources in urban and rural areas.

Additionally, I understand that safety on rural roads has long been a challenge and I am committed to finding ways to address this need.

If confirmed, I will work to improve transportation for all Americans living in rural and urban areas to support our economy and an improved quality of life.

Senator Rubio's QFRs for Mayor Foxx

1. Aviation is important to Florida's economy, particularly general and business aviation. It is a billion dollar industry in Florida, and my constituents can tell attest to how vital general aviation is to get around the state and to conduct business, particularly in rural areas. But my concern is that some of the rhetoric and policies coming out of this Administration would hurt general aviation, including the attacks on corporate jets and the proposed user fees. Every time these comments are made, it impacts the general aviation community, a community that goes beyond the "fat cats" in corporate jets that the Administration likes to invoke. It involves aircraft manufacturers, pilots, repair stations, flight schools, and all the jobs and communities tied to these businesses.
 - a. If confirmed, will you commit to work with the general aviation community and support the industry?
 - b. If confirmed, will you commit to avoiding rhetoric that would negatively impact the general aviation community?
 - c. Please explain your views on general aviation and whether you believe it is an important sector of our economy.

Response:

I understand that support for general aviation (GA) is part of the Administration's goal to invest in the Nation's transportation infrastructure, and I will work to support this effort, including continued direct support to airports, improved safety, airport access, and level of service for GA operators through the NextGen Air Transportation System, safety enhancements, and improving access to information data.

I recognize the critical role that GA plays in supporting jobs and generating significant economic activity for the country. If confirmed, I will work to support GA, and I look forward to opportunities to work with the GA community and industry moving forward.

2. Despite consistent rhetoric to the contrary, business aviation contributes significantly to our nation's economy. Each year, over \$150 billion are directly attributable to business aviation, which also provides over 1.2 million well-paying jobs. Unfortunately, many in Washington are under the false assumption that these tax incentives solely affect the wealthy. The tax depreciation of business aircraft are treated no different than investments in new equipment made by other types of business. Do you support changing the tax depreciation schedule for business aircraft, even though it could threaten an industry that supports so many good-paying US jobs?

Response:

I value the important contribution business aviation makes to the national economy. At the same time, I recognize that our Nation is faced with severe fiscal challenges that will require difficult choices balancing across all sectors of the economy.

3. The Administration has proposed \$100 per flight user fees. What is your position on aviation user fees?

Response:

I support the Administration's goal of achieving balanced deficit reduction without compromising a safe and efficient national infrastructure system. While I am not privy to the policy considerations that went into the Administration's FY 2014 budget proposal, this issue presents one of the many tough choices we face as a Nation. If confirmed, I will work with Congress and all of the relevant stakeholders on this issue.

4. In recent years there have been several cuts and proposed cuts to the FAA's Airport Improvement Program, which provides funds to airports for capital projects to enhance safety, capacity, and security. These include cuts to AIP to limit the impacts of sequestration, including the furloughs of air traffic controllers, as well as proposals to cut AIP in the President's budget, which are contingent upon finding another source of funding for airport projects. One alternative that has been suggested is allowing airports to increase their Passenger Facility Charge (PFC), which is a local fee used for airport capital projects. Would you support increasing the PFC?

Response:

The President's 2014 budget proposal includes an increase in allowable PFC collection authority per enplaned passenger for commercial service airports. This would give these airports greater flexibility to access capital funding sources with less reliance upon the Federal government. If all commercial service airports increase the PFC collection to the level proposed in the President's budget, that could generate significant additional annual funding sources for airport projects. This is one good option. As the President has said, and as I believe, if there are other ideas out there, they will be seriously considered.

5. If you are confirmed, a priority for DOT should be encouraging private sector initiatives and projects for all modes of transportation. With the funding issues facing transportation, the private sector must play a role in meeting our transportation challenges, and DOT will need to encourage public-private partnerships and private sector investment. One area of concern with respect to high costs is passenger rail. Currently, in Florida, there is an example of a private sector initiative to provide passenger rail: the All Aboard Florida project. If confirmed, will you commit to supporting private sector initiatives? Will you commit to reducing regulatory barriers and implementing expedited reviews of projects where the private sector is putting forth a viable project that will reduce the burden on taxpayers?

Response:

There is little doubt that private investment can play a critical role in expanding our Nation's transportation infrastructure. Public-private partnerships (PPPs) can offer an innovative new delivery approach for some of our country's most complex and challenging projects when they are appropriately structured, when they provide better value as compared to traditional public sector delivery approaches, and when the underlying projects are well-aligned with public policy objectives. DOT's recent experience demonstrates that, when creatively utilized, the flexibility afforded by Federal credit assistance can be a powerful catalyst for PPPs, including complex projects involving multiple public and private sector stakeholders.

The multi-modal TIGER program has also shown that many transportation infrastructure projects that have both public and private benefits and can be built quickly and effectively when the public and private sectors share the cost. The Crescent Corridor project, a multi-billion dollar collaboration between Norfolk Southern, the federal government, and several Southern States including North Carolina, will improve efficiency of freight moving through the Southeast, reducing carbon emissions and congestion on the interstate. It's a great example of how public and private investment can work together to improve our infrastructure.

The President's Rebuild America Partnership proposal recognizes the important role private sector investment can play in transportation infrastructure. It strengthens existing programs such as TIFIA and Private Activity Bonds and introduces America Fast Forward Bonds to ensure that we continue to incentivize private investment in transportation infrastructure. If confirmed, I will support these efforts wholeheartedly.

6. If you are confirmed, I encourage you to look closely at Amtrak's operations and find opportunities for the private sector to increase revenues so the burden on taxpayers can be lessened. One such area would be at finding a private sector partner to increase non-rail revenues along the corridor. An example is in my state – the All Aboard Florida passenger rail project is trying to meet this need. Will you look at reducing Amtrak's losses a priority during your tenure?

Response:

I am committed to delivering cost-effective transportation facilities for the American people and maximizing the benefits of public investment in Amtrak. I also support the President's Rebuild America Partnership proposal, which recognizes the important role private sector investment can play in transportation infrastructure. But while these partnerships have the potential to assist agencies in meeting significant funding challenges, they are not a panacea and we must also maintain a robust Federal program which encourages and incorporates appropriate private investment.

I understand that FRA closely monitors Amtrak's financial position. And, as described in the Presidents FY 2014 budget request, FRA has proposed a significant new approach to providing Federal funding for Amtrak. Under this proposal, Amtrak will be required to annually submit to FRA a five-year business plan for each business line. FRA would approve these plans, provide copies to Congress, and then manage Amtrak's grant against the plans. By allocating resources

based on multi-year planning and analysis, Amtrak can better prioritize and sequence investments to meet the needs of rail passengers across all services.

7. If confirmed, you will oversee the FAA, which in turn oversees commercial space launches and flights, which are obviously important to Florida's Space Coast. The FAA has the dual statutory responsibility to regulate and facilitate the commercial space industry. With the number of commercial space flights increasing and space tourism soon to be a reality, more regulations will be implemented to ensure the safety of passengers and the public, and that is important. But my priority is that the Department of Transportation and the FAA continue to abide by the duty to promote and encourage the industry.
 - a. Do you believe that the United State should continue to lead the world in space travel and exploration?

Response:

Absolutely. As the President has said, one of our central goals is to promote peaceful cooperation and collaboration in space, which not only will ward off conflict, but will help to expand our capacity to operate in orbit and beyond. As our reliance on satellites and other space-based technologies increases, so too does our responsibility to address challenges such as debris and other hazards. No longer is space just a destination to reach; it is a place where we must be able to work in ways that are responsible, sustainable, and safe. The American commercial space transportation industry is leading the world to safe, affordable access to low earth orbit. I will do everything I can as Secretary of Transportation to support that effort.

- b. If confirmed, will you work with NASA and the commercial industry, and ensure that DOT is fostering innovation and encouraging the development of cost-effective, commercial spaceflight capabilities?

Response:

Yes. I fully support the President's National Space Policy and believe that a robust and competitive commercial space sector is vital to continued progress in space. The United States is committed to encouraging and facilitating the growth of a U.S. commercial space sector that supports U.S. needs, is globally competitive, and advances U.S. leadership in generating new markets and innovation-driven entrepreneurship.

- c. How do you envision DOT, under your leadership, playing this role?

Response:

In order to encourage a robust American commercial space industry as the industry advances, I will work to ensure that DOT regulates only to the extent necessary to protect public health and safety, safety of property, and national security and foreign policy interest of the United States.

8. What is the appropriate federal role in transportation policy?

Response:

I believe the Federal Government has four key responsibilities in transportation policy. First, the Federal Government should take the lead in setting safety standards for the national transportation system. These standards should be set at the national level because it would be impossible for our transportation carriers to function efficiently if they encountered a new set of safety standards every time they crossed a State boundary.

Second, the Federal Government should take the lead in improving the efficiency and performance of our transportation system. The Federal Government should take the lead in funding research, data collection, performance measurement, and economic analysis that are essential to an efficient and productive national transportation system. The Federal Government should also take the lead in exploring new financing models (such as public-private partnerships) and contracting models that can speed the delivery and reduce the cost of transportation investments.

Third, the Federal Government should fund the infrastructure investment that is needed to improve the Nation's global competitiveness. This includes investing in rail to expand the speed and capacity of the transportation links that connect our cities, improved transit to get people to work faster in the cities that power so much of our economy, improved freight transportation that can carry our exports to our global trade partners, and new facilities and equipment like NextGen that can make our aviation and other transportation networks more efficient.

Fourth, the Federal Government has a role in setting the stage for national infrastructure priorities through collaborative planning. NextGen is a national priority, as is the development of a multi-modal national freight policy. This planning helps DOT, Congress, and transportation industries work together to ensure our national competitiveness.

We should advance these key priorities while paying attention to other important goals as well – making our transportation system environmentally sound, enhancing the livability of our communities, improving the resilience of our transportation infrastructure, and meeting the transportation requirements of national security.

9. If a citizen is engaged with a dispute with an agency within DOT, do you believe that the agency should act in good faith when resolving the dispute? If you are confirmed, will you commit to ensure that agencies, particularly the FAA, act in good faith when handling disputes and individual cases?

Response:

Yes, DOT agencies should always act in good faith when resolving a dispute with any citizen. If I am confirmed, I will commit to ensure that FAA and all modes of the DOT act in good faith when handling disputes and individual cases.

Senator Thune's QFRs for Mayor Foxx – Part 1

1. The Federal Motor Carrier Safety Administration's CSA (Compliance, Safety, Accountability) program is an enforcement and compliance model that targets motor carriers for safety reviews based on their scores in seven "BASICS". Many industry stakeholders have criticized CSA, and point to the fact that scores in some of the BASICS may not bear a statistical correlation to crash risk. They are also concerned about the publication of BASIC scores on the FMCSA website, and worry that it will cost some companies business unfairly. If confirmed, will you commit to conducting a comprehensive review of the CSA program?

Response:

Safety is my number one priority. I believe the FMCSA team is working to increase safety through the CSA program, and I look forward to working with them as they continue to enhance the program.

2. The Passenger Rail Investment and Improvement Act of 2008 (PRIIA) required that railroads install Positive Train Control (PTC) on all lines carrying passengers or toxic-by-inhalation materials, by December 31, 2015. Freight and passenger railroads have both expressed concerns about this mandate, and many railroads seem unlikely to meet the deadline. You worked with Norfolk Southern to construct the Charlotte Intermodal Regional Facility. During your work with them, did you ever discuss the PTC mandate? Would you support efforts in Congress to extend this deadline? How would you proceed if a freight or passenger railroad was unable to meet the deadline for PTC implementation?

Response:

I did not specifically discuss PTC with Norfolk Southern. While I am aware of industry and U.S. Department of Transportation (USDOT) concerns with the implementation schedule, this technology is Congressionally mandated. If confirmed, I would examine this issue carefully and work with the rail industry to ensure compliance as soon as possible. My approach on these issues would depend highly upon the circumstances. Under my leadership, the Department would work hard to be a good partner with industry, Congress, and other stakeholders to achieve compliance and the safety objectives of the statutory mandate as an initial priority precisely to obviate the need for enforcement activity.

3. In your Committee questionnaire you cite several examples of major transportation achievements you have made in Charlotte as mayor, including breaking ground on the Charlotte Streetcar Project, extension of the LYNX light rail system, the Charlotte Regional Intermodal Facility, and a third runway at Charlotte/Douglas International Airport. As you note, this was all done "despite the resource-constrained environment in which we have had to operate." Can you provide an overview on how you were able to finance these specific projects? Please include the total cost of each project, as well as the amount of funds the city, county, State, Federal Government, and private partnerships

contributed to each project. For Federal contributions, can you include the specific program these funds came from and if they were loans or grants (competitive, formula, or congressionally directed)?

Response:

In 2010, the City Council set aside \$12M in capital savings and submitted an application for an USDOT Urban Circulator grant, which we later received. The urban circulator grant (competitive) of \$24.99M was awarded in 2010, and the total cost of the project is \$37M.

The Lynx Blue Line Extension (BLE) is the newest light rail project in Charlotte and is scheduled for service in 2016/2017. The projected cost of the project is \$1.162B and is the largest single capital project in the history of Charlotte. The local match of \$281M will be paid for using the local transit sales tax. The state of North Carolina has agreed to provide \$299.1M in matching funds. We obtained a full funding grant agreement under the USDOT's New Starts Program of \$580M (competitive) to complete the project's funding.

Beyond these two projects, I initiated a transit funding working group composed of local business leaders, regional community leaders, and elected officials to develop a strategy for completing our transit plan, which is currently underfunded by \$4.5B. The final report was released in May 2013, and calls for an array of revenue sources to complete the region's 2030 Transit Plan, including expanded transit sales tax, increased use of tax increment financing, municipal service districts, and other private-public partnership tools. This report will be the blueprint from which future regional leaders will seek State legislative approval to move the transit system forward.

The Charlotte Intermodal Facility is a \$92M public-private partnership. The city of Charlotte offers lease terms to Norfolk Southern for more than 166 acres of land having a fair market value of \$9.7M. The annual lease payments will be ten percent of the fair market value. Norfolk Southern is also investing more than \$76M in direct expenditures to construct the facility, which is also supported by a \$15M grant from the Federal Rail Administration's Freight Intermodal Distribution Pilot Grant Program, which is administered by FHWA. The total cost of the intermodal facility is estimated at \$92M.

The third parallel runway was a \$200M project and was supported by local airport enterprise funds (\$70.3M), the North Carolina Department of Transportation (\$3M) and Federal grants (\$129.1M)—which as I understand it were funded through the Federal Aviation Administration's Airport Improvement Program.

4. When North Carolina received American Recovery and Reinvestment Act (ARRA) funds to build a high speed rail in your state, I understand that you led a bipartisan coalition of mayors to persuade the state legislature to accept the funding. Why did you decide to take on this cause, why do you think you were successful, and what was your biggest challenge?

Response:

North Carolina received \$461M of high-speed rail funds to pay for upgrades to tracks between Raleigh and Charlotte, to complete bridges and crossing safety improvements, to improve speed and reliability of passenger service, as well as station expansions in four cities along that path, and construction of a maintenance facility in Charlotte. Aside from these general statewide advantages, within the Charlotte area, the improvements benefit the Blue Line Extension and the proposed Red Line Commuter Rail from Center City Charlotte to the northern towns of Huntersville, Cornelius, and Davidson, reducing the cost of both projects. For example, the \$129 million NS/CSX Grade Separation project in Center City Charlotte, which primarily benefits freight and intercity passenger rail passing through the City, provides secondary benefits to the proposed Red Line Commuter Rail project. In other words, the value of the investment could be leveraged across multiple long-range and short-range rail capacity enhancements in our area. We were successful because local communities, both rural and urban, and political leaders, both Democratic and Republican, joined together and made a forceful case that the investments gave our state a competitive edge. Our biggest challenge was that the bill to reject high speed rail funds was moving fast, and we had to pull together the coalition quickly.

5. In your Committee questionnaire you mention that as a member of the U.S. Conference of Mayors (USCM) you participated in legislative matters brought before the Conference. Please provide a list of any of these matters that were transportation related and explain the level and nature of your participation.

Response:

I listed the USCM legislative agendas, which are approved annually by the full body of the Conference and always on a voice vote. The following are matters approved by the Conference during my tenure:

2010 Annual Meeting – Oklahoma City

Adopted Resolutions on Transportation and Communications:

http://usmayors.org/resolutions/78th_conference/AdoptedResolutionsFull.pdf

- INVESTING IN AMERICA’S EMERGING HIGH SPEED RAIL NETWORK
- THE TIGER GRANT PROGRAM
- IMPROVED TRANSIT FUNDING
- PROMOTING SUSTAINABILITY AND LOCAL ECONOMIES THROUGH PUBLIC TRANSIT
- STREETCAR RENAISSANCE AND LEADERSHIP
- CALLING ON THE OBAMA ADMINISTRATION TO CREATE AN OFFICE DEDICATED TO THE PROMULGATION OF SUSTAINABILITY PRINCIPLES PRACTICES AND POLICIES
- HUD, DOT, AND EPA PARTNERSHIP FOR SUSTAINABLE COMMUNITIES SUPPORT FOR SUSTAINABLE DEVELOPMENT IN CITIES
- AMERICA’S CLEAN, DOMESTIC, AND AFFORDABLE URBAN TRANSPORTATION SOLUTION

- RECOMMENDATIONS OF THE U.S. CONFERENCE OF MAYORS THAT A NATIONAL HIGH-SPEED AND INTERCITY PASSENGER RAIL FUNDING SOURCE BE INCLUDED IN THE SURFACE TRANSPORTATION REAUTHORIZATION

2011 Annual Meeting – Baltimore

Adopted Resolutions on Transportation and Communications:

http://usmayors.org/resolutions/79th_conference/AdoptedResolutionsFull.pdf

- IN SUPPORT OF THE PRESIDENT’S HIGH SPEED RAIL INITIATIVE
- A METROPOLITAN TRANSPORTATION REAUTHORIZATION
- ACCELERATION OF LOCALLY SPONSORED TRANSPORTATION PROJECTS IN THE FEDERAL PROGRAM THROUGH LOCAL GRANT ADMINISTRATION
“AMERICA FAST FORWARD: CREATING JOBS THE RIGHT WAY”
- IN SUPPORT OF INCREASING THE PASSENGER FACILITY CHARGE
- IN SUPPORT OF THE USE OF RED LIGHT AND SPEED SAFETY CAMERAS TO REDUCE INJURIES AND FATALITIES ON OUR NATION’S ROADS

2012 Annual Meeting – Orlando

Adopted Resolutions on Transportation and Communications:

http://usmayors.org/resolutions/80th_conference/

- FEDERAL FUNDING FOR PEDESTRIAN AND BICYCLE PROGRAMS
- IN SUPPORT OF ALTERNATIVE MODES OF TRANSPORTATION, SUCH AS BIKESHARING PROGRAMS, AS A MEANS TO INCREASE TRANSPORTATION MOBILITY AND MODE CHOICE
- STATE SUBSTITUTION FOR NEPA RESOLUTION
- CAPITAL INVESTMENT GRANT PROGRAM
- AMERICA FAST FORWARD: REBUILDING OUR INFRASTRUCTURE AND GENERATING JOBS
- IN SUPPORT OF HIGH SPEED RAIL
- NATIONAL EXPORTS AND PORTS POLICY
- REQUIRE THAT THE U.S. DEPARTMENT OF ENERGY FOCUS ON THE TREATMENT AND STORAGE OF RADIOACTIVE WASTE ON-SITE WHERE APPROPRIATE TO MITIGATE HEALTH AND ENVIRONMENTAL RISKS OF TRANSPORTING LOW, HIGH AND MIXED LEVEL WASTE TO OFFSITE TREATMENT FACILITIES
- SUPPORTING ELECTRIC VEHICLES

6. The Maritime Administration has indicated that as a result of sequester participants in the Maritime Security Program (MSP) will receive only part of their monthly stipend in August 2013, and will receive no stipend in September 2013. If confirmed, are there steps you can take as Secretary to prevent vessels from leaving the MSP, or to otherwise mitigate the impacts of sequester on the MSP?

Response:

If confirmed, I would make certain that all available funding in Fiscal Year 2013 is accounted for in order to be available to the agreement holders to minimize the shortfall in funding. I would also work to ensure that the Maritime Administration continues to engage in open dialogue with the MSP agreement holders so that they can adequately plan and prepare for any financial shortfall.

7. Are you familiar with the Federal Highway Administration's use of "Project Labor Agreements" on large scale Federal procurement projects? Do you feel that the way they are currently utilized is appropriate and beneficially to taxpayers?

Response:

In February 2009, President Obama issued Executive Order 13502 on the use of project labor agreements (PLA) for Federal construction contracts. I believe that PLAs are beneficial to taxpayers because they assist in promoting the economical, efficient, and timely completion of construction projects. The Executive Order specifically permits the use of project labor agreements in connection with large-scale construction projects receiving Federal financial assistance, including projects financed by the Federal Highway Administration.

8. The Federal government currently limits the length and weight of trucks on certain highways, and in many cases these laws simply do not make sense, and actually have a negative impact on safety, highway maintenance, and the State's economy. For example, in South Dakota, several two lane highways have been four laned since the 1991 LCV free took effect, yet LCVs are forced to use less safe two lane routes which were grandfathered, some of which increase trip lengths by hundreds of miles. Do you think it's time to reevaluate federal policy and consider allowing states to make commonsense changes to their size and weight regulations

Response:

I understand that Federal statutes limit the size and weight of trucks on certain highways. It is also my understanding, though, that the Department is currently conducting a comprehensive truck size and weight limits study that should help inform this exact issue. I understand that the Department is working hard to accommodate requests to maximize stakeholder input, provide for independent peer review, and ensure the highest degree of impartiality of the entities that will be assisting with the study. If confirmed, I am committed to ensuring that the Department will waste no time in advancing work that will ultimately produce a comprehensive, objective, and data-driven report to Congress.

9. Many motor carriers have begun conducting hair tests for drugs as they have found this testing method to be far superior to urine-based tests. In fact, these companies have found that a hair test is three times more likely to detect illegal drug use. Yet, the Department of Transportation will not accept the results of hair tests to meet regulated drug testing requirements. Knowing that hair tests can keep many more truck drivers who use illegal drugs off the road, do you think the Department of Transportation should encourage hair testing by allowing it to be used to meet regulated testing requirements?

Response:

If confirmed, I will follow the U.S. Department of Health and Human Services' (HHS) drug testing guidance, and if HHS decides to recognize hair testing, I will work with the motor carrier and other regulated industries and all other affected parties to determine how to use hair testing to meet the Department's drug testing requirements.

10. In the past year both the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have taken the position that the *Buy America Act* applies to utility relocation work. In the case of FHWA, it appears that the agency would extend the *Buy America Act* requirements to projects being funded directly by cities or municipalities if the utility relocation project is related to a federally-funded project. Do you believe that the *Buy America Act* requirements should apply to utility relocations? If you are confirmed, would you commit to reviewing the current status of the FHWA and FTA interpretations of *Buy America*?

Response:

I agree with supporting American workers. I further understand that MAP-21 amended the Buy America statute, and, those amendments have been interpreted to broaden the application of Buy America requirements to any contract eligible for Federal highway funding within the scope of an applicable National Environmental Policy Act document regardless of the contract's funding source, including utility relocation work even when not paid for with Federal-aid funds. I understand that Secretary LaHood has heard from concerned stakeholders about this issue. If confirmed, I will also engage stakeholders, and I would be happy to meet with you to discuss the Department's implementation of the provision.

11. As you know, MAP-21 replaced the Indian Reservation Roads Program with the Tribal Transportation Program and the Indian Reservation Roads Inventory was replaced with the National Tribal Transportation Facility Inventory (NTTFI). Can you provide the Committee with an update on recent actions of the Federal Highway Administration (FHWA) and the Bureau of Indian Affairs (BIA) to consult with tribes under this new program as well as the actions of the respective departments to update regulations used to determine the eligibility of roads to be added to, or remain in, the NTTFI? Can you also provide the Committee with information regarding the NTTFI quality assurance review and ongoing actions to improve the accuracy of the NTTFI? Can you provide a timeline for when the FHWA and BIA estimates a formal rulemaking will be completed for new regulations necessary under MAP-21, including those concerning the NTTFI, and when additional consultations will take place?

Response:

Although I am not privy to the specific actions the FHWA and the BIA have taken to date, I am aware that the two agencies are facilitating discussions with Tribes under this new program in an effort to ensure meaningful consultation regarding the new program and the inventory. These are important discussions to have, and if confirmed, I am committed to ensuring that the necessary government-to-government dialogue continues and that any required rulemakings are

completed as expeditiously as possible, taking into consideration tribal consultation and all public comments received.

Senator Thune's QFRs for Mayor Foxx – Part 2

1. The Committee would like to understand obligation patterns for the programs of the Federal Aviation Administration (FAA). Please provide actual obligations for the last quarter of FY 2012 as well as the first two quarters of FY 2013 and estimated obligations for the remaining two quarters. Please provide this information by line of business and account.

Response

As a nominee, I am not personally familiar with the information requested but I understand that the Department and FAA have been in communication with your office on this request and have worked out an agreement.

2. As a result of the sequester which contracts were amended and what were the costs associated with these contract adjustments? What methodology did FAA utilize to revise contracts given the sequester? Have contracts been amended to include new language to give FAA the flexibility to adjust contracts subject to the availability of funds?

Response

As a nominee, I am not personally familiar with the specific information requested but I understand that DOT and FAA have been in communication with your staff on this request and will be providing information about the process used to review contracts for potential reductions. I am told that the majority of actions FAA has taken to date did not require contract modifications, but instead were decisions not to award new task orders or additional funding on existing contracts and not to award new contracts. I am informed that all FAA contracts, regardless of contract type, include clauses granting the agency flexibility in response to the availability of funding. I am informed that these clauses were included at award.

3. It has been reported that FAA contracts are susceptible to mismanagement and, as a result, can experience large budget overruns. What methodology is currently in use to safeguard against such mismanagement in the future? What new methods are being explored to safeguard against budget overruns?

Response

As a nominee, I am not personally familiar with the methodologies requested. I am informed that FAA has taken a multifaceted approach to contract management. I understand that methods include formal pre- and post-awards reviews by the FAA's finance, acquisition, and information technology offices, oversight of all significant acquisitions by the FAA's investment review board, and improved training of acquisition personnel. I am told that the FAA also uses earned value management and a variety of data mining techniques and metrics to monitor its contracts and look for opportunities for cost savings as well as detect possible problems. I am informed that effective review of proposed acquisitions, especially requirements for support services has allowed FAA to reduce redundant requirements/solutions, ensure programs have adequate

controls established to administer contracts and reduce overall agency risk associated with major acquisitions.

4. What other savings was realized due to the sequester that would impact the FAA's FY 2014 budget? What long term plans are in place to reflect a further commitment to finding savings in the FAA budget? Please provide this detail by account and by line of business.

Response

As a nominee, I am not personally familiar with the specific information requested regarding savings in the FAA budget that would impact the FY2014 budget. Unless we find a solution to sequestration, FAA will again be faced with making difficult choices in order to operate at a reduced funding level in FY 2014. If confirmed, I look forward to working with you, other members of Congress, and the Administration to find a solution to replace the across-the-board budget cuts mandated under sequestration with balanced deficit reduction that restores critical services to the American public. Even if we do not reach such a solution, I am committed to working with you to make every effort to preserve safety and efficiency of our national airspace system as we implement these painful cuts.

5. FAA has indicated that in January 2013, the Agency granted "pay increases" (including, but not limited to OSIs, SCIs, and cash awards) to a quarter of the agency's 45,000 employees. When were these increases approved, and what was the total dollar amount provided in January? (Please provide details on the breakout by appropriations account and by line of business.)

Response

As a nominee, I am not personally familiar with the specifics of this decision. I understand, however, that in 1996, Congress passed a law directing the FAA to create a compensation system that provided greater flexibility to address the "unique demands on the agency's workforce." In response to this directive, I understand that the FAA replaced the general schedule pay scale with a compensation system designed to incorporate pay for performance measures in order to operate more efficiently and effectively as an organization. Under FAA's Core Compensation system, general increases, longevity-based step increases, and quality step increases paid under the Federal General Schedule system were eliminated and replaced with two new types of annual performance-based increases: Organizational Success Increase (OSI) and Superior Contribution Increase (SCI). Using OSI and SCI, FAA ties agency performance and individual performance to employee annual pay.

I am informed that in January 2013, in accordance with the Core Compensation system, approximately one quarter of FAA's 47,000 employees and operational managers received a small pay increase averaging 1.6 percent.

6. It is our understanding that as a result of collective bargaining agreements with employee unions, many FAA employees will receive 1.6 percent pay increases this June unless a prohibition of within grade step increases is enacted by statute. What is the projected cost of

these pay increases for FY 2013 and FY 2014 that are guaranteed by the union contracts? Will the FAA need to adjust any spending plans to accommodate such pay increases? Given the tight budget environment for the foreseeable future, how will you balance employees' requests for higher pay with the need to deliver a safe and efficient national airspace system within budget realities?

Response

While I am not familiar with the details of these agreements, I am informed that approximately 25,000 FAA employees, including air traffic controllers, technicians, and engineers, will receive pay increases this June as required under their collective bargaining agreements. A core component of preserving our safe and efficient national airspace system is ensuring we retain a qualified, well-trained workforce.

7. It is our understanding that reemployed annuitants and term employees were separated from service due to the sequester. How many of these types of employees did the FAA and DOT have? How many were separated? How much money did those separations save the FAA and DOT compared to full time employees?

Response

As a nominee, I do not have personal knowledge of the facts requested. However, I understand, as of today, 168 of FAA's temporary employees and re-employed annuitants have separated from service due to the agency's mitigating actions put in place after the sequester's mandatory budget cuts were imposed. I am further advised that the estimated FY 2013 cost savings for separations of FAA temporary employees and re-employed annuitants is \$4.9 million in the Operations Account and \$ 263 thousand in Facilities and Equipment.

8. The Charlotte Douglas International Airport (CLT) control controversy has been referred to in the press as your "biggest struggle as mayor." This March, a bill passed the North Carolina Senate, and is expected to pass the House, to remove Charlotte Douglas International Airport from city control and hand it over to a regional authority. In May, a city-commissioned report by independent consultant Oliver Wyman also concluded that the airport should be governed by an independent authority, citing reduced political involvement in airport management and greater assurances that airport spending avoids expanding from government influence.
 - a. Can you explain why an independent consultant hired by the city and the North Carolina Senate both proposed to transfer control of the airport away from the City of Charlotte now, after the City has successfully run the airport for over 50 years?

Response

The North Carolina State Legislature appears to be on a path of converting all major airports within the State authorities. I note that similar legislation was passed last year to convert the

city-controlled Asheville airport into an authority. Having interviewed all stakeholders and considered the reasons offered by proponents of changing airport control, the independent consultant found:

It is important to stress that our conclusion as to the best form of governance for the Charlotte Airport is not based on any real or perceived wrong-doing, mismanagement, or other failing by the City of Charlotte. In fact, just the opposite. As is well-recognized, the Airport has thrived under City management, with the lowest costs among peers, a high customer service ranking, and proven ability to plan and execute capital expansion and improvement programs. The Airport has continued to innovate, from rocking chairs to restroom attendants, to the intermodal rail facility. Furthermore, during our interviews, we did not detect any suggestion that the Airport suffers from the issues/problems that have triggered additional oversight and governance changes at other airports, such as patronage, political favoritism, or contracting irregularities.

The report further finds that the airport is “the most unlikely candidate for a change in governance than any of its peers.” Having reviewed the report, I believe the consultant reached a conclusion that an authority is an industry best practice and should be considered by the city irrespective of the current legislative effort.

9. In April, a Wall Street Journal editorial listed ways in which the City of Charlotte proposed to increase operating expenses and taxes at CLT airport, increasing air travel costs and potentially jeopardizing the airport’s status as a hub.
 - a. In a constrained sequestration budget environment, if confirmed will you ensure that airport operating expenses are minimized by maintaining vigilant oversight and enforcement of the law prohibiting airport revenue diversion? For example, would it be inappropriate to be build a rail yard for a city streetcar line on airport property using airport funds?

Response

To the first question, yes. Again, the Charlotte-Douglas International Airport remains one of the lowest cost, highest efficiency airports in the United States and recent cost concerns arose from a well-known, widely-publicized security breach in which a loss of life occurred. If anything, this should reinforce the importance I have placed on safety. Further, under my stewardship of the airport, there has not been a single instance of airport funds being diverted for a non-airport purpose. On the second question, I have supported using airport grounds for rail yards, as the aforementioned intermodal facility attests. Having said that, I am not aware of an instance in which Charlotte or any other city has ever proposed putting a “rail yard for a streetcar line” on an airport premises. There are, however, many positive instances of airports employing transit—either by bus or rail—to *connect* airport users to cities. If confirmed and presented with a request to use limited funds to support a transit connection to an airport, I would be guided by all applicable statutes, rules and regulations as well as competing proposals and national aviation needs in assessing whether to support such a connection.

Senator Wicker's QFRs for Mayor Foxx

1. The future success of America's transportation system depends on its ability to connect all corners of America. If confirmed, what do you plan to do in order to ensure that America's transportation system serves all Americans, regardless of whether they live in urban or rural America?

Response:

The desire for safe, affordable, and accessible transportation is shared by every American community, whether urban, suburban, or rural. If confirmed as Secretary, I will work to ensure that America's transportation system works for all Americans, not just those located in certain areas of the country. To accomplish this objective, I will work within the Department's Modal Administrations, stakeholders, and the public to develop policies and programs that provide states, MPOs, and communities a menu of options to consider when deciding whether to plan or implement transportation projects. This will ensure that the transportation resources and tools needed to address economic, environmental and social concerns for all communities are available and in-use.

One great challenge we face is developing consensus in working on effective and appropriate ways to fund these investments. If confirmed, I look forward to working with you, the Administration, with Congress, and other stakeholders to address this critical issue.

I am aware that MAP-21 provides new opportunities for the Department to connect all corners of America. The consolidation of existing programs and creation of new programs should help the Department strengthen our transportation system and better serve the American public. Like those in large metropolitan areas, rural Americans greatly depend on transit to access schools, jobs and job training. Our transportation system must meet the demands of a growing economy and provide efficiency in the movement of people and goods. Under my leadership, the Department will continue to focus on meeting the needs of large and small cities and rural areas.

2. The Reducing Flight Delays Act gave the FAA increased flexibility to fund air traffic controllers, contract towers, and other vital FAA programs. The act's passage showed that we can prioritize and make modest savings in our non-defense budget without inflicting painful service disruptions. Sadly this provided only a short term solution in our continually constrained budget environment. How do you plan to implement sequestration budget cuts across the department without service disruptions, furloughs, or cuts to important cost effective safety programs, such as the Federal Contract Tower Program?

Response:

Safety is my number one priority. If confirmed, I will thoroughly review each Operating Administration's budget controls to ensure safety remains our top priority, and I look forward to working with Congress to ensure that transportation safety is not compromised due to sequestration. While the flexibility in the Reducing Flight Delays Act allowed the FAA to

maintain its core safety functions, I am concerned that the cuts made to system modernization projects and airport improvement projects removes capital dollars that may not be replenished.

3. The maritime industry is by far the most economical form of domestic transportation, moving more than 1 billion tons of cargo annually at a fraction of the cost of other modes. The domestic maritime industry transports one-quarter of America's domestic cargo for just 2 percent of the national freight bill. America's domestic shipping industry is responsible for nearly 500,000 jobs and more than \$100 billion in annual economic output. All of these advantages are dependent upon the Jones Act. I am interested in hearing your views on this important issue.

Response:

If confirmed, I will continue the Department's strong and historic support of compliance with the Jones Act.

I would also work to ensure that we have maximum use of the Jones Act fleet and that waivers are issued only when U.S.-flag vessels are unavailable. In addition, I would carry out the direction Congress has provided in legislation to maximize the use of U.S.-flag vessels in any future drawdown of the Strategic Petroleum Reserve (SPR) and to improve transparency related to any waivers of the Jones Act.

4. The Maritime Administration is responsible for administering the Maritime Security Program, which was recently reauthorized through 2025 in last year's NDAA. Under the reauthorized program, the Department of Defense will continue to have access to the U.S.-flag commercial assets – ships, mariners, and intermodal logistics networks - that transported 95% of the DOD supplies transported during Operation Iraqi Freedom and Operation Enduring Freedom. What is your position on the reauthorized MSP program and its importance to the maintenance of the U.S.-flag fleet?

Response:

I understand the importance of the MSP program to the maintenance of the U.S.-flag fleet and fully support it. I further understand that the Department worked with Congress to ensure extension of the MSP as part of the National Defense Authorization Act of 2013, due to the critical importance of this program that maintains an international trading U.S.-flag fleet, owned and operated by U.S.-citizen companies and mariners. At the present time, MSP carriers are considering committing to this new 10-year agreement extension to 2025. This long term commitment to 2025 of sealift and intermodal capability would be a significant decision given reduced government impelled cargos as a result of the military drawdown in Afghanistan and lower agricultural cargo levels. If confirmed, I would work hard to ensure the long term stability of the MSP program.