

**SAFETEA: REAUTHORIZATION OF SURFACE
TRANSPORTATION PROGRAMS**

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE

OF THE

COMMITTEE ON ENVIRONMENT AND
PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

—————
MAY 20, 2003
—————

ON

S. 1072

A BILL TO AUTHORIZE FUNDS FOR FEDERAL-AID HIGHWAYS, HIGHWAY
SAFETY PROGRAMS, AND TRANSIT PROGRAMS, AND FOR OTHER PUR-
POSES

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SAFETEA: REAUTHORIZATION OF SURFACE TRANSPORTATION PROGRAMS

TUESDAY, MAY 20, 2003

U.S. SENATE,
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:02 p.m. in room 406, Senate Dirksen Building, the Hon. Christopher S. Bond [chairman of the subcommittee] presiding.

Present: Senators Bond, Thomas, Chafee, Reid, Baucus, Carper, Wyden, Jeffords [ex officio] and Inhofe [ex officio].

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. The hearing will come to order.

Senator Bond has been delayed. He has indicated for us to go ahead and get started.

I look forward to hearing testimony from my former colleague, Secretary Mineta. He and I served together for 8 years in the House. I want my Democratic friends to hear this. I was so close to Congressman Mineta that I even attended his fund raisers back when he had Republicans who were running against him. I was delighted to find out that you had accepted this appointment. You have done a great job.

I will say the same thing about Mary Peters. I believe that you are not testifying today. When we had our problem with the I-40 bridge collapsing, she was there hours afterwards. Everything went like clock work. We have a great team.

S. 1072, SAFETEA, does do a good job of building on many key elements of ISTEA and TEA-21. In particular, I am pleased with your efforts in creating increased flexibility for the States by eliminating most of the discretionary highway grant programs, thereby making these funds available to the States through the core formula grant programs.

As a former mayor and State legislator, I understand the frustration of State officials in Washington who dictate to them how to spend their money. Your proposal continues to build on a very important principle.

I also appreciate the effort you made in addressing a concern that has been expressed by this committee on several occasions, that being improvement in project delivery or environmental streamlining. That is very important to us. Your ideas are certainly

a starting point for the committee's further discussion on this important issue.

Finally, on an issue that we have heard so much about during our hearings last year on safety puts some very interesting ideas on the table with respect to freight movement and the need to use innovative financing to address the increasing demand that freight puts on the transportation infrastructure.

In the 107th Congress I joined Senator Bob Smith in introducing a private activity bond proposal. I am pleased to see that you included private activity bonds as a possible financing tool available to States and local governments. However, I am not satisfied with the level of funding, as we discussed before. The primary purpose of Federal spending, in my opinion, No. 1, is for national defense, and No. 2, on infrastructure.

As much as it pains me to say this, I believe that SAFETEA does not provide sufficient funding to maintain our nation's infrastructure, much less improve it. The Federal Highway Administration's recent 2002 Status of the nation's Highways, Bridges, and Transit Conditions and Performance Report states the following:

"Maintaining the overall conditions in performance of highways and bridges at current level would require significantly more investment by all levels of Government. The average annual investment needs to be 17.5 percent higher."

Again, the report goes on to say that we do need to have what I believe is more than is being presented to us today. We are looking forward to hearing your testimony and to working with you so that we can come out with a real good bill.

Thank you, Mr. Chairman.

Senator BOND. Thank you, Senator Inhofe. My apologies for arriving late. I am moving a little slower, not due to congestion but to operations. I appreciate your being here. I am going to defer to my colleague, the ranking member on the committee, Senator Reid.

**OPENING STATEMENT OF HON. HARRY REID, U.S. SENATOR
FROM THE STATE OF NEVADA**

Senator REID. Thank you very much, Senator Bond.

I also want to welcome my former colleague in the House, Senator Mineta, and my neighbor from Arizona, Mary Peters, to the committee.

As we meet today, we are preparing for a summer full of challenges and opportunities as we face reauthorization in the nation's surface transportation program. The Administration's reauthorization proposal is an important part of this process. I agree with the Secretary's testimony, which I have reviewed, that transportation has an enormous impact on the economy and our quality of life. And that is an understatement.

I have always been a proponent of infrastructure investment and economic stimulus and the jobs it creates. Prior to 9/11 I had legislation that had been unanimously approved by the National Council of Mayors. It was moving right along which would have had an infrastructure development program for this country.

I am impressed every time I recognize that for every billion we spend on transportation infrastructure we create 47,000 well-paid jobs. TEA-21 reauthorization represents a tremendous opportunity

for us to impact our economy in a meaningful lasting way. Unfortunately, the Administration's reauthorization proposal does not take full advantage of this opportunity. While the bill continues the spirit of its predecessors, ISTEA and TEA-21, the bill is woefully under funded. The Administration bill takes the important first step of identifying problem areas, such as safety and congestion, but then fails to provide the necessary resource to make a real and substantial impact in these areas.

Despite a reduction of the fatality rate over the last decade, far too many people die in traffic accidents each year. A disproportionate share of these fatalities is on rural roads. Congestion continues to plague our major metropolitan areas, causing millions of Americans to lose billions of dollars in lost time and productivity while they sit in traffic.

Adequately addressing these problems will require a substantially more Federal investment than the Administration appears willing to make in its reauthorization proposal. This bill's proposed funding system does not come close to meeting the Administration's own cost estimates for system maintenance, let alone system improvements. The Administration's bill also would modify certain environmental provisions and project permitting requirements. TEA-21 and its predecessor prove that we can advance our national transportation goals while preserving the environment.

I will not support any provision that undermines essential environmental protections. We can increase investment in and improve our nation's surface transportation system in a timely, thoughtful, and effective way without jeopardizing the environment. I repeat that a strong twenty-first century economy requires a well-maintained, well-operated national surface transportation system. The still lagging American economy needs a stimulus in jobs created by sustained robust investment in this system. This investment will benefit every business, large and small, and improve the quality of life for every American.

Let me just say that I look forward to working with the distinguished chairman of this subcommittee, Senator Bond, who has had experience as Governor of one of the largest States we have in the union, and who understands the importance of this legislation.

I, of course, also recognize, seated to my left, Senator Baucus, who has been chairman of this committee, and was responsible for helping usher in the last two transportation bills we have. He has wisdom and has helped in working this bill through the Congress this year. Hopefully we can do it this year.

Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Reid.

I thank my colleagues for their comments. I share those views.

We are supposed to have a vote at 2:20 p.m. I am going to suggest to the chairman of the full committee that we go over and catch the first of that vote. We will try to keep this going as long as we can, so we will not have any unnecessary interruptions. I ask that the members either go early and come back, or go over late.

I do want to add a few things.

Senator BAUCUS. Mr. Chairman, at some point I would like to give a statement. When would be an appropriate time?

Senator BOND. Right after my statement.
Senator BAUCUS. That would be fine.

**OPENING STATEMENT OF HON. CHRISTOPHER S. BOND,
U.S. SENATOR FROM THE STATE OF MISSOURI**

Senator BOND. We will certainly entertain your statement.

I want to thank the Secretary of Transportation, Norman Mineta, for being here today. We appreciate very much your bringing a copy of the bill. We have had a bootleg copy of it for some time. It is nice to finally have the version that OMB let out.

As I indicated, in February when Federal Highway Administration Peters appeared before this subcommittee, I was very disappointed in what I view as the inadequate level of funding made available. The needs of Missouri fall in line with the Department of Transportation's Conditions and Performance Report, which estimates that the annual Federal investment in roads must increase by 17 percent per year simply to maintain the nation's existing highway and bridge system.

Improving the system would require 65 percent more than is currently invested. Funding is going to have to be the greatest area of emphasis in the Senate if we are to achieve our goal of having a 6-year reauthorization package sent to the President prior to the September 30th expiration date.

The funding levels assumed in your reauthorization proposal would make it impossible for our committee to draft a bill. For this reason, I, along with our chairman and ranking member, and the subcommittee ranking member, have already concluded that we will draft our bill at \$255 billion, as supported by 79 Senators during our debate on the Senate budget resolution.

I am pleased that the Administration's draft include spending down the Highway Trust Fund balances, sparring economic growth through additional revenue. I believe that we must spend the balances down even further over the life of the next authorization to create even greater revenue and jobs.

Two-lane roads with traffic for the interstate are our major killers. That is a fact of life in Missouri. If you talk about safety, I can show you the white crosses where somebody came across a center line on a two-lane highway. They are all over our State. Wherever we are. We do not have to go far to find one.

Your proposal continues what I, along with the Senator Chafee referred to as the Bond-Chafee Revenue Aligned Budget Authority, RABA, proposal. I look forward to working with the Administration and this committee to refine the ups and downs we have seen through RABA and TEA-21.

With the shortfalls of funding in many States throughout the Nation, the provision to toll the interstate is a tool which I think is appropriate to have in these fiscally constrained times. Our States need to be able to add additional capacity. It appears to me that toll financing is the best alternative way to enable cash-strapped States to do so.

We have heard in testimony by the Administration that nearly 43,000 people are killed on our highways and roads each year. The Administration has proposed a new safety core program, and even

entitled its reauthorization package to continue their commitments to our motoring public safety.

I am glad the bill reflects our continued commitment, making not only investments in infrastructure, but also to the general safety and welfare of our constituents. There have been many discussions regarding the State infrastructure bank program. I, too, am happy to see that the Administration is proposing to continue with the current program as it was authorized in TEA-21.

I understand that of the five States authorized in TEA-21, only my State, Missouri, as well as Florida, have agreed to utilize the funding from TEA-21, and are doing very well with their infrastructure bank program. Even though the Administration's draft suggests that these two States would likely be accepted as pilot States under the Secretary's criteria, I intend to propose that they be allowed to continue in the same positive manner in which they have operated over the previous 6-year authorization.

Research is an area which is very important to our national interest in maintaining our position and providing cutting edge technology. The University Transportation Centers, or UTC programs, provide necessary dollars to this mission in the area of higher education. I am pleased that the University of Missouri at Rolla was recognized as a UTC to address national needs in the areas of transportation infrastructure, focusing on advanced materials and nondestructive technologies, or NDT.

This involves: One, development, understanding, manufacturing, and use of new, more durable construction material and NDT methods. Two, installation processes and engineering designs. Three, monitoring and evaluation of new and repaired structures. Four, standardization and code approval of products and design protocols. And, five, education and technology transfers.

We certainly want to make sure that we have universities involved in transportation research. The Administration's bill contains several environmental provisions as well. Stakeholders on all sides of the issues tell us that improvements are needed in the way we develop and review projects and protect air quality from new and existing projects. The committee is working with groups as diverse as road builders, environmental advocates such as Environmental Defense and NRDC, State air agencies, State transportation agencies, metropolitan planning organizations, conservation advocates, and managed growth proponents.

We are working to draw ideas from all stakeholders and their proposals. We hope to find a balanced approach that will produce better transportation projects delivered on time and under budget. We will also ensure a conformity process that is more efficient and less burdensome, and does more to encourage air quality improvements and is equally protective of air quality.

Unfortunately, there are a number of proposals in the bill, however, that I cannot support. While we face a number of complex challenges with the movement of freight, I do not think we should be using highway dollars to help facilitate the rail industry. The Administration bill proposes a new freight transportation gateways program which will allow the use of surface transportation program dollars, as well as national highway system dollars. This means less dollars for our roads, despite the ever growing number of needs

identified in the Conditions and Performance Report by the Federal Highway Administration. I am pleased, at least though, that the Administration does not include the Highway Trust Fund dollars for passenger rail or Amtrack. As I stated earlier, I am glad that we received the Administration's bill and moving forward with reauthorization.

We have our work cut out for us in drafting a proposal even at the higher level of \$255 billion. The Senate number is really \$231 billion for highways as identified in the final budget resolution. While \$231 billion for highways is higher than what you proposed today, it will be difficult to address all the various issues that members of this committee would like to see done in this reauthorization period without additional revenue.

I look forward to working with the Administration to draft a bill that will improve the overall condition of our nation's highways and congestion. I look forward to your testimony.

Senator Baucus, I would like to give you and Senator Thomas the opportunity to give opening statements before leaving for the vote. I recognize you.

**OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR
FROM THE STATE OF MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman. Thank you for moving expeditiously on this bill. This is very important and I very much hope that we can get a bill passed this year and not have to resort to an extension of current law, but rather move and get a bill passed.

Mr. Chairman, I would first like to welcome our friend, Secretary Mineta, a great public servant, whom we have known for a long time. I personally first met and worked with the Secretary when I was a member of the other body. I worked with him very well. In fact, I might say, Mr. Chairman, that we are both from that infamous Watergate Class. We are very proud of that. Atlanta is very proud of the contributions that Congressman Mineta made to that class, rising even further than most of us. I deeply appreciate all the work that you have done, Norm, in service to your country.

The same goes for Mary Peters. She works very hard at the Federal Highway Administration. She does an excellent job, previously helping on the airline side of things and now with the highways as the FHA Administrator. I commend you, Mary, for all that you are doing.

I know that both of you personally work very hard, and these programs mean a lot to you. You serve our country with the utmost conscientiousness and good faith. We appreciate that very much.

I must say that I wish that we were meeting under happier times. I do not know anybody on this committee who agrees with your Administration's proposals. As you well know, they are dramatically under funded. There is no way in the world we can maintain a highway system at such low paltry levels as recommended by the Administration.

As you well know, your Administration's own Conditions and Performance Report indicates that an annual investment of \$75 billion in highway and transit capital infrastructure is needed in order to begin to improve the condition of our nation's highways,

bridges, and transit systems. The Administration's bill falls woefully short of that number, with \$247 billion in funding over 6 years. That is \$201 billion for highways and it calculates to about half on an annual basis of what the Department's own needs study recommends. It is extremely low.

I must say, too, if we take a quick trip to the Bureau of Labor Statistics and look at their CPI inflation indicator, that says that TEA-21's \$217.8 billion in authorization in 1998 dollars would be only \$246 billion in 2003 dollars. That is a net growth of \$1.3 billion over 6 years in inflation-adjusted dollars, or just over one-half of 1 percent over 6 years on an annual basis. I calculate that to come out to an eight-hundredth of 1 percent increase in real terms that the Administration is proposing in real terms. Clearly, for fuel, for contractors, asphalt, aggregate, equipment, salaries, overhead—you name it. It is going to be much more than eight-hundredth of 1 percent annually.

This is moving backwards very significantly. Frankly it is an embarrassment. It is an embarrassment for all of us here in the committee to receive a proposal by the Administration that moves so far backwards in terms of the needs that this country faces in its infrastructure.

We all know that spending dollars for quality infrastructure increases the competitiveness of our country, enhances our productivity, and its jobs. In my State of Montana that is 11,000 jobs. You know the rule of thumb. One billion dollars translates into 47 million jobs. We get a little over a quarter of a billion. That translates to 11,000 jobs. Those are good paying jobs. That is desperately needed in my State.

We in Montana are about 49th in per capita income. We are hurting. We are a very big State, the fourth largest in the Nation. We have more Federal highway miles per capita than any other State in the Nation. This is critically important. For the Administration to come up here and tell us that we are going to go backwards in real terms, just makes no sense whatsoever.

I might also say, Mr. Chairman, I appreciate your words that this level is inadequate. Those are also the words of the chairman of the full committee. I believe they are going to be the views of virtually everybody in this committee.

I want to help accommodate my good friend from Wyoming. I will not finish the rest of my statement except to say briefly that the addition of the two other categories, the basic core of five categories, is a mystery to me. Why we add off-the-shelf or safety as a separate category is a mystery. We already have safety provisions very deeply imbedded in TEA-21, in the core programs already. The sixth category takes money away from the five core categories, as paltry as those are currently financed in the bill anyway. This just does not make any sense to me.

The off-the-shelf makes no sense to me. What we are really trying to get at is streamlining generally and to make sure that these projects are not hung up. There are some projects off-the-shelf. I see no sense equating a separate category for off-the-shelf. Rather, our goal is to increase streamlining throughout all the core programs, not just the off-the-shelf.

You know the history this committee has had with the Department. It has been very dismal, if I may be blunt. It is has been dismal because many times over the years we have asked the Department to come up with some meaningful environmental streamlining. The Department has come back with the most complicated charts I could ever imagine. They are the most complicated things I have ever seen.

Many of us in the Senate believe it is important to direct the Department to come up with certain dates and deadlines by which decisions are made, and also to make DOT the lead agency. There is no lead agency now. This would also make it possible for States to be able to take over some significant aspects of the program. Your recommendation contains insignificant aspects.

I am surprised, too, at the lack of creativity in financing. Why in the world you do not recommend interest on the Trust Fund go to the Trust Fund is beyond me. Why in the world do you not go further in addressing the fuel tax evasion? That is beyond me. Why in the world do you not address the ethanol subsidy now subsidized by the Trust Fund. It should be subsidized by the general fund. That is beyond me.

The consequence of all that is very low funding recommendation which is way less than this country needs. It would be a very significant disservice to this country if this Congress were to adopt the Administration's proposal. We would be moving backwards.

I hope very much that the Administration understands that as the Congress works to provide the correct and right levels of funding. The Administration has to work with us and not work against us.

Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Baucus.

Senator Thomas?

**OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR
FROM THE STATE OF WYOMING**

Senator THOMAS. Thank you, Mr. Chairman. I guess we have all served together, Mr. Secretary, in the House. I will be very brief because I think you ought to have a chance to say something. I am pleased that you are here to talk about this important issue. Certainly all of us agree that more money needs to be available and we will find a way to do that. I hope that we can find more flexibility in the CMAQ program, or flexibility in general. States like Wyoming are much different than States like New York. We need to have some opportunities to do that.

I would also be interested in the increase in the cost of the Administration which seems to be substantially higher. Since most everything has been said. We are anxious to hear from you and to move forward and put together a program that will fit throughout the country and will fit our budget, and we can do the things we hope to be able to do.

Thank you very much for being here.

Senator BOND. Thank you very much, Senator Thomas.

I am now going to include in the record a statement by Senator Warner in which he raises some very useful points. I hope you will

have an opportunity to review that. We certainly will consider it in this committee.

[The prepared statement of Senator Warner follows:]

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Good afternoon, Mr. Secretary, I want to join my colleagues in welcoming you to the committee this afternoon to discuss the President's proposals for reauthorizing our nation's surface transportation laws.

It was my privilege to work extensively with many of my colleagues on TEA-21 as the subcommittee chairman at that time. Today, I remain as committed today to ensuring that there is adequate funding to meet our surface transportation needs, to improving the safety of the traveling public, and to ensuring that our agricultural products and manufacturing goods can travel efficiently across this country.

We look forward to learning of your proposals, and I certainly have a few ideas of my own. As you are well aware, many of us, including myself, have strong views about the funding level that is needed to maintain an adequate level of service on our nation's highways and transit systems. This is a matter that we will not resolve today, but I assure you that I want to have an open dialog with you and the Department as we continue to examine ways to ensure the viability of the Highway Trust Fund. I commend the Administration for taking the initial step of allowing for the transfer of the 2.5 cents per gallon tax on gasohol to the Highway Trust Fund.

Mr. Secretary, I want to be clear from the beginning, and I welcome the opportunity for further clarification, that I have strong concerns about two major policy issues in the Administration's proposals.

First, current safety programs under the jurisdiction of the Environment and Public Works Committee are not continued which, in my view, takes us in the reverse, not forward, in our commitment to safety. We all know that excessive speed and aggressive driving coupled with the failure to wear a safety belt causes an intolerably high number of traffic deaths and injuries. For the first time in a decade, traffic deaths are on the increase. Alcohol remains a prevalent problem, particularly for teen drivers. We must ensure that States remain focused on these problems by funding programs that promote seat belt usage, and educate drivers of the dangers of drinking and driving. We must make every effort to have States enact a .08 BAC law, provide stiffer penalties for repeat drunk driving offenders, and enact laws prohibiting open alcohol containers in vehicles. For States failing to meet these minimum Federal standards, the current requirement to transfer a small amount of funding must be focused on addressing these problems, and not used for construction.

Second, I, like so many others, am frustrated with the length of time it takes for a highway or transit project to make its way from the drawing board to construction. This deserves the time and attention that you have dedicated to this problem by reaching out to all interested groups. I am concerned, however, with the brief descriptions that I have seen about the significant changes proposed for Section 4(f) and Section 106 of the Historic Preservation Act.

This committee has a long history in ensuring that our nation's historic properties are protected under Section 4(f). This is not a duplicative process, but one that complements Section 106 reviews. It allows transportation projects to proceed when it has been demonstrated that there are no other prudent and feasible alternatives. Historic properties are an important means of telling our nation's history. They are our outdoor classrooms for students and living treasures to our past. I remain committed to ensuring that the preservation of our historic homes, structures, battlefields and open spaces remain on an equal footing with the ever-increasing demands for transportation construction.

Mr. Secretary, we are at the beginning of a long process today. We share many of the same goals and I know that by working together we can develop a sound national policy that reduces traffic deaths and injuries, promotes construction while preserving historic sites, reduces congestion, improves air quality and finances a transportation system that continues to contribute to the overall health of our national economy.

Senator BOND. The committee will stand in recess for the vote.

[Recess.]

Senator BOND. Ladies and gentlemen, we will reconvene the hearing.

We turn to the ranking member of the full committee, Senator Jeffords.

**OPENING STATEMENT OF HON. JAMES M. JEFFORDS,
U.S. SENATOR FROM THE STATE OF VERMONT**

Senator JEFFORDS. Thank you, Mr. Chairman.

First of all, I want to tell Secretary Mineta how proud I am to be with him today. I think this has already been mentioned, but I was one of those few that survived from the Republican times in the election of 1974. We became good friends then, and got a lot of good legislation done. It has been harder since then. I enjoy working with you. You are quite a help to us all. I appreciate your being here.

I thank Senator Reid for convening today's hearings and the Administration's proposal to renew the nation's surface transportation program. I welcome my friend, Norman Mineta. Over the many months you have been true to your promise to work closely with the committee. I thank you for that.

In the course of our hearings we heard from many of the nation's finest transportation minds. It appears, Norm, that you have also listened to the transportation experts. SAFETEA contained a number of policy recommendations that are national in scope. That is essential. Transportation is a national issue. It connects the Nation, it unites the Nation, and it must be viewed from a national perspective.

Transportation is clearly our government responsibility. It provides the public framework from which our economy and our communities are built. Transportation spending is a powerful job creator. It stimulates hundreds of thousands of well-paying jobs. Transportation provides capacity for a global trading network.

Our neighborhoods, our towns, our cities, and our metropolitan areas are formed and defined by the transportation system. In our hearings we learned that our current national transportation program is sound. The ISTEA policies and the TEA-21 funding guarantees work. We were advised to carry these ideas forward.

Mr. Secretary, your bill reflects these same principles. But regrettably at \$247 billion the proposal before us falls far short. The Secretaries of Transportation from the 50 States and DOTs have called for a \$300 billion program. The cost to simply maintain our highway system is even greater. That is why I joined with my colleagues in the committee to commit \$311 billion to transportation spending, a 40 percent increase in the program. We are far from your proposal.

As I said previously, I will not support an under-funded bill. While a short-term extension prevents problems, it is preferable to 6 years of under-investment. The need for investment is national.

Every State in this country has aging roads and bridges in need for expanding capacity. I want to substantially increase the program. I want to distribute that increase in a manner that benefits all 50 States. With a 40 percent increase, every State should benefit. Our investment in transportation should enhance our environment.

My record on clean air, clean water, and sound planning is clear. I will oppose any retreat in environmental protection. The current

national transportation program, TEA-21, expires in just over 4 months. Today's hearing is an important milestone in our process. We will need to work diligently and cooperatively if we are to meet that deadline.

Let me close by commending the Administration for its focus on safety. Today highway accidents are the No. 1 cause of death among Americans aged four through 33. These are our young people, our nation's most precious resource.

I am heartened by your focus on safety. We talked a great deal about safety in both ISTEA and TEA-21. This time let's match this rhetoric with real spending. Mr. Secretary, I believe that we share a common national outlook. There are areas where we differ, but those differences can be bridged.

I look forward to working with you and your capable staff on the renewal of the nation's surface transportation program. I thank Senator Bond very profusely for convening this hearing. It's a great time, a great place, and great witnesses.

Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Jeffords. We appreciate your words and also your bringing some interest to the testimony.

I think there are no further statements to be had. We will turn finally to the Secretary of Transportation. Again, welcome, Mr. Secretary. We will make your full statement a part of the record. If you want to summarize or emphasize something, please do so.

STATEMENT OF HON. NORMAN Y. MINETA, SECRETARY, DEPARTMENT OF TRANSPORTATION ACCOMPANIED BY: MARY PETERS, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION

Secretary MINETA. Chairman Bond, Chairman Inhofe, Senator Jeffords, and members of the subcommittee, let me thank you very much for this opportunity to appear before you today to discuss the Bush Administration proposal to reauthorize our surface transportation programs.

I want to also congratulate you, Senator Bond, on your recovery from your surgery.

Senator BOND. I do yours as well, Mr. Secretary.

Secretary MINETA. Thank you. Obviously after having gone for that vote and responded, you are doing the marathon mile very well.

Before I begin, I would also like to introduce our Federal Highway Administrator Mary Peters, whom all of you know, who is going to be here to assist me with any details on questions that come up.

Senator BOND. Welcome, Ms. Peters.

Secretary MINETA. I would ask that my complete statement be inserted in the record in its entirety.

Senator BOND. Without objection, so ordered.

Secretary MINETA. Last week, as all of you are aware, I sent to Congress the Administration's reauthorization proposal, the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003, otherwise known as SAFETEA. This 6-year, \$247 billion proposal is the largest surface and public transportation commitment

in American history, larger than ISTEA, and larger than TEA-21. But it builds on the successes of the landmark legislation, ISTEA, of which I was a principal coauthor during my days on the other side of this microphone in the other body, and its successor, TEA-21.

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

In addition, our proposed legislation places a central focus on transportation safety, as has been mentioned. Although we have made improvements in the rates of fatalities and injuries on our highways, the total numbers remain intolerable, and they are rising. In the year 2002, nearly 43,000 people lost their lives on our highways and our roads. These are numbers that I simply will not accept.

That is why I have challenged the dedicated men and women of the Department of Transportation to dramatically reduce the number of injuries and fatalities on our nation's highways, starting right now.

For the past year-and-a-half, this Department, with the critical and timely help of this committee, has dedicated itself to improving transportation security for all Americans.

Faced with the scourge of terrorism, our Department responded by creating unprecedented partnerships with the private sector, Congress, interest groups, and Federal, State, and local agencies. Together we succeeded in decreasing the dangers of terrorism through new and better technology, more personnel, improved laws, and increased education.

Mr. Chairman, we are going to do the same thing with car crashes. This year we are going to take the same passion, call on similar partnerships, and build the same record of success through enforcement, education, and engineering. Nothing would make a greater difference in reducing injuries and fatalities than to increase the use of safety belts everywhere in America. If safety belt use were to increase from the present national average of 75 percent to 90 percent, an achievable goal, 4,000 lives would be saved each year.

We have a moral as well as an economic obligation to immediately address the problem of transportation safety. The total economic impact of all motor vehicle crashes exceeds \$230 billion each year, a staggering figure. That is why President Bush and I have made saving lives an essential priority for the Department and for the reauthorization of TEA-21.

Our bill would improve safety by creating a new core safety program, consolidating and simplifying the safety programs that are administered by NHTSA, and by providing new incentive bonuses to reward States that achieve demonstrable safety results. Enactment of this bill would be an important step in reducing highway fatalities and injuries and providing greater flexibility to State and local governments.

Our nation's transportation system faces significant challenges in other areas as well, such as congestion, project delivery, freight movement, and intermodal connectivity. SAFETEA would create a

safer, simpler, and smarter Federal surface transportation program by addressing transportation problems of national significance, while at the same time giving State and local transportation decisionmakers more flexibility to solve transportation problems in their communities.

To accomplish all of these goals, SAFETEA calls for a record Federal investment in surface transportation spending over \$201 billion on highway and safety programs, and nearly \$46 billion on public transportation programs from fiscal year 2004 through fiscal year 2009.

I firmly believe that our proposal provides an excellent framework in which to tackle the surface transportation challenges that lie ahead. SAFETEA will help ensure needed repairs to our roads and bridges. It will ensure that new transportation projects are completed on budget and on time. It ensures the continued growth of our nation's economy without imposing costly new taxes.

Mr. Chairman, I am proud to say that SAFETEA includes a strong program for protecting and preserving the environment. President Bush and I strongly believe that our nation can successfully improve the efficiency of transportation project delivery while maintaining the highest level of environmental protection. Doing so is a key priority for this Administration.

That is why approximately 25 percent of our proposed \$247 billion in funding would be invested in programs that will protect the environment, such as reducing automobile emissions, expanding bicycle and pedestrian facilities, and promoting transit programs aimed at relieving congestion and reducing air pollution.

SAFETEA will also continue the President's successful emphasis on environmental stewardship. Our proposal will significantly enhance the ability of Federal, State, and local agencies to reach agreements for moving forward on environmentally sound transportation projects, while quickly discarding those that would harm the environment.

Our proposal funds our nation's transportation infrastructure needs in a fiscally responsible manner. SAFETEA continues the funding guarantees of TEA-21 that linked highway funding with transportation excise tax receipts and redirects the 2.5 cents per gallon of the general fund gasohol tax to the Highway Trust Fund. SAFETEA also improves highway infrastructure performance and maintenance by dedicating an additional \$1 billion a year of Highway Trust Fund dollars over and above each year's estimated receipts into the Highway Trust Fund.

Obviously, the total size of the program is, and will continue to be, a matter of debate. That debate, however, should not be permitted to cloud a meaningful and necessary discussion of the many programmatic reforms that are contained in SAFETEA. Moreover, any proposal that jettisons the important linkage between tax revenues and spending in an effort to achieve higher overall funding puts the landmark victory of guaranteed funding at risk.

My written statement, which has been submitted for the record, as acknowledged by the chairman, contains a much more detailed explanation of the programmatic reforms that are included in our SAFETEA proposal. I hope that you will give these proposals seri-

ous consideration as the committee moves to develop its version of this legislation.

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

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

Senator BOND. Thank you very much, Mr. Secretary.

One of the items of interest that jumps out from your statement is this. A number of my constituents, at least, believe that the amount of money now set aside for rail highway crossings and hazard elimination, that the 10 percent satisfied is not adequate. There needs to be more funding. Apparently those have all been left out and transferred to this new safety category.

How can we make sure that these previously identified priorities will not be overlooked or short-changed by the States and other implementing agencies?

Secretary MINETA. One of the factors that we have built into this new legislation is that of flexibility. Again, the reason we have done that is to be able to allow State and local transportation leaders to be able to respond to the greatest needs in their own States and localities.

By allowing these categories to be included in a block-grant kind of approach, it will allow each State to be able to address their greatest needs in directing the financial resources to their areas. We did not want to retain a "one-size-fits-all" kind of a program. This way we feel that there are some States with priorities that are greater than others in certain areas so they can direct their resources to those problem areas.

Some States, as you have indicated, that have rail-highway crossings, will be able to direct those resources, where under categorical programs they would still be limited in terms of the amounts of moneys that are in each of the categories. This way, with the total funding in a block-grant approach, they can then exceed the prior funding under any categorical program.

Senator BOND. Thank you, Mr. Secretary.

You have mentioned that your goal for incentive grants is to get seatbelt usage up to 90 percent. I understand that the current seat belt usage is about 75 percent. Having had over my lifetime a little experience with human nature, what are the States going to be able to do with their incentive grants to get 75 percent up to 90 percent? It seems to me that that is going to require some kind of superhuman effort or a gun and a whip at every corner. How do you think that you can get from 75 percent to 90 percent?

Secretary MINETA. What we have done is to have incentive grants in the safety program. What we are trying to do is to encourage States to go from a secondary seat belt law to primary law. We know, through experience, that with the use of primary seat belt laws, that the usage goes up and in those States lives are saved.

Senator BOND. Does the primary seat belt law get it up to 90 percent?

Secretary MINETA. In many instances, the States have attained 90 percent and those that have gone from secondary to primary, even though they may not be at 90 percent, have increased their usage substantially.

What we have are incentive grants for States to go to primary laws. Then for the demonstrable results that they have from having primary laws, they would be able to also receive additional funding.

Senator BOND. Thank you. Would you tell me how your streamline proposals will be able to spend project delivery while still protecting the environment and ensuring a thorough a rigorous NEPA process?

Secretary MINETA. Well, there are many areas in which we have already starting doing this. As an example, whenever we have major projects that have been brought to the State local or regional office—let us say to the Federal Highway Administration—they will not only have a team that deals with the environmental laws and issues, at the same time there will be a Federal team starting to look at it. What we have had in the past is a sequential operation.

The same thing will be done with the State environmental process where once the State completes its work, it will not be the Federal Government just starting theirs. Our Federal environmental process will start when the State is working on theirs. It will not be sequential, but concurrent. We will be able to reduce the time that we would otherwise be utilizing.

Senator BOND. Thank you, Mr. Secretary.

Senator Jeffords?

Senator JEFFORDS. Mr. Secretary, at our hearing last year when I asked you about American's great rail systems to relieve highway congestion, you pointed to innovative financing as the way to get that job done. You referred me to the Alameda Corridor Project in California. I have looked into that project and found it to be innovative in a number of ways. It is a public/private partnership sponsored by a special purpose district that is collecting user fees to cover debt service.

By separating grade crossings along a 20-mile stretch of track, the project has improved freight efficiency, relieves highway congestion, opened capacity for passenger rail, and helped to renew their surrounding neighborhoods. It is an intermodal success story.

But I am not certain whether projects like Alameda will be eligible for funding under your proposal. Also, under your proposal it is unclear how future sponsors will retire the debt incurred through financing, or what revenue stream options are available. How does this proposal handle the Alameda-type projects at retirement and revenue stream options?

Secretary MINETA. First of all, as you are very well aware, TIFIA currently is eligible only for public freight rail facilities. But what we have in this bill is a great deal of emphasis on intermodal connectivity. One of the things that we have in here is some provisions dealing with the freight and port connectivity, in order to be able to improve the productivity and efficiency along those major travel corridors.

In terms of financing, besides TIFIA, which has always existed, we have State infrastructure banks. We also have this time a new category referred to as private-activity bonds. These are tax-exempt bonds. They are not under the cap of the State tax-exempt bond features.

I think that the private activity bond is one that is going to enable many projects to be financed with this new instrument. We have the Department of Treasury's clearance on these private activity bonds.

Senator JEFFORDS. Late last year I provided a paper to the Aiken Lecture Series at the University of Vermont on the advantages of hydrogen technology as a clean and renewable energy source for transportation. In that paper I highlighted the enormous potential benefits of this technology. It can be a totally renewable, never ending, cheap and powerful source of energy while at the same time saving the environment.

Renewable hydrogen technology produces no acid rain, no ozone depleting chemicals, no climate change gas, no harmful pollution, and no dependence on imported fossil fuels. Over time it can become far less expensive than traditional oil-based fuels.

In his State of the Union address, the President called on over \$1 billion in research funding so that "American can lead the world in developing clean hydrogen-powered automobiles."

However, we must be clear that hydrogen will provide these benefits only if produced the right way. Hydrogen produced from the renewable energy sources, such as wind, solar, biomass, or geothermal energy will provide us with a clean energy future that we seek. Fuel-cell cars and trucks operating on hydrogen stored on board produce essentially zero pollution. The only byproducts are water and heat, as you know.

The potential health benefits are staggering since currently motor vehicles' exhaust cause more air pollution than any other human activity. Even as far back as the 19th century, the most famous science fiction writer, Jules Verne, pointed in his book, *The Mysterious Island*, that water will be the coal of the future because water is composed of hydrogen and oxygen and will "furnish and inexhaustible source of heat and light as long as the earth is inhabited."

Mr. Secretary, how does the Administration's bill address the significant need for research and development of hydrogen-powered automobiles and trucks?

Secretary MINETA. We have in our bill, I believe, \$55 million for hydrogen technology. What we are planning to do there is to work very closely with the Department of Energy. In my discussions with the automobile industry, it is not so much the development of the vehicle that will be the issue, it will really be the infrastructure of the fueling facilities nationally. That is going to be the issue that we are all going to have to address in terms of trying to advance hydrogen fuel or hydrogen technology.

Senator JEFFORDS. Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Jeffords.

Senator Inhofe?

Senator INHOFE. Thank you, Mr. Chairman.

None of the five Senators were here during my opening statement so I am going to repeat one thing. I am going to be very complimentary of both the Secretary and the Administrator. Administrator Peters came out during the tragic collapse of the I-40 bridge just hours after it happened and worked closely with our people. I have never seen a job done better or faster.

Former Congressman Mineta and I served together for 8 years. I served under his leadership in the Transportation Committee. I am so pleased with the great job you are doing. I do remember, however, back during ISTEA when you were calling the shots and we were running it over there in the House. We were devising ways to try to get more money than came down from the Administration of George I.

We are kind in the same situation right now where we feel that the funding is not adequate and we are in need. As I said in my opening statement, quoting from the report that we have, that the amount of money that we are talking about will just maintain what we have. I think it is a matter of being somewhat inadequate.

What do you feel would be the cash balance in the Highway Trust Fund at the end of 2009 under SAFETEA? Not obligated, but just the cash balance.

Secretary MINETA. I believe that was \$18 billion. 2009 is \$21 billion.

Senator INHOFE. I thought it was considerably less than that.

Secretary MINETA. That is including the transit account.

Senator INHOFE. I believe I am correct in saying that it is \$10 billion.

Secretary MINETA. \$9.9 billion in the highway account.

Senator INHOFE. That is right. At the end of 2009.

Now my question would be: Is that more than just a prudent balance at that time? Would you speculate on that?

Secretary MINETA. What we were trying to do through the life of the authorization period was to make sure that we did not violate the Byrd rule. In order to have that head room under the Byrd rule, we wanted to make sure that we drew down against it.

Senator INHOFE. That would be the unobligated.

Secretary MINETA. What we did was to make sure that all the way through we were observing the Byrd rule.

Senator INHOFE. I am sure that some of my colleagues are going to get into the funding, so I will not do that. In response to the question asked by Senator Bond about streamlining, I thought that language was good. There are so many safeguards in there. You outlined those again in response to the question of Senator Bond: Do you think that really accomplishes the level of streamlining that we need, still with all those safeguards that are in there?

Secretary MINETA. Like you, I came from local government. If I had those kinds of flexible arrangements, I think we can make the dollars go farther and direct the resources to those areas that we think are the priorities of local government without having to be told where the money ought to be spent.

Senator INHOFE. In my State of Oklahoma, and under the new PM₅ standards it is going to put us in a position where it is going to be difficult in finding some of our rural areas out of attainment. Now, your CMAQ generally goes to your congested urban areas.

Our concern is what can we do. Does your proposal offer some latitude to help us in those rural areas that are coming under what I consider to be an artificially low PM standards? Do you have any thoughts about that?

Secretary MINETA. You are absolutely correct. CMAQ is not uniquely an urban program. The nature of the CMAQ program is to be able to have the program, or to have CMAQ to be used for air quality in rural areas as well.

Senator INHOFE. It is. However, your funding mechanism is geared to the population. You do not have the population in those rural areas, but they still have that problem. I think we need to address. I know you are trying to do that. We are, too. We will be working together with you on that, Mr. Secretary.

Secretary MINETA. We will be happy to work with you on that, Senator.

Senator INHOFE. Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Inhofe.

I would submit for the record a statement by Senator Murkowski who conveys her regrets. She has a Commerce Committee hearing that is critical to the State of Alaska.

[The prepared statement of Senator Murkowski follows:]

STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM THE STATE OF ALASKA

Thank you, Mr. Chairman. I want to join the other members of the subcommittee in welcoming Secretary Mineta. I am very interested in his comments about this important legislation.

As those who have visited Alaska know first-hand, and others have heard from all the members of the Alaska Delegation, my State lags far behind the rest of the Nation in surface transportation systems. Elsewhere in the United States, communities deal with substandard roads, or deteriorating highways, or congestion. In Alaska, it is literally not possible to drive to many communities. You cannot drive where there is no road.

We Alaskans are pretty good at making do. In the winter, we use frozen rivers as roads, and in other seasons we travel and move our goods in boats, or in small aircraft, or on 4-wheelers. In fact, many of us enjoy the sense of being near the wilderness.

But there is a devastating price to be paid.

For most Americans, a serious injury means a quick trip to the nearest emergency room.

For most Americans, a fire means calling the fire department, and with any luck, your life and property can be saved.

For most Americans, buying groceries means deciding which supermarket has the best sales this week.

For most Americans, looking for work means hopping in the car, or on the bus. But in much of Alaska, daily life is very different. And a big reason for that is the lack of even minimal transportation options.

To be honest, I think the United States has made a huge mistake by not freeing Alaskans to contribute more to the national economy either by building a network of basic roads or by letting Alaskans build them as most of the country did with a minimum of interference from well-intentioned but thoroughly stifling regulations.

There are some things I very much appreciate in the Administration's proposed highway bill. For example, it provides the States with greater flexibility to move funding between certain categories of activity. That's both welcome and badly needed, as each of our States struggle with their own unique issues.

However, I am disappointed in other aspects of the proposal. I do not think that it adequately recognizes the importance of the transportation system to the quality of life we seek to make available to every American, and the need for highway funding levels that respond adequately to the very real needs being felt in every State.

We all recognize that congestion is a key issue for many of our roadways. And we all should recognize that traditional methods of dealing with congestion are not working very well.

We all recognize that safety is a key issue. And we should all recognize that while encouraging seat belt use is laudable, it would be even more laudable if we took steps to reduce the potential for accidents in the first place.

We all recognize the issue of "road rage" as one we need to address. And we should all recognize that we need to make greater efforts to eliminate the frustrations that cause it, as well as enforcing the law against those who experience it.

I think we need to rethink our highway and highway-related programs. Rather than coerce States into uniformly required actions that "big brother" has decided are right for everyone, let's encourage States to take actions that are right for them.

Maybe with all due respect to the American trucking industry and to the invaluable role it plays in our lives we need to find another way to move long-haul goods.

Maybe we need to make it harder much harder for individuals to obtain driver's licenses by requiring improved training.

And most of all, maybe we need to understand that training, enforcement, transit programs, and so forth are still only pieces of the puzzle. If the highway system is overextended, overcrowded, and over-frustrating, we will not be able to fix it by nibbling around the edges. This is not the place to cut costs or corners.

Thank you, Mr. Chairman.

Senator BOND. Now I call on Senator Carper.

**OPENING STATEMENT OF HON. THOMAS R. CARPER,
U.S. SENATOR FROM THE STATE OF DELAWARE**

Senator CARPER. Thank you, Mr. Chairman.

Mr. Secretary, and Administrator Peters, we welcome you. It is good to see you both. We thank you for your stewardship and for your testimony today.

I find that in the State of Delaware that TEA-21 is generally seen as a success. We want to applaud the Administration for recognizing this for a little State like ours and larger States as well. I want to also applaud you for offering a proposal that maintains many of TEA-21's best features while placing a new emphasis on improving safety.

At the heart of TEA-21 has been its flexibility and substantial resources. It appears that these efforts are actually maintained, at least with respect to flexibility, to expand that flexibility and to simply program structures so that our State and other States can further direct and define the transportation systems that we need in our own locations. We thank you for that.

I am going to ask you to take off your Secretary's hat, for a moment, if I could, and put on another hat. Maybe the hat of a mayor. We are both mayors. I am the Mayor of Wilmington or Delaware, and you are the Mayor of San Jose.

Secretary MINETA. I was.

[Laughter.]

Senator CARPER. I have never been mayor of either of those towns.

Putting on that old hat of yours, what would you find in this proposal that would be especially welcoming, and maybe somewhat troubling?

Secretary MINETA. Well, one of the things that I said early on, as we were starting to put the program together, is the whole idea of flexibility. It is to allow State and local leaders to be able to direct the resources to the problems that they face and that they are not bound by a categorical program that has this amount of money, when maybe the needs are this much.

What we have done, in effect, is to move the programs from categorical to block grant type programs so that again the flexibility that was there in TEA-21 is even more broadened in SAFETEA.

This way, instead of having categorical programs, you have them all in a block grant. Then they can direct their resources to where they feel their problems are.

I think this takes the progression that we had from ISTEA to TEA-21, and now a step forward in SAFETEA.

Senator CARPER. When you hear from mayors across the country, or Governors for that matter, in response to what the Administration is laying out, what concerns seem to be echoed by a number of them?

Secretary MINETA. Very succinctly—flexibility. They want to be able to direct their financial resources to where their programs are. This comes from my experience as mayor. During the Nixon Administration, San Jose was chosen as one of the communities to look at the whole idea of a block grant program. We were told to come up with a list of all the Federal programs that come to the city of San Jose, and outline what we needed. Then we would meet with the regional office in San Francisco, which we did.

During the course of those conversations, I said that I needed something like \$22 million for four community centers. They said, “Well, we only have a total of \$8 million. We will give you \$4 million for one community center.” Then later on they said, “Why don’t you think up \$18 million of sewer grant programs.” We had not submitted any money or an application for sewer grants.

I said, “Well, we do not need any sewer grant moneys. Why not give me that \$18 million and I will build my community centers.” But I could not do that under the categorical approach. That is why SAFETEA gives State and local community transportation leaders the flexibility to be able to direct the resources to where they have problems that they want to address.

Senator CARPER. My time has expired. I would like to add just one last quick point, Mr. Chairman.

With respect to flexibility, I was always troubled as Governor of Delaware that our Federal transportation dollars that came to us, CMAQ money, for example, that we could use that money for congestion mitigation for freight railroads, or we could use that money for bicycle paths, or we could use that money for highways. But we could not use that money for passenger rail, even if that made sense in helping us to address our congestion mitigation issues. I hope that is one we could work on resolving at this time.

Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Carper.
Senator Chafee?

**OPENING STATEMENT OF HON. LINCOLN CHAFEE,
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator CHAFEE. Thank you, Mr. Chairman.

Welcome, Mr. Secretary and Madam Administrator.

My State benefits from the new Starts Transit Program. Under the proposal, the proposed TEA-21, the match is going from 80/20 Federal/State to 50/50. Do you think this will hinder transit?

Secretary MINETA. Well, it was in ISTEA that I changed everything to 80/20 because highways was 90/10 and transit was 75/25. People were making decisions based on where they would get the most money back. Naturally, that would be 90/10 highway.

In ISTEA I changed everything to 80/20 in order to make sure that transportation decisions were being made based on what was going to suit the community the best because both were 80/20.

Under continuing legislation, we have now found that even though the law is 80/20, that transit is probably somewhere again in the area of 50/50, and even highways is somewhere around 47/53, 47 being the Federal share. It has gotten to the point that because of the competitiveness by localities as they apply for funds, they want to make the best proposal put forward. The matching has been dropping by a great deal.

We feel that even though we will be going to 50/50 in law, in the real world, it has already gotten to 50/50 in terms of the matching grants.

Senator CHAFEE. As a follow up on that question, also on transit issues, the proposal removes the guarantee for about one-fifth of the transit account, forcing it to compete with the discretionary account. Could you explain why that is?

Secretary MINETA. As you know, that percentage of the funds come from general funds, 19 percent, I believe. We were not able to get the guarantee that is in TEA-21 as it relates to the 19 percent coming from general funds to the transit account.

Senator CHAFEE. Both of the questions are directed at what originally was trying to direct money toward more mass transit and away from roads, back in the original ISTEA. Do you sense a shift away from that commitment?

Secretary MINETA. No, I do not. I see where most localities are finding that because of congestion, and because of air pollution, many communities are turning to transit.

I think one of the good things that we have pioneered within the Federal Transit Administration under the great leadership of Jenna Dorn, is that instead of everyone having a light rail system which may be too costly and not efficient for that community, that we are starting with baby stages, like bus rapid transit. Then they would be able to graduate, as the ridership improves, to light rail, or to heavy rail.

But in any event, what we are trying to do is to say, "You do not have to go to a light rail system right away as a status symbol or as the only form of public transit." There are other ways that local communities can get there.

Senator CHAFEE. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Chafee.

Senator Wyden?

**OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR
FROM THE STATE OF OREGON**

Senator WYDEN. Thank you, Mr. Chairman.

I want to first tell the Secretary how much we appreciate his responsiveness. He is working with me right now on something involving Oregon. I appreciate of that.

Secretary MINETA. Is that this weekend?

Senator WYDEN. We got it this weekend. We have a ways to go, but you have been very responsive. I appreciate it.

Secretary MINETA. Good.

Senator WYDEN. I also want to commend Chairman Bond and Chairman Inhofe for their work on the funding question. Both of you have really done yeoman work on this issue. That is really the first issue I want to explore with you, Mr. Secretary.

You say in your written statement that nothing has as great an impact on our economic development and quality of life as transportation. I did the math, and the increase in transportation funding that the Administration is seeking is one-twentieth the size of the tax cut proposal. That is the number that compares to the increase in transportation funding to the tax cut proposal.

I am going to set aside the politics and not go any further with that. I will ask you how are we going to get this donor question resolved? This is something that Chairman Inhofe and I have a great interest in, when the level of funding is essentially stable. Set aside the comparison to other parts of the budget. It is something like \$218 billion to \$247 billion in terms of the funding increase. That is where you get the \$30 billion.

I do not see how we are possibly going to get out this donor question that concerns people like Chairman Inhofe and myself, with that level of funding. Can you tell me what your sense is of how the Administration wants to get at that question?

Secretary MINETA. Next question?

[Laughter.]

Secretary MINETA. Senator Wyden, you know how sensitive that whole issue of donor/donee is. What we have done is to retain the TEA-21 formula, and that is to guarantee the 90.5 percent. There have been proposals like SHARE, and others that have come forward, but they are very costly in terms of, let us say, providing 95 percent return to the State of their excise tax receipts.

What we have done is to frankly leave it in Congress' hands. We have continued the TEA-21 formula. If there are going to be any adjustments, we feel that ought to be Congress' responsibility.

Senator WYDEN. I think that a lot of us are very pleased that Chairman Inhofe is going to have it in hands. He has been very sympathetic to States like ours. But he has to have something to work with. That is why I am hoping that as we go forward we can still get some increases in these dollars.

If you are going to get equity with respect to the donor States—and for years this has chaffed at the smaller States—we have to have something that Jim Inhofe and others who have championed this cause can work with. I tried to set this in the big picture in terms of how transportation compares with other accounts. But somewhere along the way we are going to have address this.

Secretary MINETA. I might add that the reality is that in the past there has been extra money that has been available to take care of any of the gross inadequacies of State allocations. I think in today's fiscal world, that does not exist. I recall in TEA-21 how all of you were able to make up the differences in different States. There was additional revenue that was coming in at the time of TEA-21. There were a number of holes that were filled up by the financial resources that were available.

Senator WYDEN. I have one last question, if I could, Mr. Secretary.

Are you looking at any other proposals for new sources of funds, particularly the issue of bonds? This is something that I am particularly attracted to. I am anxious to talk with Chairman Bond and Chairman Inhofe about this. The State transportation officials, as you know, have outlined a proposal in this regard. Is that something that you are taking a look at?

Secretary MINETA. In our proposal, of course, we have the State infrastructure banks. We have expanded TIFIA. We have reduced the threshold for TIFIA from \$100 million projects down to \$50 million. We have added a private activity bond, which is a tax-exempt bond. That tax-exempt bond will not be counted under the State tax exempt requirement. I believe that the private activity bonds will be an instrument that will be looked at by States for financing purposes.

Senator WYDEN. Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Wyden.

You might note that Missouri also is a donor State.

Senator Thomas?

Senator THOMAS. Thank you, Mr. Chairman.

I am from Wyoming. The Secretary knows a little about that. I would just say that some of our smaller population States with larger miles have a lot of people traveling on those highways. So there is some justification.

You have talked a lot about flexibility. For a rural State like Wyoming, what would you say are the biggest benefits in this bill for States like Wyoming in terms of flexibility?

Secretary MINETA. I think a lot of the legislation that we have, and programs that we have, probably are geared to urban areas. What we have here is the flexibility. Regardless of the size of the State or the density of population, or whatever it might be, that there is a great deal more flexibility that transportation leaders in those States and localities will have in being able to address the fiscal resources to the problems that they feel are important.

It is not a cookie cutter approach that would apply in Wyoming, as it might in Connecticut, New York, or California. But each of the States would be able to pattern the program based on their needs.

Senator THOMAS. That is good. There are different needs, obviously, in Wyoming than there are in New York. It needs to be that way.

This is titled, "Flexibility and Efficiency." But I notice that the money set aside for administrative expense is approximately three times what it was before. How do you justify that?

Secretary MINETA. I am not sure what you have in mind.

Senator THOMAS. This is the justification for the increase in administrative checkoff. If there is more flexibility and less regulation, why would you need more managers?

Secretary MINETA. Because of the nature of the larger programs.

Senator THOMAS. I am pleased that we are moving forward on this bill. I know it is very difficult. We look forward to hopefully finding some additional funding.

Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Thomas.

We have had the Secretary here for almost 2 hours. I am going to submit the rest of my questions for the record and ask that you respond to those.

Several of the members may want to ask questions.

Senator JEFFORDS. I have just one more, Mr. Chairman.

Senator BOND. Mr. Jeffords?

Senator JEFFORDS. The Administration's bill authorizes funding for surface transportation at \$247 billion for highway and transit programs for 6 years. With this relatively modest growth in funding over TEA-21, the Administration had to make some difficult choices in how to best fund the core highway program.

Could you explain how the Administration decided what levels and increases to propose for the core highway program? For example, why does CMAQ see a reduction of over \$340 million in fiscal year 2004 compared with 2003? Why does this program also recover its 2003 funding levels after fiscal year 2005 and only grows to \$1.6 billion in 2009?

Secretary MINETA. First of all, in terms of CMAQ funding, the \$10 billion for fiscal year 2004 through 2009 is a 9.1 percent increase. This program is flat for the first year. Then it goes up for the remaining fiscal years.

Senator JEFFORDS. Thank you. That is all I have.

Thank you, Mr. Chairman.

Senator BOND. Thank you, Senator Jeffords.

Senator Carper, do you have further questions?

Senator CARPER. Thank you, Mr. Chairman.

The question I wanted to ask the Secretary, if I could, deals with the adequacy of funding. Why are the funding levels that are found in SAFETEA below the minimum levels that are needed to maintain the current system that is recommended by the U.S. Department of Transportation's Condition and Performance Report?

Secretary MINETA. I think there has to be some explanation about the Conditions and Performance Report. First of all, that is a snapshot of Federal, State, and local expenditures. It is not just Federal. It is over a 20-year period. People look at that report and they say, "Look what the C&P Report says what your needs are." That does not directly relate to the annual expenditures under an authorization bill.

That is for the purpose of looking at the adequacy or what the level of service of the roads, highways, and bridges is. But it is not directly related to the expenditures, whether it be under ISTEA, TEA-21, or in this case, SAFETEA. It is more than just Federal programs. It is more than just during a 6-year authorization period. The figure that comes out becomes an average of a 20-year program.

Senator CARPER. When we spoke earlier, you spoke of the flexibility that is inherent within SAFETEA, and the advantage of States and communities. We appreciate that. I just want to echo the comments that we have heard from other of our colleagues on both sides of the aisle with respect to the adequacy of the resources.

When I was Governor of Delaware, we sought on several occasions to increase the gasoline tax because we did not want to have to rely solely on debt to improve our transportation structure. We

raised our gasoline tax by a small amount on one occasion. It was difficult to convince the legislature to raise them further in the 1990's when we were really awash in revenues. It was hard to explain why we should single out one user fee to raise, that is, the gasoline tax.

Today we find ourselves trying to come out of a recession. There are any number of arguments that could be made that one of the best ways to help put people back to work is to hire them to improve our transportation infrastructure. I am one who believes that if programs are worth having, we ought to pay for them. If they are not worth having, then we should not have any of them. I am a pay-as-you-go kind of Senator, and I was that kind of Governor and Congressman.

I would also note that as we gather here today we are importing almost 60 percent of the oil that we use from abroad, and to the extent that we raise the price of gasoline by a nickel or so, I think it diminishes, at least a little bit, the laws of supply and demand and price elasticity. It reduces a little bit our desire to consume oil and maybe our willingness to look for more energy efficient ways to travel.

The last question I would like to raise deals with Amtrak. I would not want to disappoint you and send you home without a question on Amtrak. This is the year that we have the opportunity to reauthorize highways, transit, aviation, and rail, including Amtrak.

How do you think the Administration's plan for Amtrak, when it is unveiled, will fit in with SAFETEA? Are there specific programs in SAFETEA that you envision might dovetail with the Administration's proposal on reauthorizing Amtrak?

Secretary MINETA. We are developing our Amtrak legislation right now. At this point I cannot say that it has dovetailed with SAFETEA. Last year I outlined the principles upon which I think Amtrak's reauthorization legislation should be based. I am hoping to possibly have that legislation ready for OMB's perusal in about a month.

We cannot continue where we have been going for the last 30 years. There are a number of reforms that are going to be needed. If there are going to be increased amounts of funds that are necessary, it is by all means going to have to require a great deal of reform by Amtrak.

The Congress did pass in the appropriations bill some requirements in terms of Amtrak reporting to the Department of Transportation on certain requirements. Those detailed financial plans have been very informative to us in determining the funding for Amtrak as well as a basis for some of the reauthorization measures that we are now putting together.

Those requirements that Congress imposed have been very helpful. We are building on those requirements that Congress imposed.

Senator CARPER. Mr. Chairman, in closing, I will just say we look forward to working with the Secretary and his Department, including some of the people sitting right behind him on just that subject in the months ahead.

Thank you very much.

Senator BOND. Thank you very much, Senator Carper.

As a former fellow Governor, I am happy to extend the courtesy of one out-of-jurisdiction question.

[Laughter.]

Senator BOND. We have enough snakes in the barrel to handle on this one.

Thank you very much, Secretary Mineta and Ms. Peters.

This hearing is adjourned.

[Whereupon, at 3:53 p.m., the subcommittee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO

Thank you, Mr. Chairman, for conducting this hearing today on the U.S. Department of Transportation's surface transportation reauthorization proposal.

Secretary Mineta, welcome. I appreciate your coming here this afternoon to present the Administration's proposal. I am sure it has been difficult for you recently, but you are getting the job done, and the country is lucky to have people like you in public service.

The purpose of this hearing is to determine whether the Administration's reauthorization budget proposal will be adequate to meet the nation's surface transportation needs over the next several years. It is no secret that the nation's transportation needs greatly exceed current investment at all levels of government. That is why I am especially concerned that under the Administration's proposal, highway funding would not even reach current spending levels until fiscal year 2007.

I am convinced that transportation investment creates jobs and would provide a much-needed stimulus to our sluggish economy. For instance, the U.S. Department of Transportation estimates that for every \$1 billion in Federal spending on highway construction, 47,500 jobs are created. It is also estimated that every dollar invested in the nation's highway system generates \$5.70 in economic benefits due to reduced delays, improved safety, and reduced vehicle operating costs. That's nearly a 6 to 1 return on investment.

A survey by the American Association of State Highway and Transportation Officials shows that State transportation departments have 2,710 highway and bridge projects, valued at over \$17 billion, which are ready-to-go if funding were made available to them. My State of Ohio has 228 ready-to-go projects valued at \$752 million.

Mr. Chairman, Bureau of Labor Statistics show that average annual employment in highway construction is down nationwide, as much as 25 percent from peak employment levels over the last 6 years. In Ohio, employment in highway construction is down 13 percent from 2000 and is at its lowest level in 6 years. For example, one of Ohio's largest construction companies recently told me that they have had to lay off 450 employees due to a lack of projects out for bid.

As a member of this subcommittee and its former chairman I am eager to work on the reauthorization of the surface transportation program. As Chairman of the National Governors Association, I was involved in negotiating TEA-21 and lobbied Congress vigorously to even-out highway funding fluctuations and assure a predictable flow of funding to the States. TEA-21 achieved this goal with record, guaranteed levels of funding. TEA-21, which increased by nearly 40 percent Federal investment in highways and transit. Under TEA-21, Ohio received a 23 percent increase in transportation funding.

TEA-21 also dedicated nearly all highway gas taxes to transportation funding and guarantees that States will receive at least 90.5 percent of their share of their contribution to the highway account of the Highway Trust Fund. One of my top priorities for TEA-21 reauthorization is to increase the minimum share for the 26 donor States to at least 95 percent. This increase in the rate of return would generate an additional \$60 million or more in transportation revenues for the State of Ohio.

Tomorrow, Senator Carl Levin and I, along with House Majority Leader Tom DeLay and Congressman Baron Hill will announce the introduction of our legislation to increase donor States' minimum rate-of-return to 95 percent. Currently, there are over 120 cosponsors of the House bill and 18 cosponsors of the Senate bill.

While TEA-21 has enabled States and localities to improve the condition of deteriorating and unsafe highways and to increase capacity and performance, the system is still aging, and in need of additional investment. However, I support the

principle that the highway program is a fully user-fee based system that pays its own way. I am reluctant to borrow more money for highways.

I am pleased the Administration's bill proposes that all revenue from form gasoline taxes be deposited into the Highway Trust Fund rather than the General Fund of the Treasury, something many of my colleagues have asked for these last few years. I also understand the Finance Committee has proposed a way to resolve the remaining 5.2 cent per gallon ethanol tax incentive by no longer penalizing States that consume ethanol-blended fuel. These two solutions would increase Ohio's gas tax receipts by an additional \$160 million annually.

Mr. Chairman, another of my priorities for reauthorization is to enact an environmental streamlining provision which will actually expedite the project delivery process. I am disappointed with the implementation of the environmental streamlining provisions included in TEA-21, and I regret that we may have wasted an opportunity to realize the benefits of the expedited process that we envisioned 5 years ago.

In addition, as Chairman of the Clean Air Subcommittee, I am looking closely at the provisions in the Administration's bill dealing with transportation conformity and the Congestion Mitigation and Air Quality Program (CMAQ). I am pleased to be participating in the discussions and drafting of these important planning and environmental provisions of the EPW Committee's reauthorization bill.

Secretary Mineta, thank you for testifying this afternoon on the Administration's SAFETEA bill. Despite the lateness of the proposal and disappointing funding levels, I believe the Administration should be commended for developing a proposal that makes saving lives a top priority. A total of 8,417 people died on Ohio's highways from 1996 to 2001. I hope over the life of the next reauthorization bill this figure can be substantially reduced.

As a former Governor I believe States should have maximum flexibility to use their highway dollars to meet their own unique transportation needs. I am interested in hearing about the Administration's proposals that would allow certain States to use their highway funds as a block grant as well as proposals that would allow certain States to assume some of the responsibilities of the Secretary under Federal law to help streamline the project delivery process. Mr. Secretary, I know one State that could do the job.

Again, thank you, Mr. Chairman, for holding this hearing. I look forward to working with you on reauthorization in the upcoming weeks and months on this reauthorization.

STATEMENT OF HON. NORMAN Y. MINETA, SECRETARY OF TRANSPORTATION

Chairman Bond, Senator Reid, and members of the subcommittee, thank you for the opportunity to appear before you today to discuss the Administration's proposal to reauthorize our surface transportation programs—the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, or "SAFETEA."

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

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

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

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

If safety belt use were to increase from the national average of 75 percent to 90 percent—an achievable goal—4,000 lives would be saved each year. For every 1 percentage point increase in safety belt use—that is 2.8 million more people "buckling up"—we would save 250 lives, suffer significantly fewer injuries, and reduce economic costs by hundreds of millions of dollars a year.

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

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

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

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

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

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

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

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

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

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

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

Creating a Safer Transportation System

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Strengthening the provisions of current law that establish timeframes for resource agencies to conduct environmental reviews and make decisions on permits;
- Improving the linkage between the transportation planning and project development processes;
- Simplifying the processing of Categorical Exclusion approvals; determinations as to whether a possible project alternative is feasible and prudent;

- Resolving the current overlap between Section 106 of the National Historic Preservation Act and “section 4(f)”;
- Establishing an exemption for the Interstate Highway System as an historic resource, unless the Secretary deems an individual element worthy of protection under the National Historic Preservation Act. The Advisory Council on Historic Preservation and the Federal Highway Administration are working to achieve the objective of this section through an administrative exemption, using a provision of the regulations that implement Section 106. If we are able to make progress toward such an administrative solution, we will advise Congress that this additional legislation is no longer needed.
- Providing for timely resolution of outstanding legal disputes by establishing a 6-month statute of limitations for appeals on the adequacy of projects’ environmental impact statements and other environmental documents; and
- Expanding the ability of States to provide Federal-aid highway funds to resources agencies to expedite the environmental review process.

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

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

Each year, there are over 900 million visits to national parks, forests, and wildlife refuges. Through our Federal Lands Highways program we provide funding to maintain and responsibly improve access to these areas. Because a substantial maintenance backlog has built up in our system of park roads and parkways, we are proposing a significant funding increase for the Park Road and Parkways Program. Three hundred million dollars would be authorized for fiscal year 2004, and a total of \$1.890 billion would be authorized over the 6-year period, to improve these roads. And, in support of the President’s National Parks Legacy Project, a new Federal Lands Transit Program would be established.

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

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

Making the Federal Transportation Program Smarter

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

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

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

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

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

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

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

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

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

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

Evasion of Federal fuel taxes is a serious and growing problem that requires an equally serious Federal response. This has been, I know, a major concern of Congress. SAFETEA reduces legal loopholes and dedicates more resources to a collaborative governmentwide enforcement effort. If we are successful in curbing fuel tax evasion, it has the potential to increase resources for investment in the transportation system.

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

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

- Allowing States to share in monetary recoveries from Federal fraud cases.

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

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

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

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

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

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

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

RESPONSES OF HON. NORMAN Y. MINETA TO ADDITIONAL QUESTIONS FROM
SENATOR JEFFORDS

Question 1. The Administration's bill authorizes funding for surface transportation—\$247 billion for highway and transit programs for 6 years. With this relatively modest growth in funding over TEA-21, the Administration had to make some difficult choices in how to best fund the core highway programs. Could you explain how the Administration decided what levels and increases to propose for the core highway programs? For example, why does CMAQ see a reduction of over \$340 million in fiscal year 2004 compared to fiscal year 2003? Why does this program only recover its fiscal year 2003 funding levels after fiscal year 2005 and only grow to \$1.6 billion in 2009?

Response. The overall funding level for programs funded from the Highway Account of the Highway Trust Fund was based on the following principles: (1) No increases to highway user taxes; (2) redirecting to the Highway Account of the Highway Trust Fund the 2.5 cents per gallon of the gasohol tax currently deposited in the General Fund; (3) maintaining a link between Highway Account receipts and program levels; (4) drawing down the balance of the Highway Account to a prudent level that can be maintained. This approach established the resources available each year to fund the core highway formula and other programs.

SAFETEA would reduce the number of discretionary grant programs and redirect the resources that would have otherwise funded such programs to the core programs. SAFETEA creates a new performance based core safety program with significantly higher funding than the current safety set-aside within the existing Surface Transportation Program. We consciously chose to maintain the relative balance among the remaining core programs. Over the 6-year authorization period, the remaining core programs each would grow at about 9 percent compared to their TEA-21 authorization levels. Because of the interaction of the funding levels for the core programs and the minimum guarantee calculation, it was necessary to stage the increases for each program separately rather than having each grow smoothly at the same rate each year.

It is true that CMAQ funding does fall back some \$330 million in fiscal year 2004. However, the option exists for other Federal-aid highway and transit programs to be used for CMAQ-eligible projects through the flexibility provisions of existing laws that support the transfer of funds among programs. For example, SAFETEA proposes \$46 billion in transit funding, which could be available to help offset the

shortfall in the first year. Statutes demand that CMAQ funds be invested only in projects that contribute to air quality. However, other funding programs, like the much larger Surface Transportation Program, may be invested in many such endeavors if the State and metropolitan planning organization so desire.

Question 2. During our hearing process, we heard that transportation project costs are increasing. We have all read the newspaper stories or seen the television exposes about highway project costs spiraling way over budget. SAFETEA requires project management plans and annual financial plans for all Federal-aid projects costing 1 billion dollars or more. It also requires annual financial plans for all projects receiving \$100 million in Federal-aid funds. How will project management and financial plans help rein in project costs?

Response. Current law requires financial plans for all Federal-aid projects costing \$1 billion or more. This requirement has already proven to be an effective tool in helping States effectively manage how large projects will be financed while considering impacts on other transportation projects in their States. It has also placed a spotlight on increases in project costs and the origins of such increases. Thus, specific efforts can be undertaken to evaluate future actions that may increase costs and to address these proactively to minimize or eliminate such increases. Financial plans appear to enable States to better control cost growth.

SAFETEA proposes to add a requirement for project management plans for all of the \$1 billion-plus Federal-aid projects. The project management plan lays out a State's proposal for effectively managing the scope, costs, schedules, and quality assurance on a project and identifies the role of the State DOT leadership in this effort. A clear understanding in this regard before construction on a project begins is expected to have a significant benefit for controlling cost growth during construction.

The SAFETEA proposal to require the development of financial plans for all projects receiving \$100 million or more in Federal-aid funding is expected to extend to these mid-cost range projects the benefits that we have already seen on the \$1 billion-plus size projects. These financial plans would not be submitted for approval or acceptance but would be available to the Secretary upon request.

SAFETEA also calls for the Secretary to develop minimum standards for estimating project costs. Many of the problems concerning cost growth are related to project estimates, from the early planning phase through the construction. We expect that better estimating will lead to far less fluctuation in costs throughout the project development process. Further, SAFETEA will require the Secretary to periodically review the State's practices for estimating project costs, awarding contracts, and reducing project costs. States will also be required to determine that subrecipients of Federal funds have sufficient accounting controls and project delivery systems.

Question 3. The Administration's bill proposes changes to Section 4(f) protections, changing the role of resource managers and public involvement in the decision-making process. Yet virtually no major transportation project has been stopped by Section 4(f) lawsuits in recent decades. Why is a statutory change required in this well-settled area of law? Are there best practices in implementation of Section 4(f) that might be more widely adopted under current law?

Response. We do not view the law on Section 4(f) as being well settled, but as continually evolving over the past few decades.

Early cases, originating with the Supreme Court's decision in *Overton Park v. Volpe*, 402 U.S. 402 (1971), provided a very strict interpretation of Section 4(f). In *Overton Park*, the court established a high standard for compliance with Section 4(f), holding that the Secretary may only reject an avoidance alternative if it would present "unique problems" or require costs or community disruption of "extraordinary magnitude."

This standard was stringently applied in subsequent cases. For example, in *Louisiana Environmental Society v. Coleman*, 537 F.2d 79 (5th Cir. 1976), the Fifth Circuit determined that displacements of homes and businesses were not "unusual" factors in highway construction. Therefore, the Court found that the Secretary erred in rejecting an alternative as imprudent, even though it would have displaced 377 single family homes, 1508 persons, 21 businesses and two churches, in order to avoid building a bridge that would take only 18 acres of air space and less than one acre of lake bottom of a 9,000 acre lake (thus the lake surface would remain essentially the same). The Court reasoned that, for the statute to have meaning, Congress must have intended for "prudent" to mean more than a balancing of advantages and disadvantages. This means that the Secretary could not consider that the overall values of the recreational lake at issue would not suffer to any significant degree, nor could he compare the relatively small adverse effects to the lake

with the huge community impacts associated with an avoidance alternative. The Secretary could only consider whether the lake would be affected and whether there were any alternatives that could avoid such impacts. (Even though, after 11 years of court proceedings, we ultimately won this case on other grounds, the Court's holdings relating to prudence is still good law in the Fifth Circuit, and continues to limit the discretion of the Secretary in reflecting costly avoidance alternatives.) See also *Druid Hills Civic Association v. FHWA*, 772 F.2d 700 (11th Cir. 1985), which expressly adopted the Fifth Circuit's approach in *Louisiana Environmental Society*; and *Stop H-3 Association v. Brinegar*, 533 F.2d 434 (9th Cir. 1976), where the Ninth Circuit found that even an alternative that presented a "safety risk of some magnitude" did not pose a "unique problem" that warranted the Secretary's finding that it was imprudent.

However, more recent cases, beginning with *Eagle Foundation v. Dole*, 813 F. 2d 798 (7th Cir. 1987), have interpreted Section 4(f) and the *Overton Park* decision less stringently. In *Eagle Foundation*, plaintiffs challenged the routing of a segment of highway through a wildlife reserve and a historic farm. The Seventh Circuit held that, in determining what is prudent, the Secretary's "inquiry calls for judgment, balancing, and for the practical settlements of disputes on which reasonable people will disagree," and that a "prudent judgment is one that takes into account everything important that matters." The Court noted that the Supreme Court's use of the term "unique problems" in *Overton Park* was merely for emphasis, and was not intended to replace "prudent." The Court further concluded that the harm caused by an alternative could be aggregated in determining whether it is prudent: "It would be imprudent to build around the park if the Secretary were convinced that the aggregate injuries caused by doing so exceeded those caused by reducing the size of the park." The Court characterized the Secretary's inquiry as "whether it is worth \$8 million to build around the [4(f) property] in light of the other benefits and drawbacks of each course of action" and stated that "The absolute comparison—Is it worth \$8 million to avoid Napoleon Hollow—is what matters." 813 F.2d at 808. The Court ultimately upheld the Secretary's conclusion that the aggregate costs of the alternatives—including safety concerns, endangerment of eagle roosting sites, and an additional cost of at least \$8 million—were sufficient reason to find them imprudent. See also *Hickory Neighborhood Defense League v. Skinner*, 910 F.2d 159 (4th Cir. 1990), where a similar balancing test was used to determine that the cumulative adverse impacts of the avoidance alternative—i.e., impeding access to two hospitals, routing through a quiet residential neighborhood, traffic operational difficulties due to sharp turns and inadequate cross-walks—made it imprudent; and see *Committee to Preserve Boomer Lake Park v. Skinner*, 4 F.3d 1543 (10th Cir. 1993), where the Tenth Circuit describes the term "prudent" as involving a "common sense balancing of practical concerns."

This evolving case law has meant that different legal standards are applicable in different areas of the country. In the Fifth, Ninth or Eleventh Circuits, the older, more stringent case law still applies to the Secretary's decisions. However, in the Fourth, Seventh and Tenth Circuits, the Secretary may apply a balancing approach in making a Section 4(f) determination. The disparity in these court decisions has made it difficult to find a workable national standard to use in reaching determinations of whether an alternative is prudent and feasible, and has created uncertainty regarding the appropriate standard of law to apply. In order to establish more national uniformity, this provision would clarify factors the Secretary shall consider in making section 4(f) determinations. The factors that we have selected are consistent with the factors considered in the more recent cases that have taken a balancing approach in evaluating Section 4(f) determinations.

The fact that not many recent Section 4(f) cases have actually stopped highway projects merely means that Federal transportation agencies have been correctly applying the applicable 4(f) standards. However, complying with Section 4(f)—particularly in areas where the more stringent interpretations of Section 4(f) apply—results in significant delays in project development. (Based on a study commissioned by FHWA, we found that projects involving Section 4(f) issues took on average about five to seven months longer to complete than other projects.) In addition, even when the transportation decision is upheld, Section 4(f) lawsuits have in the interim resulted in significant project delays.

FHWA continues to solicit and publicize best practices for expediting the full spectrum of environmental processes from our division offices, legal staff, and State and local partners through our website devoted to Streamlining. During 2001, recent 4(f) innovations highlighted include a new programmatic 4(f) evaluation for projects that result in "net benefits" for the protected resource, be it parkland, wildlife refuge, or historic site, and a programmatic agreement that allows the Ohio DOT to determine applicability of Section 4(f) to a particular case. Another programmatic 4(f) evalua-

tion for historic roads is under development. The FHWA held a series of meetings among the division leadership and the legal staff to identify additional issues in implementing Section 4(f) and to suggest creative solutions.

Unfortunately, the innovative approaches identified for implementing Section 4(f) address very limited applications and don't go far enough in eliminating duplications between the Section 4(f) and 106 processes. Nor do such creative approaches avoid conflicts between resolutions of adverse effect negotiated under the Section 106 process to the satisfaction of all parties, including the State Historic Preservation Officers and other preservation advocates, and the outcome sometimes forced by the inflexibility of Section 4(f). And ultimately, innovative solutions must still stay within the bounds of the law; the strict language of the statute and of some of the court decisions continue to limit the types of innovative approaches that we can try.

Question 4. Please describe the resources and the guidance that your agency is going to provide in fiscal year 2004, assuming the budget is satisfied, to States and communities to help them demonstrate conformity with the PM_{2.5} standard?

Response. U.S. DOT and EPA have worked closely in providing technical assistance to areas to address conformity and transportation air quality issues. In anticipation of the number of new areas designated nonattainment for the first time that have no previous conformity experience, U.S. DOT and EPA, have embarked on a number of activities to prepare areas for this challenge:

1. Revise transportation conformity regulations—U.S. DOT is working closely with EPA to revise the EPA's conformity rule for the implementation of the new ozone and fine particulate standards. EPA's goal is to complete the rulemaking process before April 15, 2004, the anticipated date upon which EPA will finalize the new ozone nonattainment designations. We believe this will allow newly designated nonattainment areas to fully utilize the 1-year conformity grace period in meeting conformity requirements.
2. Continue existing training courses—U.S. DOT has developed a well-received basic transportation conformity training course. The course was offered 6 times during fiscal year 2002. The course offerings were attended by about 230 people representing both public (Federal, State, and local governments) and private sectors of both transportation and air quality disciplines. In fiscal year 2003 and 2004, U.S. DOT anticipates offering this training course through the National Transit Institute in about 10 cities. A number of workshops and tailored seminars also have been provided by our field resource centers, primarily focusing on emissions modeling, transportation conformity, and the CMAQ program. In addition, FHWA will continue to provide training in MOBILE6, EPA's current emissions factor model, in fiscal year 2004.
3. Provide new training opportunities—FHWA's National Highway Institute will be launching 2 new training courses in fiscal year 2004 which will be very helpful to areas in preparing for their conformity analysis. The courses are: Estimating Regional Mobile Source Emissions and The Implication of Air Quality Planning on Transportation.
4. In May 2002, FHWA launched a Transportation Conformity Community of Practice (CoP) website to allow for sharing of best practices, free exchange of ideas and discussions on topics related to conformity among practitioners. The CoP website can be accessed at: (<http://www.fhwa.dot.gov/environment/aqupdate/index.htm>).

Question 5. A recent GAO report revealed that, by a significant margin, air quality officials fear that reducing the frequency of conformity determinations for transportation plans and programs under the Clean Air Act will have a negative effect on the States' ability to attain clean air standards. The report also reveals an EPA statement that nearly half of conformity lapses between 1997 and 2002 were due to insufficient time or staff resources or administrative and technical difficulties.

Did you factor this information into your decision whether to alter conformity deadlines in the Administration's bill, and what does your bill do to address staffing and resource issues within the resource agencies at the State or Federal level?

Response. In the GAO report entitled "Federal Planning Requirements for Transportation and Air Quality Protection Could Potentially Be More Efficient and Better Linked," survey results showed that between 30 percent to 40 percent of State air quality planners responding to GAO's survey supported the proposal to require less frequent updates of the transportation plan or the Transportation Improvement Program (TIP) while close to 40 percent were not sure or had no opinion and about 30 percent of them did not support this change. When asked if the proposals would have a negative effect on their ability to meet air quality standards, only about 30

percent of air quality planners said they thought that less frequent updates of the transportation plan or TIP could have a negative effect.

During the course of SAFETEA development, the Department conducted a number of outreach sessions with various stakeholders and considered other information such as the MPO survey conducted by the SEPW staff and MPOs' conformity implementation experience shared directly with us. Our stakeholders indicate that opportunities remain to improve the transportation conformity process and to strengthen the linkages between the transportation and air quality planning processes. One of the concerns raised among transportation agencies (even some air quality agencies agreed) was that transportation plans and State implementation plans (SIPs) are not synchronized with one another due to different planning horizons and update frequencies. This sometimes causes "lapses" in conformity, often disrupting the transportation funding process. While transportation plans have very long planning horizons and have to be updated frequently, most air quality plans have comparatively shorter planning horizons and are updated less frequently. Our stakeholders indicate that conformity lapses have occurred because areas could not complete the complex, comprehensive transportation planning and conformity processes within the required timeframes, even though they met their emissions budgets. Data collection, model development, public outreach, and consensus building can all take a considerable amount of time and resources. MPOs also face other daily challenges of ever-increasing congestion, transportation needs due to economic growth, protection of water quality and other environmental resources, efficient freight management, safety, and security. Many MPOs expressed the frustration that the transportation conformity process is driving the transportation planning process. So instead of fulfilling the original intent of transportation conformity of ensuring planned transportation activities to be consistent with the area's clean air goal, transportation agencies are spending their limited resources to "chase the conformity clock" and paying less attention to other important planning elements such as considering alternative land uses, and developing new analytical tools.

Many of our stakeholders have suggested bringing the planning horizons and frequency of updates of both the transportation plans and air quality plans much closer together. Some have suggested a shorter planning horizon, and less frequent updates, while others have suggested a longer air quality planning horizon.

Based on the above findings, the Administration proposes the following conformity-related changes in SAFETEA:

1. Combine metropolitan long-range transportation plans and transportation improvement programs into a single transportation plan. A primary objective is to ensure better consistency between what has been known as the metropolitan long-range transportation plan and the identification/prioritization of specific transportation projects/project phases into what has been known as the TIP. Since current law requires the TIP to be consistent with the long-range transportation plan, the rationale behind this proposed change is to reduce the number of actions or products generated by the metropolitan transportation planning process, such as those related to plan/program development or revision, public involvement, and fiscal constraint. This will require only one conformity determination for the plan, instead of separate conformity determinations for transportation plans and TIPs.

2. Limit transportation conformity to the first 10 years of the transportation plan, the latest year in which the SIP contains a motor vehicle emissions budgets, or the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination, whichever is longer. This section was added to better integrate the transportation planning and air quality planning processes, and to ensure that the most cost-effective mitigation strategies are incorporated into these processes. This proposal would more closely align the transportation and air quality planning horizons for purposes of transportation conformity. Currently, transportation conformity must be determined for the entire 20-year planning horizon of metropolitan long-range transportation plans. On the other hand, air quality SIPs usually cover a much shorter timeframe (10 years or less). Nevertheless, long-range transportation plans must conform to these SIPs for the full 20 years of the plan. This mismatch in timeframes does not provide for an integrated planning process in the out-years to select the most cost-effective strategies for controlling emissions, nor does it allow for the consideration of emissions reduction strategies across different sources of emissions.

SAFETEA proposes to re-define the transportation planning horizon for purposes of conformity to be the longer of: (a) the first 10 years of the metropolitan Transportation Plan; (b) the latest year in the air quality SIP that contains a motor

vehicle emissions budget; or (c) the completion date of a regionally significant project that requires approval before the next conformity determination.

In practice, this means that for areas with SIP planning horizons of less than 10 years (which is the case for most areas), transportation conformity determinations would cover a minimum of 10 years. In cases where air quality agencies develop a longer-term SIP with emissions budgets that extend beyond 10 years, the conformity determination would cover the corresponding, longer time period. This approach would ensure that a coordinated and integrated transportation and air quality planning process is utilized in developing the SIP motor vehicle emissions budgets and in determining transportation conformity. This provision also is intended to encourage the development of longer-term SIPs in areas that anticipate extended air quality problems. The SAFETEA proposal also recognizes that MPOs may desire to extend their conformity analyses to include certain transportation projects with completion dates that may extend beyond the minimum timeframe. For example, if a project sponsor wanted an approved environmental document for a proposed regionally significant project that would not be completed for 15 years, the Transportation plan conformity analysis would need to cover the 15-year period so that the proposed project's emissions would be reflected in a Transportation Plan conformity determination prior to the Federal approval of the NEPA document.

3. Require a regional emissions analysis for the last year of the transportation plan, for informational purposes only. SAFETEA section 6001(a) adds a new section 5203(g)(4) to title 49, U.S.C., and contains a proposal for regional emissions analysis to be performed for the last year of the metropolitan Transportation Plan, assuming the conformity analysis is not performed for the entirety of the Transportation Plan. These analyses are intended to be informational only and serve as input into future updates of the air quality SIP or the Transportation Plan. If this analysis were to indicate that there are potential long-term air quality issues, such issues could be more effectively addressed through an integrated transportation and air quality planning process and future updates of the air quality SIP and/or metropolitan Transportation Plan.

4. Revise the required frequency of transportation plan updates and conformity determinations from three to 5 years, except when the MPO chooses to update the plan more frequently or changes to the SIP trigger a new conformity determination as provided for in the conformity rule. The proposed legislation encourages (and provides sufficient time to develop) comprehensive Transportation Plans that consider a diverse array of issues, while giving the MPOs and State DOTs discretion in updating Transportation Plans more frequently than the proposed 5-year timeframe, if dictated by changing regional or State issues. Any major change to the Transportation Plan within the 5-year update cycle, however, will result in a new conformity determination. In addition, SAFETEA would retain the 18-month conformity "triggers" of the current transportation conformity rule associated with SIP actions, i.e., a conformity determination on the Transportation Plan is required if a related SIP action occurs. So an MPO could only go 5 years without updating its conformity determination on the transportation plan if there are no major changes to the transportation plan or to transportation related provisions of an air quality plan during the 5-year period. Together these factors will ensure that transportation plans remain in conformity with air quality plans, thereby not compromising air quality goals.

To address the staffing and resource issues, SAFETEA (section 1505) establishes a planning capacity initiative, a \$20 million per year program, to strengthen metropolitan and statewide transportation planning practices and process including the integration of environment and planning. The goal of this program is to improve public ability to respond to transportation challenges in metropolitan areas through sharing of information and good practices, peer-to-peer exchange, and other technical assistance, training and education programs.

Question 6. In his State of the Union Address, the President called for over \$1 Billion for hydrogen research. SAFETEA contains \$54 Million for hydrogen research. What happened to the rest of the President's proposal?

Response. In his State of the Union Address, President Bush recognized our need to reduce America's dependence on foreign oil. For nearly half a century, transportation has accounted for about one-fourth of total U.S. energy use and currently accounts for two thirds of U.S. oil consumption. The development of a marketable hydrogen vehicle, as the President has proposed, will greatly reduce the nation's dependence on foreign oil. We will accomplish this mission by developing technology and infrastructure for commercially viable hydrogen fuel cells to power cars, trucks,

homes and businesses free of air pollution or greenhouse gases. Today, more than ever, we must pursue a clean, safe, and secure energy future.

Although the Department of Transportation plays a vital role in the development of a marketable hydrogen vehicle, much of the current research is at a very basic level, with a focus on hydrogen storage, fuel cell dependability, and size or weight issues. The Department of Energy conducts this basic research on hydrogen energy; DOT is involved in applying, demonstrating, and deploying the new technology. DOT is also responsible for the safe transportation of hydrogen, regardless of how it is transported, and so will play a large role in developing the codes and standards, and promoting safe infrastructure necessary to support a hydrogen economy. Because most of the initial work will be in basic research, the majority of the funding for the President's Hydrogen Initiative is included in the energy bills currently before Congress.

Question 7. Section 1103 of SAFETEA includes a provision to add new language to Section 104 of title 23. Subsection (r) would provide funding, up to \$14,000,000 in fiscal years 2007 and 2008, "for the preferred option determined by a study for highway access near the Executive Office complex." Please explain this provision.

Response. Section 330 of the Fiscal Year (FY) 2003 DOT Appropriations Act provided \$11.1 million (prior to the .65 percent rescission) of which \$6.1 million was designated for streetscape and security improvements on Pennsylvania Avenue in front of the White House, Jackson Place, and Madison Place. The remaining \$5 million was designated for a transportation study to address traffic problems in the immediate vicinity of the White House. The study will develop transportation alternatives in response to the street closings and restrictions in the vicinity of the White House and Executive Office of the President complex.

Section 1103(d) of SAFETEA would provide \$41 million over the authorization period for the preferred option determined in accordance with the National Environmental Policy Act (NEPA) upon completion of the transportation study discussed above. The funds would be used to finalize transportation actions in accordance with NEPA and carry out preliminary engineering, preliminary and final design, and other pre-contract award activities in preparation for project implementation. These activities are projected to run through fiscal year 2010. Construction would not begin until sometime after the SAFETEA authorization period.

RESPONSES OF HON. NORMAN Y. MINETA TO ADDITIONAL QUESTIONS FROM
SENATOR REID

Question 1. According to the Department of Transportation, the population living in nonattainment areas under the Clean Air Act ozone and PM_{2.5} standards will increase in the next few years, possibly two-fold. Given this analysis, I expected to see a significant increase in CMAQ funding so that hard-pressed counties will have the resources to comply with the law.

Given this extreme need, can you explain your decision not to significantly increase the CMAQ funding?

Response. Over all SAFETEA funding level for programs funded from the Highway Account of the Highway Trust Fund was set based on the resources available from the Highway Account. The resources available were determined based on the following principles: (1) No increases to highway user taxes; (2) redirecting to the Highway Account of the Highway Trust Fund the 2.5 cents per gallon of the gasoline tax currently deposited in the General Fund; (3) maintaining a link between Highway Account receipts and program levels; (4) drawing down the balance of the Highway Account to a prudent level that can be maintained.

The Administration wanted to maximize State flexibility by concentrating funding in the core programs. One aspect of this was to reduce the number of discretionary grant programs and redirect the resources that would have otherwise funded such programs to the core programs, including CMAQ. We consciously chose to maintain the relative balance among the remaining core programs of TEA-21. Over the 6-year authorization period, the remaining core programs each would grow at about 9 percent compared to their TEA-21 authorization levels. Because of the interaction of the funding levels for the core programs and the minimum guarantee calculation, we had to stage the increases for each program separately rather than having each grow smoothly at the same rate each year.

Our SAFETEA proposal includes a CMAQ funding level that rises 9.1 percent over the life of the bill when compared to TEA-21 authorizations. This is commensurate with increases projected for other major Federal-aid programs including Interstate Maintenance, 9.2 percent; National Highway System, also 9.2 percent; Bridge, 9.1 percent; and the Surface Transportation Program, 9.0 percent. Given the

difficult funding choices put before the Department with a growing list of national priorities, we considered 9 percent as reality-based growth.

While the program does fall back some \$330 million in fiscal year 04 to provide funding for the new Safety Program, we should point out that other Federal-aid highway and transit programs can participate in many CMAQ-eligible projects through the flexibility provisions of existing laws that support the transfer of funds among programs. For example, SAFETEA proposes \$46 billion in transit funding, which could be available to help offset the shortfall in the first year. By law, CMAQ funds may be invested only in projects that contribute to air quality. However, other funding programs, like the much larger Surface Transportation Program, may be invested in many such endeavors if the State and MPO so desire.

Question 2. In the Administration's bill, you propose to continue the State Infrastructure Bank Pilot Program. Currently, this pilot program applies the requirements of title 23 to all projects financed in whole or in part or assisted by the State Infrastructure Bank. Does the administration's reauthorization proposal maintain that practice?

Response. The Administration's reauthorization proposal applies Federal requirements to all projects assisted by the State Infrastructure Bank.

Question 2(b). Also, several States have expressed interest in participating in the State Infrastructure Bank program, including my State of Nevada. Can you also please discuss your decision to limit the program to no more than five States?

Response. The Administration wants to maintain a five-State pilot similar to the one authorized under the Transportation Equity Act for the 21st Century (TEA-21). The applications for this pilot will be evaluated based on criteria established by the Secretary which would include: the State's ability to provide non-Federal funds to capitalize the bank; the existence of State enabling legislation that allows for full State Infrastructure Bank participation; the State's strategy for encouraging non-Federal repayment sources from project sponsors; the amount of Federal funds the State will commit to the bank as a percentage of Federal apportionments; the State's eligibility under TEA-21; and the State's past experience with a State Infrastructure Bank including the TEA-21 pilot program.

Question 3. The administration's proposal suggests a major change to the current Federal lands highway program. This is of particular interest to me since 87 percent of Nevada's land is Federal land. One proposed change would eliminate the current Public Lands Highways discretionary program that funds much of the road work done on Federal land in Nevada, replacing it with, among other things a Recreational Roads program.

I noticed the administration has made a concerted effort to do away with most discretionary programs. Some of these discretionary programs serve an important function, even with earmarks. I am concerned that, in an attempt at reform, the administration may be overreaching. I think the Public Lands Highway discretionary program is one example.

How can I be confident that this change to the Federal lands program will not adversely affect Nevada?

Response. SAFETEA calls for a record Federal investment in surface transportation, spending over \$201 billion on highway and safety programs. The proposed elimination of the discretionary categories will provide more funding for the "core" highway programs. This change would give States more flexibility to determine priorities and direct funding to those priorities.

The proposed Recreation Roads category included in SAFETEA will provide \$50 million for each fiscal year 2004 through 2009. This category will provide funding for public roads owned by the U.S. Government that provide access to museums, lakes, reservoirs, visitors centers, gateways to major wilderness areas, public use areas, recreation, and historic sites. Recreation Roads funds would be allocated to five agencies as follows:

- 6 percent to Bureau of Reclamation
- 6 percent to U.S. Army Corps of Engineers
- 10 percent to Bureau of Land Management
- 10 percent to Military Traffic Management Command
- 68 percent to Forest Service

The Secretary, from time to time, may adjust the percentage of recreation road funds to each agency. With 87 percent of Nevada being Federal lands, this new category will provide additional funds to Federal Land Managing Agencies in the State for transportation needs.

Question 4. The Bureau of Land Management oversees the great majority of Nevada's Federal lands. In the past, the Federal Highway Administration's relation-

ship with the BLM has not been as effective as its relationship with other Federal land resource agencies, especially in Nevada. What is being done to improve that relationship?

Response. The Federal Lands Highway Program (FLHP) was established to provide funding for a coordinated program of public roads and transit facilities serving Federal and Indian lands. The Bureau of Land Management (BLM) did not participate in the FLHP because their roads were not considered public roads. The BLM has recently established a "public road" category, which will allow them to participate in the FLHP. Under SAFETEA, BLM would receive funds from the Recreation Road and Safety categories.

Question 5. The Federal Highway Administration's 2002 Conditions and Performance report estimates the annual Federal investment in roads must increase by 17 percent per year simply to maintain the nation's existing highway and bridge system. Improving the system will cost significantly more. As you have pointed out, safety continues to be an urgent concern. In metropolitan areas across the country, congestion only gets worse.

In fact, the administration's proposed funding level for fiscal year 2004 is \$2 billion below the fiscal year 2003 level. The administration's bill will not reach current funding levels until fiscal year 2007 and then only with a modest increase. This is simply unacceptable.

This country needs sustained, robust investment in our transportation system and the economic stimulus and jobs that investment provides.

Given the pressing needs of our nation's transportation system and our struggling economy, can you please explain how our constituents can have any confidence in the future condition and performance of our surface transportation system given the administration's proposed level of investment?

Response. SAFETEA calls for a record Federal investment in surface transportation, spending over \$247 billion on highway and transit programs from fiscal year 2004 through fiscal year 2009. The Administration's proposal marks a 19 percent increase over the guaranteed amounts provided in TEA-21. The Federal-aid highway program size is set at a level that the expected level of Highway Account revenues (from current taxes and the redirection of 2.5 cents per gallon of gasohol) can sustain and that will allow the maintenance of prudent cash reserves in the Highway Account.

The "2002 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance" report to Congress (C&P report) focuses on the impacts of investment by all levels of government combined over 20 years, not just the Federal investment. The report indicates that capital investment by all levels of government would need to increase by 17.5 percent above base year 2000 levels in order to reach the "Cost to Maintain Highways and Bridges" level. The C&P report also indicated that this difference would shrink to 11.3 percent over the 2001 to 2003 period, due in part to higher Federal funding levels in the latter years of TEA-21. Further shrinkage of this "gap" will depend on the level and types of Federal, State, local government, and private highway investment over this period.

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

SAFETEA proposes a sustainable level of infrastructure investment that provides funding increases for all core program categories, and establishes carefully targeted new programs, including one to address immediate improvements in system conditions and operations. SAFETEA will protect the American taxpayer's equity in transportation infrastructure.

Question 6. As part of this reauthorization, the administration is proposing a new Surface Transportation System Performance Pilot program. As you may know, in Nevada, we have done an excellent job of maintaining the condition of our National Highway System roads. In fact, we have some of the best roads in the country. This did not happen by accident. The Nevada State Department of Transportation has made tough, informed choices and focused maintenance resources on those routes with the highest traffic volume.

How would this new performance pilot program benefit a State like Nevada that has managed its transportation assets well?

Response. SAFETEA builds upon the vision of ISTEA and TEA-21, giving State and local officials even more flexibility to advance their own goals for transportation capital investment. Instead of directing outcomes from Washington, DC, the Department continues to shift more of its focus to giving State and local partners the nec-

essary tools to solve their unique problems while still pursuing important national goals. Increased flexibility to address individual circumstances, needs, and priorities benefits all States.

One new initiative in flexibility is SAFETEA's proposed performance pilot program, which would allow up to 5 pilot States to manage the bulk of their core formula highway program funds on a performance basis, cutting across the programmatic lines by which the Federal-aid highway program is normally structured. Pilot States would work with the Department to develop and meet specific performance measures that reflect both State and national interests.

This program gives States more flexibility to make effective investments by focusing on program outcomes rather than program categories.

This program is a test, to determine whether allowing States to assume certain responsibilities can lead to more efficient execution of the Federal-aid Highway Program. No separate funding is provided—it is an experiment in the management and use of a State's regular Federal-aid highway apportionments.

While this way of doing business may not be an effective tool for one State, it could be just the answer for another. Collectively, our overall, interconnected surface transportation system and all of its users reap the benefits.

Question 7. I have always been a strong supporter of MAGLEV. I think it is a mode of transportation that can bring substantial benefit to certain areas of the country. In the past, we have made modest investments in the technology to prepare MAGLEV for deployment. Today there are regions of the country ready to deploy the technology. However, I did not see any mention of MAGLEV in the Administration's bill. Can you discuss what you envision as the future of MAGLEV in this country and why the administration chose to leave it out of this reauthorization proposal?

Response. Maglev is an exciting technological concept that still is in the developmental stage. Investment in maglev implementation may be appropriate at some point in the future, but the issue that the Administration faced in developing the SAFETEA proposal is whether maglev is ready for application to the transportation challenges facing this country today. We concluded that it was not. With the exception of a relatively short airport shuttle being developed in Shanghai, and test facilities in Germany and Japan, our knowledge of maglev is derived from paper studies and projections, not from practical experience. While even the proponents of maglev agree that construction of a relatively short demonstration such as the one underway in China will be expensive, we cannot make an informed judgment about the final construction and life cycle costs of a maglev system designed to meet real transportation needs in everyday revenue service and, thus, how investment in maglev would compare to alternative investments designed to meet the same transportation needs. Given the limited funding available for transportation, and the many legitimate transportation needs that are competing for that limited funding, the Administration did not believe that maglev was a sufficiently high priority to be included in SAFETEA.

RESPONSES OF HON. NORMAN Y. MINETA TO ADDITIONAL QUESTIONS FROM
SENATOR CARPER

Overall Funding Levels

Question 1. In your testimony, you cite the great impact of the transportation system on our economy and overall quality of life. Additionally, you cite the many challenges facing our transportation system, from maintaining our existing infrastructure to relieving growing congestion and providing for huge growth in freight traffic. How do we adequately address these challenges given the limited resources that SAFETEA proposes?

Response. SAFETEA is a plan, not just for the amount of Federal funding to be spent for surface transportation infrastructure, but for the way we will spend the funds. This investment will lead not only to safer highway transportation, but also to simpler and smarter delivery of Federal highway programs as well. At the Federal level, we will address transportation problems of national significance, while giving State and local transportation decisionmakers more flexibility to solve the unique transportation problems of their communities. New flexibilities in infrastructure financing will increase opportunities for private-sector investment in highway facilities. Refinements in program administration and environmental review processes will make project oversight more effective and project delivery more efficient. And, we are focusing our transportation research efforts on improving today's highway system performance, and anticipating and developing options to deal with future challenges.

SAFETEA calls for a record Federal investment in surface transportation, spending over \$247 billion on highway and transit programs from fiscal year 2004 through fiscal year 2009—a 19 percent increase over the guaranteed amounts provided in TEA–21. This is a sustainable level of infrastructure investment that provides funding increases for all core program categories, and establishes carefully targeted new programs, including the Infrastructure Performance and Maintenance and Freight Gateways programs to specifically address congestion and freight issues. However, it is essential to consider the many programmatic reforms contained in SAFETEA, as well as the total size of the program.

Question 2. Generating 47,500 jobs for every \$1 billion in investment, transportation investment would seem to be one of the best economic stimulators available. Would you agree? If so, shouldn't we be spending more, not less, on transportation in these difficult economic times?

Response. Funding levels in SAFETEA reflect the difficult choices currently facing both the Administration and Congress, seeking a balance in addressing domestic needs, meeting our international responsibilities, and protecting against terrorist attacks at home. Still, SAFETEA calls for a record Federal investment in surface transportation, spending over \$247 billion on highway and transit programs from fiscal year 2004 through fiscal year 2009. The Administration's proposal marks a 19 percent increase over the guaranteed amounts provided in TEA–21. The proposed levels provide for a sustainable highway program, responsible program increases over the 6-year reauthorization period, and continue the traditional linkage of highway spending and trust fund revenues.

The Administration opposes raising gas taxes at this time when many American families that depend on their vehicles, and businesses that rely on affordable ground transportation, are facing challenging economic circumstances. Tax cuts, rather than increased spending, are proposed to stimulate the economy. Therefore, the Federal-aid highway program size is set at a level that the expected level of Highway Account revenues (from current taxes and the redirection of 2.5 cents per gallon of gas-ohol) can sustain and that will allow the maintenance of prudent cash reserves in the Highway Account.

Within today's constrained budget environment, SAFETEA makes a very substantial commitment to ensuring a safe and efficient Federal transportation system for all Americans. It will help improve transportation safety; enhance national security; maintain and improve our transportation infrastructure, and increase its operational capacity; reduce environmental degradation; and improve the quality of life for all our citizens.

Rail

Question 1. While I applaud the Administration for including several new programs and initiatives that provide resource to States for intermodal investment, including freight and passenger rail, overall, SAFETEA offers the status quo on rail development by simply extending the current Railroad Rehabilitation and Infrastructure Financing (RRIF) loan program and reauthorizing "with some changes" the Swift Act High Speed Rail planning and research grant programs. Do you believe these programs are adequate to address the many rail needs our States have?

Response. Rail programs have traditionally been the subject of their own separate authorization legislation and not incorporated into the legislative antecedents of SAFETEA. The Administration believes this is appropriate and will be addressing the major rail needs through separate legislative proposals for the reauthorization of the Federal Rail Safety Act and for Intercity Passenger Rail Service.

Question 2. How will the Administration's plan for Amtrak fit with SAFETEA? Are there specific programs in SAFETEA that you envision dovetailing with the Administration's proposal?

Response. The Administration's proposal for the future of intercity passenger rail service will be included in separate legislation that will soon be transmitted to Congress. One aspect of that proposal will be an enhanced role for the States in making fundamental decisions about intercity passenger rail services important to them. SAFETEA proposes amending the existing planning provisions of the Swift Rail Act to authorize Federal financial assistance to the States to permit them to undertake the analyses necessary for them to make informed decisions with regard to intercity passenger rail and to identify where such service deserves their support.

Question 3. In your testimony, you discuss letting the States have maximum flexibility to make transportation investments. Why doesn't this flexibility include funding Amtrak services?

Response. The transportation needs currently eligible under the programs being reauthorized in SAFETEA exceed the available resources. The Administration does

not wish to exacerbate this situation by adding Amtrak and related programs which, in some versions of Senate legislation could exceed \$4.5 billion per year, to the list of projects competing for those limited resources. Intercity passenger rail and Amtrak will be the subject of a separate legislative proposal.

Transit

Question 1. The investment levels for transit recommended by SAFETEA defer the necessary investment needed to meet the system preservation requirements identified in DOT's own "Conditions and Performance Report." Won't deferring these expenses simply add to the cost of maintaining and improving our transit services in the years to come?

Response. SAFETEA proposes to make \$46 billion available over the 6-year authorization period, a 28 percent increase over the \$36 billion under TEA-21. We believe this level of Federal investment will keep us on target to maintain—and even improve—the conditions and performance of our Nation's transit assets.

The DOT's Conditions and Performance (C&P) Report makes long-term projections of investment needs and reports a single "average annual" investment requirement from all sources for the entire 20-year period (2001–2020). The 2002 Report estimates that the average capital investment needed to maintain transit conditions and performance is \$14.8 billion annually.

Using the average annual investment requirement (\$14.8 billion) reported in the C&P Report, a total of \$88.6 billion of transit investment would be required to maintain transit conditions and performance over the 6-year reauthorization period. This figure includes investments from all sources—Federal, State, and local.

Historically and most recently in 2001, State and local governments moneys account for approximately half of all capital investments in transit. Assuming that this share is maintained, the Federal investment in transit that would be required for the 6-year reauthorization period would be \$44.3 billion—less than the \$46 billion provided by SAFETEA. Thus, the \$46 billion investment proposed by SAFETEA would, in fact, permit us to maintain transit conditions and performance.

Question 2. SAFETEA proposes the elimination of the guaranteed funding/firewall protection of the general fund contributions to the Mass Transit Account of the Trust Fund. Why is this and doesn't this directly counter your previous statement that "The minimum guarantees and the budgetary firewalls have created confidence among grantees regarding Federal funding . . . [and are] . . . an extremely important aspect of program delivery for State and local officials."

Response. Transit programs are currently the only Federal programs that receive guaranteed general funds. We are confident that transit programs can effectively compete for general funds with other programs if they are not included within budgetary firewalls. Furthermore, given the potential for changes in national priorities (like those we saw after September 11, 2001), it did not seem appropriate or advisable to tie the hands of future Congresses or future Presidents with general fund firewalls. Funds paid into the Mass Transit Account are intended to be used solely for a specific purpose and are appropriately guaranteed.

Question 3. Where needs significantly exceed available funding as in our current transit program, the ability to shift money from one need to another is no substitute for additional resources into the program. While I am supportive of State flexibility, I think it needs to be accompanied by adequate resources. Could eliminating specific transit program funding categories and pitting competing programs against one another without adding more resources lead to lower funding for important, but perhaps less popular or glamorous, programs? How would we prevent this?

Response. In a constrained fiscal environment, flexibility can help maximize the use of available resources. We have not, however, eliminated specific transit program funding categories, with the exception of the bus capital program, for which the funding has been incorporated into the urbanized and nonurbanized area formula programs to increase those stable and predictable sources of capital funding for buses and bus facilities, and into the New Starts program to provide capital investment for major non-fixed guideway corridor improvements such as Bus Rapid Transit. Funds for Fixed Guideway Modernization are allocated on the same basis as under current law but are incorporated into the urbanized formula program to provide grantees with more flexibility. We have retained the flexibility provided in current law to transfer funds between the urbanized and nonurbanized programs.

In the State-administered programs, we have retained the existing formula for the Elderly and Persons with Disabilities program, made the Job Access and Reverse Commute Program a formula administered by the States, and proposed the New Freedom Initiative as a State-administered formula program to support transportation enhancements for persons with disabilities beyond those required by the Americans with Disabilities Act. The funds allocated to the States for each of these

programs must be used for the intended purpose. The requirement under each of these State programs that projects be selected from locally developed coordinated human service/public transit plans will ensure that local communities examine the whole range of community transportation needs and existing transportation providers and services. The States will then competitively allocate the program funds to fill gaps identified by local communities in both urbanized and rural areas.

We believe that formularizing these transit programs promotes sound decision-making at the local and State level so that the “important, but perhaps less popular or glamorous” projects can be considered on their merits.

Question 4. Why does SAFETEA allocate more resources to the highway program over transit, thus upsetting the historic 4 to 1 ratio between the two programs when we see equally high demand for both types of investment? Shouldn't we grow both programs equally? Or perhaps subject the highway programs to a 50 percent non-Federal match to spread Federal highway funding to more beneficiaries in the face of such high demand? If that makes sense for transit, why not consider it for highways?

Response. I believe that the allocation of resources between transit and highway funding in SAFETEA is quite similar to the situation in TEA-21. For the 6-year period covered by SAFETEA, the mass transit program authorizations constitute 18.4 percent of the total authorizations. Under the 6-year period covered by TEA-21, mass transit constituted about 18.8 percent of total authorizations and 17.4 percent of the guaranteed funding.

I would like to clarify the Administration's proposal to decrease the maximum Federal New Starts share to 50 percent. The New Starts match provision actually limits the portion of the project that can be funded from New Starts funds to 50 percent. The total Federal share may still be up to 80 percent. For instance, a New Starts project could be funded as follows:

- 50 percent with Federal New Starts funds
- 30 percent with other Federal funds, including certain highway (typically CMAQ or STP funds) formula funds
- 20 percent non-Federal funds

The formula programs for both highways and transit would continue to have the same match rate: 80 percent Federal—20 percent non-Federal.

It is important to distinguish the New Starts program from highway and transit formula programs. The New Starts program is a discretionary program and provides funds over and above the formula funds each State receives. Changing the New Starts share to 50 percent reflects the realities of the competitive nature of the program. The Federal Transit Administration has long encouraged project sponsors to “overmatch.” In evaluating New Starts applications, one of the statutory criteria is the local financial commitment and a sponsor's proposal to overmatch can enhance a project's standing in the competition for a full funding grant agreement. The overall Federal New Starts share today is 49 percent.

The current effective Federal share for highway capital investment in the U.S. is only 40 percent, with many highway projects being funded entirely by State and local government resources. The comparable Federal share for transit capital projects is 47 percent.

Conformity, Environmental Streamlining, and CMAQ

Question 1. SAFETEA proposes several changes to the current conformity planning process. Can you discuss these and address claims that these changes might reduce accountability of transportation planners for air quality?

Response. During the course of SAFETEA development, the Department conducted a number of outreach sessions with various stakeholders and considered other information such as the MPO survey conducted by the SEPW staff and MPOs' conformity implementation experience shared directly with us. Our stakeholders indicate that opportunities remain to improve the transportation conformity process and to strengthen the linkages between the transportation and air quality planning processes. One of the concerns raised among transportation agencies (even some air quality agencies agreed) was that transportation plans and State implementation plans (SIPs) are not synchronized with one another due to different planning horizons and update frequencies. This sometimes causes “lapses” in conformity, often disrupting the transportation funding process. While transportation plans have very long planning horizons and have to be updated frequently, most air quality plans have comparatively shorter planning horizons and are updated less frequently. Our stakeholders indicate that conformity lapses have occurred because areas could not complete the complex, comprehensive transportation planning and conformity processes within the required timeframes, even though they met their emissions budgets. Data collection, model development, public outreach, and consensus building

can all take a considerable amount of time and resources. MPOs also face other daily challenges of ever-increasing congestion, transportation needs due to economic growth, protection of water quality and other environmental resources, efficient freight management, safety, and security. Many MPOs expressed the frustration that the transportation conformity process is driving the transportation planning process. So instead of fulfilling the original intent of transportation conformity of ensuring planned transportation activities to be consistent with the area's clean air goal, transportation agencies are spending their limited resources to "chase the conformity clock" and paying less attention to other important planning elements such as considering alternative land uses, and developing new analytical tools.

Many of our stakeholders have suggested bringing the planning horizons and frequency of updates of both the transportation plans and air quality plans much closer together. Some have suggested a shorter planning horizon, and less frequent updates, while others have suggested a longer air quality planning horizon.

Based on the above findings, the Administration proposes the following conformity-related changes in SAFETEA:

1. Combine metropolitan long-range transportation plans and transportation improvement programs into a single transportation plan. A primary objective is to ensure better consistency between what has been known as the metropolitan long-range transportation plan and the identification/prioritization of specific transportation projects/project phases into what has been known as the TIP. Since current law requires the TIP to be consistent with the long-range transportation plan, the rationale behind this proposed change is to reduce the number of actions or products generated by the metropolitan transportation planning process, such as those related to plan/program development or revision, public involvement, and fiscal constraint. This will require only one conformity determination for the plan, instead of separate conformity determinations for transportation plans and TIPs.

2. Limit transportation conformity to the first 10 years of the transportation plan, the latest year in which the SIP contains a motor vehicle emissions budgets, or the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination, whichever is longer. This section was added to better integrate the transportation planning and air quality planning processes, and to ensure that the most cost-effective mitigation strategies are incorporated into these processes. This proposal would more closely align the transportation and air quality planning horizons for purposes of transportation conformity. Currently, transportation conformity must be determined for the entire 20-year planning horizon of metropolitan long-range transportation plans. On the other hand, air quality SIPs usually cover a much shorter timeframe (10 years or less). Nevertheless, long-range transportation plans must conform to these SIPs for the full 20 years of the plan. This mismatch in timeframes does not provide for an integrated planning process in the out-years to select the most cost-effective strategies for controlling emissions, nor does it allow for the consideration of emissions reduction strategies across different sources of emissions.

SAFETEA proposes to re-define the transportation planning horizon for purposes of conformity to be the longer of: (a) the first 10 years of the metropolitan Transportation Plan; (b) the latest year in the air quality SIP that contains a motor vehicle emissions budget; or (c) the completion date of a regionally significant project that requires approval before the next conformity determination.

In practice, this means that for areas with SIP planning horizons of less than 10 years (which is the case for most areas), transportation conformity determinations would cover a minimum of 10 years. In cases where air quality agencies develop a longer-term SIP with emissions budgets that extend beyond 10 years, the conformity determination would cover the corresponding, longer time period. This approach would ensure that a coordinated and integrated transportation and air quality planning process is utilized in developing the SIP motor vehicle emissions budgets and in determining transportation conformity. This provision also is intended to encourage the development of longer-term SIPs in areas that anticipate extended air quality problems. The SAFETEA proposal also recognizes that MPOs may desire to extend their conformity analyses to include certain transportation projects with completion dates that may extend beyond the minimum timeframe. For example, if a project sponsor wanted an approved environmental document for a proposed regionally significant project that would not be completed for 15 years, the Transportation plan conformity analysis would need to cover the 15-year period so that the proposed project's emissions would be reflected in a Transportation Plan conformity determination prior to the Federal approval of the NEPA document.

3. Require a regional emissions analysis for the last year of the transportation plan, for informational purposes only. SAFETEA section 6001(a) adds a new 5203(g)(4) to title 49, U.S.C., and contains a proposal for regional emissions analysis to be performed for the last year of the metropolitan Transportation Plan, assuming the conformity analysis is not performed for the entirety of the Transportation Plan. These analyses are intended to be informational only and serve as input into future updates of the air quality SIP or the Transportation Plan. If this analysis were to indicate that there are potential long-term air quality issues, such issues could be more effectively addressed through an integrated transportation and air quality planning process and future updates of the air quality SIP and/or metropolitan Transportation Plan.

4. Revise the required frequency of transportation plan updates and conformity determinations from three to 5 years, except when the MPO chooses to update the plan more frequently or changes to the SIP trigger a new conformity determination as provided for in the conformity rule. The proposed legislation encourages (and provides sufficient time to develop) comprehensive Transportation Plans that consider a diverse array of issues, while giving the MPOs and State DOTs discretion in updating Transportation Plans more frequently than the proposed 5-year timeframe, if dictated by changing regional or State issues. Any major change to the Transportation Plan within the 5-year update cycle, however, will result in a new conformity determination. In addition, SAFETEA would retain the 18-month conformity “triggers” of the current transportation conformity rule associated with SIP actions, i.e., a conformity determination on the Transportation Plan is required if a related SIP action occurs. So an MPO could only go 5 years without updating its conformity determination on the transportation plan if there are no major changes to the transportation plan or to transportation related provisions of an air quality plan during the 5-year period. Together these factors will ensure that transportation plans remain in conformity with air quality plans, thereby not compromising air quality goals.

Question 2. I understand that SAFETEA provides a role for air quality agencies in the prioritization of CMAQ projects. Is this role mandated or is it voluntary? Do you believe having input from air quality agencies will help States to select projects that deliver the maximum air quality benefits?

Response. The transportation community values the input of air quality agencies in phases of the planning and project development processes related to the CMAQ program. Indeed, we have inserted in our SAFETEA proposal that “the Secretary shall encourage States and [MPOs] to consult with” these very organizations. In addition to this voluntary role, air quality agencies are an integral part of the inter-agency consultation procedures that drive the transportation conformity process.

State environmental and air quality officials are not strangers to highway and transit project development and, along with transportation professionals, are able to contribute to the selection of effective emission-reducing projects. While transportation planners and other officials are best able to assess the full range of project development issues, such as project planning, detailed specifications and design, scheduling, fiscal programming, and other factors, air quality professionals have an important and unique perspective and these contributions are valued.

Question 3. Given SAFETEA’s inclusion of the new standards for ozone and particulate matter in the CMAQ formula, what are the anticipated funding needs for this program? Does SAFETEA envision significantly increased CMAQ funding?

Response. We view the increase in CMAQ funding submitted with our SAFETEA proposal as a realistic gain for the program in the midst of difficult fiscal choices and mounting national priorities. Spanning the life of the SAFETEA bill, the CMAQ program increases more than 9 percent over TEA-21 authorizations. In addition, the program gains considerably from 2005 to 2009, in part to offset the drop in levels projected for 2004. We are confident that these increases in CMAQ funding—certainly commensurate with the other Federal-aid programs—will help areas subject to the new ozone and particulate matter standards with planning and implementing emissions-reducing transportation projects.

RESPONSES OF HON. NORMAN Y. MINETA TO ADDITIONAL QUESTIONS FROM
SENATOR VOINOVICH

Question 1. SAFETEA proposes a \$1 billion a year program to fund “ready-to-go” projects. Would this funding be included under the scope of the 90.5 percent minimum guarantee program? Do you propose any other changes to the scope of the minimum guarantee program?

Response. The Infrastructure Performance and Maintenance (IPAM) program, a \$1 billion per year program designed to fund ready-to-go projects, would be included as an element in the calculation of the minimum guarantee program under the Administration's SAFETEA proposal. Also included would be the Highway Safety Improvement Program (HSIP). The HSIP takes the place of the 10 percent safety set-aside from the surface transportation program, which is part of the minimum guarantee calculation under current law. One program, metropolitan planning, would be removed from the calculation of minimum guarantee so that the metropolitan planning set-aside may be applied to the minimum guarantee program.

Question 2. Your proposal would establish a pilot program under which States could manage a bulk of their core formula highway funds as a block grant. Could you explain this proposal in greater detail?

Response. SAFETEA would establish a new highway pilot program intended to test the concept of a performance-based management approach in the obligation of Federal funding under the Federal-aid Highway Program. Federal-aid highway program funds would continue to be distributed among all States (including pilot States under this program) according to legislated apportionment formulas. However, under this pilot, up to five States could manage the bulk of their core formula highway program funds on a systematic, performance basis across the programmatic lines by which the Federal-aid highway program is normally structured. States would work with the Department to develop and meet specific performance measures that reflect both State and national interests. This program gives States more flexibility to make effective investments by focusing on program outcomes rather than program categories. Another benefit of this program is that it would authorize the Secretary to assign, and a State to assume, some or all of the Secretary's responsibilities under Federal laws or requirements. The State would be deemed to be a Federal agency to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act (NEPA), title 23 of the United States Code, or other Federal law. This program would test whether allowing States to assume such responsibilities can lead to more efficient execution of the Federal-aid highway program. No separate funding is provided. This program is an experiment in the management and use of a State's regular Federal-aid highway apportionments.

Question 3. One of my top transportation projects is the Euclid Corridor Transportation Project, a Bus Rapid Transit project in Cleveland, Ohio. This is a project that I became involved with well over 20 years ago, and I will ride the Euclid Corridor. What changes have you proposed to the New Starts Program that would help this project proceed to the construction phase?

Response. In the Annual Report on New Starts for fiscal year 2004, the Greater Cleveland Regional Transit Authority's (GCRTA) proposed Euclid Corridor Transportation Project (ECTP) was rated "low" for cost-effectiveness. The "low" rating is primarily due to the relatively high cost of the project compared to the estimated transportation benefits. FTA measures cost-effectiveness by comparing the costs of the project against the transportation benefits generated by the project. Costs include the sum of: (1) capital costs, annualized to an equivalent annual payment over the life of the project; and (2) annual operating and maintenance costs. Benefits are the faster travel times and other improvements in service characteristics for new and existing transit riders, expressed in terms of hours of travel time savings. Consequently, the cost-effectiveness measure expresses the relative costs and benefits of the project in terms of cost per hour of travel time savings.

FTA is working with the GCRTA to re-evaluate the ECTP with the goal of improving the project's cost-effectiveness rating. The re-evaluation will consider ways to improve cost effectiveness in three dimensions: generating transportation benefits; identifying the likely impacts of the project on economic development; and reducing the project's capital costs.

Since several of the Administration's recommendations for the reauthorization of the Transportation Equity Act for the 21st Century—the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003" (SAFETEA)—are already part of the project (e.g., the ECTP's requested New Starts share is 50 percent), SAFETEA would not have a direct impact on the ECTP. However, the cooperative effort between the Federal

Transit Administration and the GCRTA to improve the ECTP's cost effectiveness rating via the quantification of potential economic development benefits attributable to the project within the Euclid Avenue Corridor will help to strengthen the case that the project would contribute directly to the area's economic development and redevelopment efforts. Moreover, this effort would provide an expanded measure of the benefits that would contribute directly to the recalculation of a better cost-effectiveness result for the ECTP.

Question 4. SAFETEA proposes a number of changes to the environmental streamlining provisions of TEA-21. With respect to timeframes for resources agencies to conduct environmental reviews and make decisions, your proposal stops short of establishing specific deadlines in law. If mutually agreed upon deadlines cannot be established, do you see a need for default deadlines?

Response. SAFETEA does not establish specific timelines by law because it would be setting very arbitrary deadlines that could result in more time spent in additional processes when those deadlines were not met. The environmental review process for any project may involve many other Federal and State agencies, each with their own reviews that need to be satisfied. There are so many parameters that could possibly be involved in the review process that only become known during a thorough scoping process. One size does not fit all for the environmental review process for surface transportation projects.

Question 5. Could you outline the specific changes you propose to Section 106 of the National Historic Preservation Act and Section 4(f), which protects public lands? How will these changes expedite the project delivery process?

Response. Section 4(f) was enacted in 1966 during the peak of the Interstate highway construction program, and at a time when highway construction threatened major urban parks and historic districts. Today's highway program is oriented much more toward preservation and modernization of existing facilities. We believe that the strict rules imposed by Section 4(f) are no longer necessary and in many cases cause unwarranted delays in the implementation of critical highway and transit projects. SAFETEA proposes to change Section 4(f) in three important ways to make it more in line with the impacts of today's highway and transit programs and to expedite project delivery:

- First, SAFETEA would clarify the factors for determining what is prudent. This change would resolve the current inconsistency in court interpretations regarding what is meant by "prudent", which has made the implementation of Section 4(f) difficult and has sometimes resulted in decisions that were not in the public interest. The proposed changes would provide clearer guidelines by which to make Section 4(f) decisions, reducing deliberations over "gray" areas of the law and making it easier to conduct a Section 4(f) analysis. It would also facilitate internal reviews by setting forth a clear standard by which to evaluate the adequacy of Section 4(f) determinations.

- Second, SAFETEA would allow the existing Section 106 process to substitute for the 4(f) process when an agreement is reached. This would eliminate duplication between the application of Section 4(f) and the Section 106 process, thereby streamlining the process.

- Finally, SAFETEA would allow States to use highway funds to pay for historic preservation resources in order to expedite the process. This would ensure that enough resources are provided to carefully consider the impacts of highway and transit projects on historic resources, while at the same time expediting the reviews required under Section 4(f) and Section 106.

Question 6. SAFETEA proposes to allow States to assume the responsibility of the Secretary for determining whether certain activities are categorically excluded from requirements for environmental assessments of environmental impact statements. Why did the Administration limit this delegation of the Secretary's responsibilities to the States to only categorical exclusions and not extend the authority to environmental assessments or environmental impact statements?

Response. A "categorical exclusion" (CE) is defined in regulations as "a category of actions which do not individually or cumulatively have a significant effect on the human environment. . . ." Most surface transportation projects qualify as categorical exclusions (e.g., over 91 percent of Federal highway construction projects are classified as categorical exclusions). These kinds of projects present a low risk of harm to the environment. This section would allow some of the Department's responsibilities relating to these kinds of projects to be assumed by the State. Delegation of CEs would streamline the environmental review process, thereby expediting project delivery, without any substantial risk to the environment. Projects that do not qualify as a categorical exclusion involve more significant risks to the environment, requiring more expertise in evaluating the risks and greater interaction with other Federal agencies. We believe that those circumstances warrant a continued role by the Department of Transportation.

The pilot program in Section 1801 of SAFTEA does provide for delegation of a broader range of responsibilities, including a delegation of U.S. DOT's responsibilities relating to other categories of environmental reviews under the National Environmental Protection Act (NEPA), such as environmental assessments or environmental impact statements. This pilot program will give us an opportunity to assess

the benefits and risks of greater delegation beyond CEs. States and other project sponsors already have a significant role in the development of highway and transit projects that are not defined as CEs. For example, under NEPA, States are permitted to draft the environmental impact statement for transportation projects, so long as U.S. DOT conducts an independent evaluation. States and other project sponsors also play a major role in selecting transportation projects through the transportation planning process.

Question 7. How will the environmental streamlining provisions contained in SAFETEA expedite the project delivery process?

Response. SAFETEA contains several environmental streamlining provisions that will expedite the project delivery process:

Section 1602

- Clarifies that the project sponsor has the authority to request Federal agencies to cooperate in the establishment of time periods for environmental reviews. This will allow project sponsors to determine when a time schedule is needed to ensure that project reviews and decisionmaking are conducted in an efficient, expeditious manner.
- Gives State Governors the authority to initiate the dispute resolution process (in addition to Federal agencies) if timetables are not being met or substantive issues are not being resolved. This adds another avenue for resolving any impasses that have occurred in the project development process.
- Establishes a new statute of limitations of 180 days for legal challenges to Federal agencies decisions made in connections with the issuance of permits, licenses, or approvals for surface transportation projects is established. There is currently no uniform statute of limitations that applies to the decisions of Federal agencies relating to highway construction and mass transit projects. By default, legal challenges relating to highway construction or mass transit projects are subject to the general 6-year statute of limitations that applies to Federal decisions. This has allowed legal challenges to proceed even though they were filed years after Federal approvals were granted, and in some cases not until transportation projects were well under construction. This new statute of limitations, while still providing adequate time for filing a lawsuit, will prompt timely resolution of outstanding legal disputes or appeals on the adequacy of projects' environmental impact statements and other environmental documents, and on all other Federal decisions on projects.
- Expands the ability of States to provide Federal-aid highway funds to resources agencies to pay for additional resources to expedite the environmental review process.

Section 1603

- Simplifies the processing of Categorical Exclusion approvals by allowing some of the Department's responsibilities relating to these kinds of projects to be assumed by the State. Most surface transportation projects qualify as categorical exclusions (e.g., over 91 percent of Federal highway construction projects are classified as categorical exclusions). These kinds of projects present a low risk of harm to the environment. This section would remove the Department's involvement in individual project reviews (although retaining an oversight role), eliminating an additional layer of review and approval. This would streamline the environmental review process, thereby expediting project delivery, without any substantial risk to the environment.

Section 1604

- As explained more fully above, in response to question 5, this section will clarify the legal standard applicable to determinations under Section 4(f) as to whether an alternative is feasible and prudent; eliminate the current duplication between Section 4(f) and Section 106; and allow States to use highway funds to pay for historic preservation resources in order to expedite the review and consultation process.

Section 1607

- Establishes an exemption from Section 4(f) and Section 106 processes for the Interstate Highway System as an historic resource, unless the Secretary applies Section 106 to individual elements. If the Interstate System were to be designated as an historic property, it is conceivable that every action taken to maintain, improve, or upgrade the Interstate System could be considered an undertaking subject to review under Section 4(f) and Section 106 of the National Historic Preservation Act, which could unnecessarily delay needed transportation projects and improvements.

Section 1801

- Establishes a surface transportation system performance pilot program pursuant to which the Secretary would be authorized to assign, and a State to assume, some or all of the Secretary's responsibilities under any Federal law or requirement, including environmental laws. Under this pilot program, the Department's involvement in individual project reviews could be significantly reduced (although it would continue to retain an oversight role), thus eliminating an additional layer of review and approval.

Section 1815

- Allows some of the Department's responsibilities relating to the transportation enhancements and recreational trails programs, established under ISTEA and continued under TEA-21, and the transportation and community and system preservation program, established under TEA-21, to be assumed by the State. This section would reduce the Department's involvement in individual project reviews for these types of projects (although retaining an oversight role), eliminating an additional layer of review and approval.

Section 6001

- Improves process efficiency by combining the long-range metropolitan transportation plan and shorter term Transportation Improvement Program into a single document.
- Improves the coordination between the transportation planning and project development processes by clarifying the linkage between transportation planning and the National Environmental Policy Act (NEPA) process. Specifically, it authorizes the use of planning information and analyses in appropriate circumstances to facilitate streamlining of the NEPA process, and to clarify the manner in which planning studies can be utilized in the NEPA process. To the extent that the transportation planning process has included procedures similar to those required under NEPA, this new subsection will allow the U.S. DOT to rely on the studies produced in the planning process.
- Improves process efficiency by aligning the transportation and air quality planning horizons for purposes of transportation conformity.

RESPONSES OF HON. NORMAN Y. MINETA TO ADDITIONAL QUESTIONS FROM
SENATOR BAUCUS

Question 1. I notice that the TIFIA program will now be expanded to include eligibility for private rail projects.

With such a deficit of funds for highways how can you see fit to include eligibility for another mode that does not even contribute to the Trust Fund? Did you consider transferring the 4.3 cents freight rail fuel tax to the Trust Fund?

Response. A major feature of our bill is to establish a new Freight Gateways program. The purpose of this program is to institutionalize freight considerations and needs into the traditional transportation development process and increase investments for intermodal improvements at our major freight gateways and connectors.

This program broadens the flexibility of States and metropolitan planning organizations in meeting today's complex freight challenges through a combination of eligibility changes, innovative finance emphasis and targeted investment.

SAFETEA would expand the capacity and efficiency of the Nation's freight system by:

- Dedicating a portion of NHS funds for highway connections between the NHS and intermodal freight facilities, such as ports and freight terminals;
- Allowing STP funds to be used for publicly owned intermodal freight transportation projects that address economic, congestion, security, safety, and environmental issues associated with freight transportation gateways;
- Expanding TIFIA eligibility to include both public and privately owned intermodal facilities, including rail; and
- Expanding the availability of tax-exempt private activity bonds to include highway projects and freight transfer facilities.

We believe that this program, particularly the changes proposed for TIFIA, will leverage significant private sector investment to improve the movement of freight into and through major trade transportation gateways and hubs and to improve the transportation infrastructure that connects these gateways to the nation's mainline transportation networks. The overall effect will be to relieve highway congestion related to high levels of truck traffic. The 4.3 cents per gallon Federal fuel tax paid by the railroads goes directly toward paydown of the national debt.

Question 2. In your proposal, there is funding for States for fuel tax enforcement measures. I commend you for this. The funding is cut by 75 percent between fiscal year 2007 and fiscal year 2008. Why is that?

Response. Our funding proposal for fuel tax compliance is divided into several categories. Each fiscal year from 2004 through 2009, there is funding set aside for States, intergovernmental enforcement efforts, and the Internal Revenue Service (IRS). State and intergovernmental enforcement project funding remains constant at \$4.5 million and \$2 million, respectively, per fiscal year throughout the life of the legislation. The IRS would receive a base amount of \$4.5 million per year, and additional amounts for startup costs for the development of new enforcement tools.

The majority of the IRS funding will be to support three automated systems. The automated fuel tracking system mandated in TEA-21 is nearing completion and will be fully operational within a year. Operation and maintenance expenses along with some minor updates are scheduled for the out years. Funding to complete the system is included in the amount of \$10.5 million proposed for fiscal year 2004. Costs to operate and maintain as well as to provide minor updates are included in the proposed funding of \$4.5 million for each of the fiscal year 2005 through 2009.

The second system focuses on development, operation, and maintenance of an electronic data base and registration system for pipelines, vessels, and barges, and their operators. The third system focuses on the development, operation, and maintenance of an electronic data base of heavy vehicle highway use tax payments. These systems would be built from the bottom up. The remaining funds proposed for IRS use will provide for the startup of these systems. Funding in the initial year will get the projects started and on track to move forward in the following years.

Question 3. Why did you abolish the public lands discretionary lands program?

Response. SAFETEA calls for a record Federal investment in surface transportation, spending over \$201 billion on highway and safety programs. The proposed elimination of the discretionary categories will provide more funding for the "core" highway programs. This change would give States more flexibility to determine priorities and direct funding to those priorities.

RESPONSE OF HON. NORMAN Y. MINETA TO ADDITIONAL QUESTION FROM
SENATOR CORNYN

I was interested to read the Administration's provisions on the Corridors & Borders programs to separate them and fund each at \$496.5 million over 6 years. I commend these provisions as a first step to make the Corridors & Borders programs more efficient and effective tools. As you are well aware, in recent years the majority of the funding for these two programs has been congressionally earmarked to the "National Corridor Planning and Development" side of that account.

Senator Kay Bailey Hutchison and I have begun work on additional provisions for these programs. Our ideas include focusing the Corridors program to eligible corridors connecting to a border between the U.S. and Mexico or the U.S. and Canada. We believe by focusing these Corridor projects on areas of increased NAFTA trade, highway dollars will be spent more effectively.

Mexico is our second largest trading partner at \$247 billion in 2000. Trucks make 4.5 million trans-border trips a year through 27 official crossing points. About 70 percent of all U.S.-Mexico trade passes through Texas with the total volume growing by 30 percent a year.

Question. As international trade traffic increases, can you share with us other proposals the Administration is considering to address the transportation challenges faced by border States?

Response. The Administration recognizes the potential for significant increases in our already large cross-border trade with Canada and Mexico during the period covered by SAFETEA.

In addition to the Border Planning, Operations, and Technology Program and the Multi-State Corridor Planning Program (both of which are funded at \$76.5 million a year in fiscal year 2004 and \$84 million a year thereafter and both of which are based on TEA-21 programs that were funded from a single source at \$140 million per year) the Department has a number of other proposals to address the noted challenges.

One is the Border Enforcement program under Motor Carrier Safety Grants, funded at \$32 million in fiscal year 2004, increasing to \$36 million in fiscal year 2009. Funds would go to States that border Mexico or Canada to carry out commercial motor vehicle safety programs, related enforcement activities, and projects at the border.

In addition, the Department continues to be involved in a wide range of programs with our State partners that include efforts to make standards more compatible, improve inspection capabilities and leverage our shared resources more efficiently in order to assist the border States in accommodating the increased levels of cross-border trade.

The Department also has a leadership role in a border planning coordination program on the southern border and a similar role in a border planning coordination program on the northern border. The Department created these programs administratively. The two programs involve DOT, FHWA, States, other Federal agencies (e.g., GSA, Customs), as well as the equivalent agencies in Canada and Mexico.

The Department also continues to coordinate operations and infrastructure improvement programs with the Department of Homeland Security.

RESPONSES OF HON. NORMAN Y. MINETA TO ADDITIONAL QUESTIONS FROM
SENATOR WYDEN

Question 1. Until my home State of Oregon passed the Oregon Transportation Investment Act (OTIA), our State was getting to the point where it was having a hard time coming up with the State funding needed to match the Federal transportation dollars. With declining State revenues from the economic downturn and 38 States projecting budget deficits, won't it be a problem for a number of States to come up with local matching funds for transportation projects, especially if Congress were to increase the funding levels in TEA-21 reauthorization?

Response. Our surface transportation proposal, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA) would provide \$201 billion for highway and highway safety and \$46 billion for public transportation, for a total of \$247 billion from fiscal year 2004 through fiscal year 2009.

The State and local share of total transit capital funding averaged about 52 percent from 1993 to 2001. A State and local funding share of this general size or even lower would be sufficient to meet the matching requirements for the Federal transit program proposed in SAFETEA. The minimum non-Federal share is 20 percent for most transit capital projects.

Over the past 10 years, the State and local share of total highway capital funding averaged about 58 percent. A State and local funding share of this general size or even lower would be sufficient to meet the matching requirements for the Federal highway program proposed in SAFETEA. The minimum non-Federal share is 10 percent for Interstate projects and 20 percent for most other projects, although certain safety projects are eligible for 100 percent Federal funding.

Matching requirements for transit and highway programs have flexibility provisions built in to help grantees get past any temporary cash shortfalls. We know of no case where a grantee has failed to obligate transit or highway funds due to a lack of non-Federal match.

Federal Highway Administration policy currently allows relief for States experiencing a temporary shortage of matching funds. Using a process called tapered match, a State may receive Federal funds for 100 percent of the costs incurred on a project up to the Federal share of the project. The State share would not be required until the end of the project. Since large projects may be under construction for several years, the State can request tapered match on the projects that best meet its budget needs. The Federal Transit Administration has adopted a similar approach. SAFETEA would expand matching flexibility by allowing the value of donated services provided by local government employees to be credited to the non-Federal share of transportation projects receiving funds made available under title 23, U.S.C.

Question 2. You say in your written testimony that the Administration is committed to streamlining the process for moving transportation projects from concept to completion and that the Administration's SAFETEA proposal would "strengthen the provisions of current law that establish timeframes for resource agencies to conduct environmental reviews and make decisions on permits." How will those provisions be strengthened and how will the timeframes be set? Will they be set by transportation officials, by environmental officials or jointly?

Response. Section 1602 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA)—Efficient Environmental Reviews for Project Decisionmaking—would replace the streamlining provisions of section 1309 of the Transportation Equity Act for the 21st Century with for more effective provisions for achieving environmental streamlining on highway construction projects.

First, the new environmental review section would clarify the section's dual purpose of expediting project delivery and protecting the environment. In addition, pro-

visions would encourage the use of the “Enlibra” principles, as initially developed by the Western Governors Association and adopted by the National Governors Association (Policy Statement NR-1), to the extent practicable in the development of highway construction and public transit projects. Used together, these principles establish a sound basis for interaction among Federal, State, and local governments and tribes in developing policies and making decisions with respect to the environment.

Second, Section 1602 of SAFETEA would retain the current requirement regarding coordinated environmental reviews but would clarify that such reviews may apply to a particular project or may apply to an entire class of projects or to a program. Section 1602 would also clarify that local agencies and federally recognized tribes, in addition to Federal and State agencies, may participate in memoranda of understanding, where appropriate, to establish cooperatively developed time periods for review. We expect that these jointly developed review timeframes will help maintain project schedules, and thus save time and minimize cost increases.

Third, Section 1602 would clarify that the project sponsor has the authority for initiating the coordinated environmental review process for projects. In addition, while time periods would be established by the Secretary and the affected agencies, the establishment of time periods would occur only when requested by the project sponsor. The latter change gives a greater role to project sponsors in developing the time periods. Since negotiating time periods can itself take a substantial amount of time, Section 1602 would provide project sponsors with the flexibility to request establishment of time periods only where such time periods would be most effective. Section 1602 would also clarify that the Secretary may extend the time for review upon any good cause shown, including project delays that may not have been due to environmental reviews.

In addition to our legislative proposal, the Department of Transportation will continue to track and report the amount of time that it takes to complete the environmental review process on federally assisted highway construction and public transit projects.

The Department also continues to work with our Federal partners to implement Executive Order 13274, Environmental Stewardship and Transportation Infrastructure Project Reviews, to promote responsible environmental stewardship and common sense streamlining in transportation projects.

Question 3. Mr. Secretary, you say in your written testimony that you and the President have made saving lives an essential priority for reauthorization of TEA-21. Oregon’s Highway 22 in Polk County is one of the more hazardous highways anywhere. Reader’s Digest called it the “Highway of Death”. What will the Administration’s SAFETEA proposal do to reduce fatalities on Highway 22 and other dangerous highways?

Response. SAFETEA more than doubles the funds available to improve the safety of dangerous roads like Highway 22. It creates a new core safety program that is performance-based and data-driven. It provides States support for improving their crash data systems to help them target their investments to the highest payoff safety needs where the greatest reductions in fatalities can be achieved. Safety improvement priorities would be set through a State strategic highway safety plan that takes a comprehensive approach to safety based on a collaborative process that relies on input from major State and local safety stakeholders. SAFETEA’s safety program provides States more flexibility to address their highest safety needs and provides funding for safety improvements on all public roads.

Highway 22 with its high fatality and injury rates has already been identified as one of the top safety priorities in Oregon. Under the new “core” safety program, improvements to Highway 22 would remain a high priority based on crash statistics alone. Seven of the highway segments in Polk County are significantly above the State average for similar rural non-freeway State highways. The segment from the connection with Highway 150 eastbound to the Marion County Line has a crash rate nine times the State average.

The Oregon Department of Transportation has provided a crash history of Highway 22 (see attached) and has identified a number of future actions to improve safety within the Highway 22 Corridor. The safety improvements identified would be eligible under SAFETEA, including the extension of medians to prevent cross-over crashes, left-turn refuges at major intersections, construction of grade-separated crossings, and installation of rumble strips and durable striping to help drivers avoid run-off-the-road crashes. In addition, SAFETEA significantly increases Federal funding for these improvements. The State’s ability to finance critical safety improvements to Highway 22 and other dangerous roads would be greatly enhanced by a safety “core” program similar to SAFETEA’s.

