

**EVALUATION OF THE ADMINISTRATION'S
FISCAL YEAR 2007 BUDGET FOR
THE FEDERAL TRANSIT ADMINISTRATION**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

THE PRESIDENT'S PROPOSED BUDGET REQUEST FOR FISCAL YEAR 2007
FOR THE FEDERAL TRANSIT ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION

FEBRUARY 28, 2006

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EVALUATION OF THE ADMINISTRATION'S FISCAL YEAR 2007 BUDGET FOR THE FEDERAL TRANSIT ADMINISTRATION

TUESDAY, FEBRUARY 28, 2006

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

The Committee met at 10:42 a.m., in room SD-538, Dirksen Senate Office Building, Senator Richard C. Shelby (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. The hearing will come to order.

Today, we are meeting to consider the Administration's 2007 budget for the Federal Transit Administration. We will have two panels testifying. Our first witness is Sandra Bushue, Deputy Administrator of the FTA. Our second panel is comprised of William Millar, President of the American Public Transportation Association, and testifying on behalf of the U.S. Conference of Mayors is the Patrick McCrory, Mayor of Charlotte North Carolina.

Let me just begin by saying that both Senator Sarbanes and I are pleased that the SAFETEA reauthorization process is over. It was important for us to have a well thought out piece of legislation that fosters investment in public transportation, because it builds better communities, provides transportation opportunities for elderly and low-income people, and relieves congestion on our roadways.

We stuck to our guns and fought to see that transit got increased funding in SAFETEA. I am proud to say that the new authorization levels provide for a 46 percent increase over T-21 levels. So I am pleased that the Administration, with one exception, has funded FTA at the level that we authorized for 2007. There is a dire need for more transit investment in this country, and this budget will help fund many of the priorities this Committee cares deeply about.

I am concerned about two elements of the budget, however; first, the \$100 million shortfall in the Small Starts program, a new program we created in SAFETEA. We created this program for a good reason. There is a nationwide demand for Small Starts projects, as evidenced by the 50-plus requests submitted to us during the drafting of the bill.

The shortfall is peculiar to us, as we worked closely with the Administration to develop a flexible program to fund small but vital transit projects, like bus rapid transit, which is not cost-effective or

efficient to subject to the lengthy and expensive approval process necessary for larger endeavors.

This budget raises an additional concern: The Administration chose to fully fund the Federal highway program, which I strongly support, but by not fully funding transit, the budget undermines the historic 80/20 split between highways and transit that was a hallmark of this reauthorization.

Let me note, with these exceptions, the Administration chose to follow the framework of SAFETEA. The budget request respects the creation of new programs. It gives priority to the rulemakings that the law mandates and generally tracks closely with the law. I am pleased to see that. I think this is a testament to the hard work of this Committee and the great need that is out there.

I appreciate the opportunity to address these issues, and I look forward to hearing from our witnesses.

Senator Allard.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Mr. Chairman, I would like to thank you for holding these hearings to examine the Federal Transit Administration's budget proposal for fiscal year 2007, and as Chairman of the Subcommittee on Housing and Transportation, I appreciate the opportunity to work with you on issues affecting our Nation's public transportation network.

Chairman SHELBY. Closely.

Senator ALLARD. Last year's enactment of SAFETEA brought with it a host of changes for public transportation, and I particularly supported creation of a new Growing States formula and a stronger emphasis on the bus program, since most Americans rely on bus service for their bus transportation service.

I have been pleased to the Administration moving forward with the implementation of these new provisions. While I am pleased that the Administration's budget proposal primarily follows the outline written by Congress in SAFETEA, I am very concerned with the deviation from the funding level for the new Small Starts program. This was referred to in the Chairman's opening remarks. And having worked with many Members of the Senate, I can tell you unequivocally that it is very popular in the Senate, and I think every State has a number of projects that fall under the Small Starts program, so I want to associate my remarks with the Chairman's concerns that he expressed in his opening statement.

This program was important to many of us, which is why it was written into the law. Many of us have projects in our States that will fit very well into the new category rather than being placed inappropriately with bus projects or competing against traditional New Starts projects. We are all familiar with the tremendous demand for this program; therefore, I am quite puzzled as to why the FTA proposes funding it at only half the level specified by Congress.

I am also concerned that this proposed funding cut violates the long-held understanding that funding for highways and transit will be treated equally; that is to say that if one is proposed for a cut, the other program would also be proposed for a proportional reduction. Yet, the highway programs are not proposed for any cuts, and

no one benefits when transit are pitted against one another, which is why we worked so hard to resolve such issues when writing SAFETEA.

It is disturbing that the Administration seems to so casually suggest undoing that careful balance. In light of these facts, I expect that FTA will be able to provide a very clear justification for this proposal.

Beyond this concern, the budget proposal mirrors the outline from SAFETEA. Obviously, a number of these regulations are still being promulgated, and a number of programs are still being created. As Subcommittee Chairman, I intend to be actively involved in implementation and plan on working very closely with Chairman Shelby, Ranking Member Sarbanes, and Subcommittee Ranking Member Reed to conduct the necessary oversight, perhaps through additional hearings.

Mr. Chairman, I also take this opportunity to note that the Committee is currently reviewing the nomination of the new Federal Transit Administrator, and you were nominated, you were put up here just a few weeks ago, I guess.

Ms. BUSHUE. Thirty-seven days, to be exact.

Senator ALLARD. Thirty-seven days.

Ms. BUSHUE. Yes.

[Laughter.]

Senator ALLARD. And I want to take this opportunity to congratulate you on that.

This is an important position, particularly in light of SAFETEA implementation, leadership at the agency is more critical than ever, and I look forward to working with you at the appropriate time as we move forward.

Ms. BUSHUE. Thank you, Senator.

Senator ALLARD. Again, Mr. Chairman, thank you for this opportunity to review FTA's budget request. This hearing will be an important part of the Committee's ongoing efforts to see that Americans have access to effective, efficient public transportation services.

Thank you, Mr. Chairman.

Chairman SHELBY. Thank you.

Senator Carper.

STATEMENT OF SENATOR THOMAS R. CARPER

Senator CARPER. Thanks, Mr. Chairman, and welcome. You say 37 days?

Ms. BUSHUE. Yes.

Senator CARPER. How many hours?

[Laughter.]

Thank you for joining us today and good luck in your nomination.

As our highways are clogged with gridlock and our skies filled with, among other things, smog, the critical need for our transit service across this country, I think, becomes clearer and clearer. I believe we must work diligently to promote new and strengthen transit operations in both rural and urban areas, and we are seeking to do that in my little State of Delaware.

In recent years, there has been tremendous growth and interest in transit across my State and across the Delaware Valley and the Delmarva Peninsula, where we live, but also across the country. And according to some statistics that were collected from transit agencies Nationwide by the American Public Transportation Association, transit ridership nearly doubled from 1990 to 2000, and my guess is that some of the increases in gasoline prices we have seen in recent months will add to that.

In Delaware, we are adding the capacity to the commuter rail line between Wilmington and Newark, Delaware, and that happens to be the Northeast Corridor, and SEPTA, which is the Southeast Pennsylvania Transit operation that uses that rail corridor, but riding capacity in our State to the commuter rail line between those two towns.

We are also designing an extension of a commuter rail line from Newark down to Middletown, which is off the Northeast Corridor and heading south. I like to describe it as a downpayment, if you will, on eventual rail transit service to Dover from Wilmington and Newark and the northern part of our State.

And in the Transportation Reauthorization Bill that passed last summer, I believe the Congress authorized close to 400 new transit projects. This increased investment in transit has been possible because of the Federal-State-local partnership that was created in 1991 in ISTEA and has continued in subsequent reauthorizations. Creating a dependable and a consistent stream of funds supported investment in this very important transportation option as increased gas prices and traffic are fostering new demands, and the aging of America is increasing the need.

I believe we must continue to bolster this relationship with a renewed commitment that keeps pace with the growing demand. I do not want to disappoint—my colleagues here both talked about the Small Starts transit program, so we are going to make this bipartisan. But I was disappointed by the fact that the Administration's 2007 budget requests, as you have heard, about half of that which was authorized in the Small Starts transit program. The program was all created, as we all know, in SAFETEA-LU, to provide funding and an expedited approval process for streetcars, for light rail, for bus rapid transit, and commuter rail projects; I think projects that have a Federal share of less than \$75 million.

Small Starts, as we know, encourages the development of smaller scale transit projects that can be built more quickly and push State and local governments to take on a greater portion of the costs, which we need to do. Cutting these funds could lead, as my colleagues have suggested, to smaller and less expensive projects being delayed or abandoned altogether, and communities could lose what I believe or what we believe is an important tool to reduce congestion and improve air quality.

A second concern I want to share with you, and then, I will stop, but I have a concern about the fact that the Federal Transit Administration has inserted itself into the Amtrak funding debate. A provision was slipped into the fiscal year 2006 Transportation Appropriations Conference Report certainly unbeknownst to me at the last minute directing the USDOT to reevaluate the fees paid by

commuter railroads that operate in the Northeast Corridor to support the maintenance and capital costs of the Northeast Corridor.

On February 10, I am told, of this year, the Federal Transit Administration put a notice in the *Federal Register* stating that they might withhold transit funding from commuter rail systems to cover the newly assessed Northeast Corridor maintenance fees.

I might be wrong on this, but it sounds to me like this is nothing but a transfer of funds from the mass transit account to Amtrak, which results in the underfunding of both. State and local governments understand and are willing to contribute more to support Amtrak. However, the question of how to allocate the costs of maintaining the Northeast Corridor should be answered in an Amtrak reauthorization bill, not an appropriations conference report, and it certainly should not be done by robbing Peter to pay Paul.

Thank you.

Chairman SHELBY. Senator Bunning.

STATEMENT OF SENATOR JIM BUNNING

Senator BUNNING. Thank you, Mr. Chairman, for holding this very important hearing today. I recognize that we have several witnesses who will each provide us with a different perspective on the public transportation industry.

We are fortunate that we will be hearing from the Deputy Administrator of the Federal Transit Administration, from the American Public Transportation Association, representing the private sector, and from a leader of a local community, the Mayor of Charlotte, North Carolina. Thank you all for being here today.

Our public transportation system is vital to communities of all sizes, in populated cities and very much so in rural communities. For many, it is the only source of transportation allowing them to go to work and to reach their community. It is important that we provide the necessary resources to carry out effective and efficient transportation for those who need it in all communities.

For this reason among many, I look forward to learning more about the Administration's proposed funding levels and how we can better implement new and existing FTA programs.

Thank you again, Mr. Chairman, for holding this hearing, and I want to thank the witnesses again for their participation.

Chairman SHELBY. Thank you, Senator. Your written testimony will be made part of the record in its entirety; if you will sum up briefly your high points. Thank you, welcome to the Committee.

STATEMENT OF SANDRA BUSHUE DEPUTY ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION

Ms. BUSHUE. Thank you.

Thank you, Mr. Chairman, for the opportunity to testify today on the Federal Transit Administration's fiscal year 2007 budget. And as new to the FTA, I would like to say that I am really honored and humbled to be with you today. We appreciate, Mr. Chairman, your continued interest and your Committee's strong commitment to public transportation as embodied in the SAFETEA-LU Act enacted by Congress and signed by the President on August 10, 2005.

I am pleased to report to the Committee that the President's fiscal year 2007 budget for transit is a record \$8.9 billion. This is significant given the overall context of the President's 2007 budget. At a time when most nonsecurity related Government programs are experiencing reductions in funding levels and when the Department of Transportation's total budget is holding steady, funding in this budget grows by more than 4 percent, or \$370 million, compared to the fiscal year 2006 level. This shows the high priority this Administration puts on funding public transportation among many competing national priorities.

Since my recent arrival 37 days ago, I have been impressed with the energy and dedication of the FTA staff. Thus, I would like to take an opportunity to focus on a few of FTA's priorities. They include the effective and timely implementation of SAFETEA-LU; the effective management and oversight of almost \$9 billion in formula and capital investment grants, especially New Start's full funding grant agreements; and the need to attract and retain the best workforce with the skill set to meet the challenges facing the agency.

Since the President signed SAFETEA-LU in August 2005, FTA has worked diligently to implement the new changes and new requirements. To name a few, we have already signed a Memorandum of Understanding Annex with the Department of Homeland Security and published in the *Federal Register* for public comment New Starts Policy Guidance, an Advance Notice of Proposed Rulemaking for the Small Starts program, and a Notice of Proposed Rulemaking for Buy America.

We have also held numerous outreach meetings and listening sessions with the transit industry to discuss the changes in SAFETEA-LU and to solicit comments. While I am proud of these accomplishments to date, there is still much to do, and we remain committed to the aggressive schedule we have set for ourselves to implement all the requirements of SAFETEA-LU in a timely manner.

Now, I would like to touch on some of the highlights of the President's 2007 budget for the FTA. As I stated earlier, the budget reflects the Administration's commitment to public transportation as envisioned in SAFETEA-LU. In fiscal year 2007, \$7.3 billion is requested in a solely trust fund account for our urban formula and Fixed Guideway Modernization programs and for bus and bus-related capital projects. Also included in this account are several transit programs administered primarily by the States.

As the capital investment program commonly known as New Starts the budget requests almost \$1.5 billion. The \$1.5 billion level fully funds the Federal commitment included in 16 existing full funding grant agreements (FFGAs) with transit agencies. We are again requesting funding for two projects, one in Pittsburgh and one in New York, that we expect to sign a full funding grant agreement before the end of fiscal year 2006.

I am also pleased to announce that five new projects have made it to the New Starts finish line and we believe are ready for full funding grant agreements. These projects include three light rail projects: Denver, Colorado; Portland, Oregon; and Dallas, Texas; in addition, two commuter rail projects, in Washington County, Or-

egon, and Salt Lake City, Utah, are also ready for full funding grant agreements.

Mr. Chairman, I also want to share with you and the Members of the Committee our plans for implementing the Small Starts program in fiscal year 2007. This program will provide, as you know, Federal Small Starts funding up to \$75 million for projects under \$250 million in total cost. We are very excited about this program, and we note that this Committee shares this enthusiasm, as I just heard.

It is a program we originally recommended to Congress because it levels the playing field for medium and small communities. For example, this program will ensure that Birmingham, Alabama, does not have to compete with a big New York project for Federal transit funds. We know from several listening sessions we have held that communities across the country are interested in this program and how it will work.

Last month, we published in the *Federal Register* for public comment an Advance Notice of Proposed Rulemaking on the evaluation criteria and other requirements. Final regulations are not expected until June 2007. Given all the work ahead of us and the strong interest by communities to help us develop the program requirements, we believe that \$100 million is a great place to start with this new program. It is a good, sound first investment for a program we are committed to implement during fiscal year 2007.

And finally, in the budget, we are requesting \$85 million in administrative expenses to help ensure we can effectively and efficiently fulfill our mission. This request supports 14 additional full time equivalent personnel, for a total of 531 FTEs and other administrative needs.

Mr. Chairman, sincerely, I look forward to working with this Committee and with you in support of public transportation in our great country. Thank you again for this opportunity to testify on the fiscal year 2007 budget and other issues, and I look forward to your questions.

Thank you, Mr. Chairman.

Chairman SHELBY. Thank you.

As I mentioned in my opening statement, my colleagues and I were anticipating that the Administration would fully fund the transit program consistent with the authorization in SAFETEA. To develop more effective solutions to transit issues, like bus rapid transit, was a top priority for us in the authorization. Can you provide the Committee today with the Administration's rationale for cutting the Small Starts program in half, and if there was concern about the regulatory structure not being in place for the Small Starts program, why fund this new program at half its authorized level at all and instead wait until 2007 to fund it fully?

Ms. BUSHUE. Thank you, Mr. Chairman.

First, I would like to say that we are really excited about this new program, and with the advance proposed rulemaking that we have out, we are working to ensure and want to ensure, that all our stakeholders and the industry are invested in this program and can help us to make it the dynamic program we think it will become. As mentioned, optimistically, we believe that we will be ready to go forward with this program by June 2007. This would

leave only 3 months in the fiscal year 2007, so we believe \$100 million at this time is the appropriate investment.

Chairman SHELBY. The Banking Committee has spent a considerable amount of time trying to evaluate the needs of victims of Hurricane Katrina and Rita. I understand that the Administration has yet to submit a request for supplemental appropriations that address transit needs. Would you provide the Committee with an update on what the Federal Transit Administration is doing in this area?

Ms. BUSHUE. Yes, Mr. Chairman, I am happy to do that. I would like to say that since I have been in FTA, I have had the opportunity to travel down to Baton Rouge and to see the wonderful work that Bill Neville, the head of the New Orleans Transportation Authority, has done. It has just been really fantastic to see his good work.

Chairman SHELBY. Have you also been to New Orleans?

Ms. BUSHUE. Unfortunately, I did not make it down there. I was in Baton Rouge. I did not go and tour the disaster site.

Chairman SHELBY. Well, you should.

Ms. BUSHUE. Actually, I know I am going to be back there again, and that will be a top priority, but thank you.

In the supplemental that was sent to Congress, three requests were made for Federal funding from three different modes. It was to replace or repair Federal property that had been lost in Katrina: For the FAA, an air traffic control tower, for MARAD, a port facility; and for the Federal Highway Administration, to repair an interstate highway.

FTA has received around \$68 million through FEMA on a mission assignment for the services and operations for transit down in the Gulf Coast area. We currently have a consultant reviewing the capital costs that are required to repair the damage. We will be looking at those costs, and working with the private insurance companies and the FEMA public assistance programs, to see how we can help that region.

Chairman SHELBY. While we certainly support the Administration's choice to fully fund the important highway program at SAFETEA levels, I am confused as to why, if cuts were necessary, transit and highways were not cut back equivalent amounts. The conferees on the conference committee for SAFETEA made a conscious effort to treat highways and transit similarly. What is the rationale?

Ms. BUSHUE. First, I would like to compliment the Committee for the funding of transit in SAFETEA-LU. The cut that you are referencing is the reduction in the Small Starts program. Outside of that, transit is funded at the SAFETEA-LU authorized level. Again, it goes back to Small Starts being a new program. We do not believe we will have it up and ready to go until June 2007. That is why we requested \$100 million, and that is the \$100 million reduction from the authorized level.

Chairman SHELBY. Senator Allard.

Senator ALLARD. Welcome, and I, as you know, in your testimony, the FTA is proposing a clean fuels and electric drive bus deployment program to encourage and provide incentives to transit

agencies to procure low emissions technology buses, including hybrid electric buses. I also have an interest in renewable energy.

Ms. BUSHUE. Yes.

Senator ALLARD. In fact, I am Chairman or Co-Chairman of the Energy Efficient Caucus, so I am very pleased with your efforts in this regard.

Ms. BUSHUE. Thank you.

Senator ALLARD. Could you please elaborate on this proposal and indicate to me whether you intend to forward a legislative proposal to Congress, and if so, when?

Ms. BUSHUE. Since I am relatively new, I think if you do not mind, I am not as familiar with that program as I should be, and I would like to be able to get back to you at a later date.

Senator ALLARD. That would be fine.

Ms. BUSHUE. Would that be okay? Thank you, sir.

Senator ALLARD. The other question I wanted to bring up is I have worked personally with the Colorado projects that we have to stress the importance of staying on time and on budget, and a couple of really large projects we have in Colorado that I think are worth noting is Rocky Flats for cleanup was a nuclear trigger manufacturing facilities. We cleaned it up ahead of schedule by over a year and saved many millions of dollars in doing that.

Right now, I understand that our Southwest rail line, I have been working with them, and they understand the importance of staying on time and on budget, that it is close to being on time and on budget. And so, I would like to have you discuss the budget and schedule status for the New Starts projects currently under construction, if you would, please.

Ms. BUSHUE. As you know, there are around 18. We monitor these projects very carefully, and I share your concern, Senator, that these projects are on time and under budget.

We do have one recent concern. As you all know, construction prices have increased due to the increase in steel and fuel prices. FTA staff is very sensitive to this and we are working very closely with our clients, if I may use that term, to ensure that we can work out these issues. We are making every effort to make sure that these projects, again, stay definitely on time and within the budget.

Senator ALLARD. I have always told my constituents and agencies I work with back in Colorado that if you will stay on time and budget, it is okay for everybody.

Ms. BUSHUE. Absolutely.

Senator ALLARD. I think it instills confidence in the projects that we have in the State of Colorado and also, I think, instills projects at the National level in your programs, and in that way, I think we all benefit.

Ms. BUSHUE. I totally agree with you, sir.

Senator ALLARD. And so, we try and push that as much as we possibly can.

I was also pleased to see that Denver's west corridor was included in the list of proposed full funding grant agreements. This light rail corridor will be an important component of Denver's growing transit network, and RTD has worked diligently to move it forward through the process. The recommended funding amounts for the FFGA is obviously based on the scheduled amount from the

FFGA, but how were the funding recommendations determined for the proposed FFGAs?

Ms. BUSHUE. I am sorry; would you restate that for me?

Senator ALLARD. How were the funding recommendations determined for the proposed full funding grant agreements?

Ms. BUSHUE. And you are talking specifically about Colorado?

Senator ALLARD. No, just in general.

Ms. BUSHUE. That is a good question. In only my second week in the job, I did the rollout of the New Starts program for fiscal year 2006. There is a series of technical criteria that are used to determine which projects are worthy. We focus on ridership, and even more important, on the financing, especially as it relates to the State and local commitment.

It is very important that the States and the locality are invested in the project and really want the infrastructure improvements. So we evaluate what sort of commitment comes from the State and the locality.

Senator ALLARD. That is very helpful, and the people of Colorado and Denver actually voted a tax increase to help pay for these projects. So there is a very solid commitment there.

Ms. BUSHUE. That is correct.

Senator ALLARD. Thank you very much. My time has expired.

Ms. BUSHUE. Thank you, Senator.

Chairman SHELBY. Senator Carper.

Senator CARPER. Thanks, Mr. Chairman.

I do not think I am going to ask any more questions about the Small Starts projects. You have heard from us, and I appreciate the fact that you say that \$100 million is going to be enough to fund for the year a program that will start a year and a half from now. I just wish it did not take a year and a half to start. Why does it take so long to get up and running.

Ms. BUSHUE. That is a good question, Senator.

Senator CARPER. It is not a year and a half. It is another 15 months, though.

Ms. BUSHUE. Largely, it is due to really two reasons: First, it is a new program, and we are really reaching out to the stakeholders to ensure that they are invested in the program and that the program is designed to meet their needs. Second, the overall review process for a new program through some statutory requirements does take some time to complete.

I must stress that we are really reaching out to the industry on this program. We, again, put out an advance notice for rulemaking, which we did not need to do. However, we wanted to get formal comments from the industry. We are also hosting listening sessions, around the country which is a little bit new. This will allow us more detail to the industry and collect their comments to help us pull together the proper guidance for this program.

Senator CARPER. As you do all that listening, just listen to us as well.

Ms. BUSHUE. Absolutely, Senator, we will.

Senator CARPER. I think from the time we actually passed the legislation, the President signed it, until this program will be ready to roll is about 2 years.

Ms. BUSHUE. Yes.

Senator CARPER. That seems like a long time.

I want to come back to another issue that I mentioned in my opening statement, and that deals with the burden that we are prepared to place on States and local transit authorities to increase the fees that they are paying for the maintenance of the Northeast Corridor.

Tell me, what is your understanding of how the system currently operates with respect to determining the magnitude of the fees, the fee schedule, if you will, that transit agencies have to pay to Amtrak in order to use the Northeast Corridor, which Amtrak owns from Boston to Washington? What is the current arrangement?

Ms. BUSHUE. As you know, that language was put in the fiscal year 2006 appropriations bill in the FRA title. Right now, this program is still being evaluated. We at DOT are looking at it. FRA is on point of this program. FTA is facilitating. The commuter rail operators are our customers, as you know.

Senator CARPER. No, no, what was my question? My question was how—

Ms. BUSHUE. Excuse me.

Senator CARPER. What is the status quo? How do transit agencies, how do we currently determine, how is it determined what fees transit agencies from Boston to Washington are going to pay to Amtrak? How does it currently work?

Ms. BUSHUE. It is a new program, and that is being determined. We do not know what formula we are going to use. We are not sure yet what fees each State will have to pay. That is still being determined. As a matter of fact, as we speak, there is a group of DOT—

Senator CARPER. I do not mean to be rude, but let me just make sure we stay on point here. Currently, transit agencies pay fees to Amtrak. This is not a new thing. How are those fees determined?

Ms. BUSHUE. Sir, I will have to get back to you on that. I really do not know at this point how the commuter rails pay Amtrak for the use of the track.

Senator CARPER. You have been around 37 days, and you do not know that yet?

[Laughter.]

I say that with tongue in cheek.

Ms. BUSHUE. I know, sir, but—

Senator CARPER. Maybe on the 38th day, you can get your arms around that one, too.

But currently, I believe the transit agencies, SEPTA in our region but up and down the corridor, they actually negotiate with Amtrak, and they reach between the two parties, the transit agencies saying this is how often we use the corridor; Amtrak, knowing what kind of wear and tear there is on the corridor from the utilization by the transit rail operations, they reach an agreement on what the transit authorities will pay.

As I understand it, what this language does, and let me just say, some of the fee schedules have been agreed to not just for this year and not just for next year, but I understand from a member of my staff that there is actually a schedule that goes up through maybe 2010, 2011 with respect to SEPTA and Amtrak.

And for us to step in and say that while these fee schedules have been negotiated I think in good faith that we are going to come in after the fact and tell them now, you have to set that aside, and we are going to tell you what fees to schedule, seems wrongheaded.

I yield to you.

Ms. BUSHUE. Thank you.

Again, this was new language in the fiscal year 2006 appropriations bill that we are currently reviewing, and we have not really made any formal or final decisions on how we are going to implement this new rule.

Senator CARPER. I have a series of questions I am going to submit. Maybe you should turn your attention to this issue in the days ahead. If you would be good enough to respond to me, but this is—we just see something that just says, kind of shouts out at me, this is not right. And when I heard about this, I just said this is not right. And my hope is that you will not just take a close look at it but try to figure out what is the right thing to do, because I do not believe this is.

Ms. BUSHUE. I understand, sir, and thank you.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

The New Freedoms program provides funds for public transportation alternatives beyond those required by the Americans with Disabilities Act, the ADA, to assist persons with disabilities. Some communities have already exceeded the minimum ADA requirements. The question then becomes what will happen in communities where existing services already exceed the ADA minimum requirements?

For example, will communities that provide door-to-door service rather than curb-to-curb service be able to use the New Freedoms program to fund the incremental cost difference?

Ms. BUSHUE. Thank you, Senator.

As you know, the New Freedom program is in SAFETEA-LU. We are working on implementing it. The *Federal Register* notice that will be put out will request comment on the issue of funding existing services where they exceed. So that is something that we will definitely be looking at in the New Freedoms program.

Senator BUNNING. In other words, you do not have an answer.

Ms. BUSHUE. At this time, as you know, it is a new program, and we are at the beginning of the rulemaking for it.

Senator BUNNING. But was it not in last year's bill?

Ms. BUSHUE. I believe it was in the SAFETEA-LU reauthorization bill that was signed in August, right. Excuse me.

Senator BUNNING. Yes, last August; you are right.

Ms. BUSHUE. As a result, we are drafting a circular to provide more guidelines on the provisions of this new program, but it was in the SAFETEA-LU bill that was signed in August.

Senator BUNNING. So we have no proposal or even proposed rule changes or how you are going to implement that?

Ms. BUSHUE. We are in the middle of that process right now. Regarding your specific issues, we will be asking questions about them. But we are right now beginning to put together that new program.

Senator BUNNING. I would submit to you that I would like a written response, then, when you decide how you are going to do that.

Ms. BUSHUE. Absolutely. We will be happy to provide that for you, sir.

Senator BUNNING. The same program, the New Freedoms and the Job Access Reverse Commuter program before it required coordinated public transportation and human services plans. How do you envision implementing this requirement? Will it be phased in? What will the expectation be for the coming Federal fiscal year?

Ms. BUSHUE. Because, again, this is a new program, and I guess because of my newness in this position, I would like to get back to you as well in writing.

Senator BUNNING. Well, since the rest of my questions are about the Small Starts program, I will submit them also for the record and ask for your written response to them.

Ms. BUSHUE. Okay, that would be great. Thank you.

Senator BUNNING. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Sarbanes.

STATEMENT OF SENATOR PAUL S. SARBANES

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

Ms. Bushue, did I get it correct?

Ms. BUSHUE. You did absolutely great, yes, sir.

Senator SARBANES. You know, we worked very hard on this legislation. It took a long time to get this SAFETEA bill passed. I want to commend the very skillful work of Chairman Shelby in that regard. He really was tireless in trying to move through the transit portion of this, which is what we have jurisdiction over, and also, the Subcommittee Chair and Ranking Members, Senator Allard and Senator Reed.

Now, recognizing the importance of transit, the legislation authorizes almost a 50 percent increase in funding. So we were hopeful we would get this legislation finally in place after a delay of, you know, we had these temporary reauthorizations, and then, we finally passed it. The President signed it. Everyone was happy and excited, and we thought we would really get moving on this thing. Well, I am going to focus on, you know, we are losing momentum.

First of all, the request in the budget is below the authorized amount for transit. It is at the authorized amount for highways. That is always a big issue, and one of the things that we worked very hard here on was the balance between the two and so forth and so on. That is a very delicate bargaining problem, I guess, would be the way to put it.

But we put something out, and it was acceptable and so forth. Then, right out of the box, the budget request, the funding falls off of the agreement. That is very upsetting. Then, we had these Small Starts program cuts, which I gather the Chairman has asked about, but the demand is far in excess of the \$200 million, let alone the \$100 million. It is not as though there is a dearth of prospects for this Small Starts.

So, you know, that kind of gives the knock to Small Starts. So you knock the balance between highway and transit; you knock the Small Starts. I am really concerned that—it is like a race. If you

do not get out of the blocks at the beginning at a pretty good clip, you are going to end up last in the race, not first.

So having said all of that, and you may want to address those items, I want to put a very specific question to you. There is a provision in SAFETEA which requires the FTA to amend the full funding grant agreement for Largo to provide \$100 million in Federal funds for the Washington Metro system. WMATA will be providing local funds for the remainder of the rail car purchases.

This is very important, because we have the system in place. We have the platforms; we have the stations. We do not have enough cars. I mean, it pains me to see this infrastructure developed at considerable cost over the years and then to see our failure to maximize the use of the infrastructure when we have passengers who want to ride these trains.

And if we can just get these extra cars, we can run longer trains more frequently. So the incremental costs in enhancing the capacity of the system are quite reasonable. We do not have to build more stations. We do not need to lengthen the platforms. We just need more cars, you will need a little more personnel, and so forth. And the FTA staff has not been responsive to trying to get this amendment to the FFGA, the full funding grant agreement. WMATA is desperate to get this going. The need is apparent. It makes sense. And there is a specific Congressional intent.

What is the problem? What can we do about this?

Ms. BUSHUE. Thank you, sir. As to your first question regarding the funding for fiscal year 2007, the President's budget, would fund it at a SAFETEA-authorized level with the exception of the Small Starts program. And as stated earlier, Small Starts is a new program, and we expect to have the guidance and the program ready to go by spring 2007.

Therefore, we believe that the \$100 million investment that we have proposed for that program for fiscal year 2007 is satisfactory.

Senator SARBANES. Why do you believe that?

Ms. BUSHUE. Because—

Senator SARBANES. If there are a lot of programs which add up not to \$100 million or \$200 million but a significant multiple of that number, of Small Starts, why do you believe \$100 million is enough? Where does that figure come from?

Ms. BUSHUE. Actually, we are just looking at exactly when we will have the program up and running. And we hope to do so by June 2007, to be precise regarding the month. And that only would give us 3 months remaining in fiscal year 2007. So by the time we get it up and running, accept grants and so forth, we believe \$100 million will be enough for fiscal year 2007.

It is hoped, and it is a possibility that we can recapture that \$100 million in the out years, but right now, for fiscal year 2007, we believe that the \$100 million would be enough.

As for your other issue regarding the rail cars for WMATA, they are in the President's budget. We are in talks with WMATA to determine what would be the amount of funding involved. At this time, we are still talking to them, and we hope to have a decision by April.

Senator SARBANES. The amount needed was decided in the legislation. That represents a Congressional decision at \$100 million. It

was not left to the discretion of the FTA. That was decided in the Congressional legislation, and we obviously expect you to follow the Congressional legislation. The need for this is obviously apparent I guess would be the way to put it.

Chairman SHELBY. Senator Sarbanes, can I interject? I want to associate myself with Senator Sarbanes' remarks. We felt this was so clear, and we, on this side of the aisle, we wonder why you have not followed the language. We support him on this.

Ms. BUSHUE. Yes, Mr. Chairman, that is why we have included this project that in the budget. At this point, we are just, again, in discussions with WMATA to determine what the amount should be. But we absolutely do have it in the President's budget, and again, will be working with WMATA and the Committee staff to have the full funding agreement amendment up here by this spring.

Senator SARBANES. I do not think it is a question of what the amount should be. It is just a question of working out the process by which the amount will be provided so WMATA can move ahead with these rail cars.

Do you use the DC Metro yourself?

Ms. BUSHUE. I do, not as much as what I used to, but I do.

Senator SARBANES. Well, then, you will serve your own purposes.

Ms. BUSHUE. Absolutely right, Senator, and by the way, I just want to let you know that I went to the Hunt Valley ribbon cutting ceremony in Timonium, Maryland, yesterday.

Senator SARBANES. Yes, I could not make that, because I was at a ceremony for the Silver Spring transit center.

Ms. BUSHUE. But you were well-represented. And by the way, I would like to add, it was, as you know, a pretty cold day yesterday. I bet there were about 150 to 200 people there, hardy souls. I thought if there were 30 people there, I would have been impressed, but they were all there. We were out there for about 45 minutes to an hour, and that was really gratifying.

It gets back to what I said earlier about the criteria for selecting full funding grant agreement recipients. It is really that local kind of ownership. It was very impressive, and I had a very nice time.

Senator SARBANES. That is another example of the point I was making about taking a capability and doing some incremental additions and significantly enhancing its capacity, because that line was not double-tracked throughout the length of it, and the double tracking now will mean cars will come every 10 minutes instead of every 18 minutes.

Ms. BUSHUE. That is right.

Senator SARBANES. So it is going to make a big difference.

Mr. Chairman, my time has expired, but we are following this WMATA situation very closely, and I think the FTA needs to move to provide the \$100 million so they can get on with the project.

Chairman SHELBY. Again, I want to associate myself with the remarks of Senator Sarbanes. I think the legislative language is clear. We hope you are going to get that done. It seems to be very cost-effective, too.

Ms. BUSHUE. Yes.

Chairman SHELBY. Senator Menendez.

STATEMENT OF SENATOR ROBERT MENENDEZ

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Chairman, I am very pleased to be on the first hearing on public transportation since I joined the Committee. This is the jurisdiction that I had in the Transportation Committee when I served in the other body, and it has been very important. We have the second highest percentage of transit riders in the Nation in New Jersey, and I want to thank you and the Ranking Member for ensuring that transit got record levels in this reauthorization as well as thank both of you.

I know that when my predecessor, now our Governor, Senator Corzine, was here, you worked with him on some language that was very critical to us, and we appreciate it in New Jersey.

So Administrator Bushue, I have two sets of questions, and hopefully, you can shed some light on it for me. One is are you familiar with the Trans-Hudson Midtown corridor project that is in the reauthorization?

Ms. BUSHUE. Yes, I am, sir.

Senator MENENDEZ. We included some language in the transportation bill to help advance and project some preliminary engineering in that effort, and I was hoping you could let us know where we stand on that.

Ms. BUSHUE. Certainly; absolutely. That is a very exciting and very ambitious project, if I may say.

The language that was put into the bill asks for the project to be put into preliminary engineering within 120 days. However, the language did not include any waivers of the other statutory requirements which the FTA is under. So, therefore, because it is such a complex and large project, we are really focusing on the due diligence that is required to ensure that the project does become eligible for Federal assistance. We are working very closely with the people in your district on the project, and we hope to make some progress.

But again, I think it is really at the pretty early stages at this point in time, and I am not sure; it does not seem like it is ready at this point to probably go into preliminary engineering. But we are working closely with the project sponsors.

Senator MENENDEZ. Do we have any sense of a timeframe?

Ms. BUSHUE. I think it is really hard to say. We just recently, as I understand it, received some of the documents such as the environment impact study. We got the documents, in November, and we are still reviewing them. And so, at this point, I clearly cannot say when will be the appropriate time for the——

Senator MENENDEZ. We will be following up with your office.

Ms. BUSHUE. That would be great. We would love to work with you on it. It is a great project.

Senator MENENDEZ. It is incredibly important to the region's future economic prosperity.

Ms. BUSHUE. Absolutely.

Senator MENENDEZ. On behalf of not just the region but the Nation, but also, it has a very significant, in my view, in a post-September 11 world, a security element of having another access in and out of the region. So there are many dimensions to it.

Let me turn to, since I talked about a post-September 11 world, to transit security. I see, and I understand there is \$42.5 million in the FTA budget for transit security; is that correct?

Ms. BUSHUE. That is correct, sir.

Senator MENENDEZ. Now, I also see there is about \$600 million elsewhere in the budget for security grants to cover all critical infrastructure, including ports and transit from the Department of Homeland Security. Do you have any sense of whether, out of that budget, transit is getting anything more, or is your figure the figure for transit security?

Ms. BUSHUE. As you know, Department of Homeland Security has jurisdiction for transit security. The \$42.5 million that you see in the FTA's budget is the 1 percent setaside of urbanized area formula funds required by SAFETEA-LU. The rest of the funding comes from the Department of Homeland Security. As I mentioned, our number one act after SAFETEA-LU was enacted was to sign an MOU with the Department of Homeland Security to work with them as an adviser, as a consultant, on transit security issues.

As I understand, the funding for transit security at DHS is \$150 million.

Senator MENENDEZ. \$150 million out of that \$600 million?

Ms. BUSHUE. I would assume that is correct.

Senator MENENDEZ. That would be in addition to your \$42.5 million?

Ms. BUSHUE. That is correct.

Senator MENENDEZ. Now, your \$42.5 million, how do you intend to spend that, and is this in coordination with other grants or—

Ms. BUSHUE. Actually, it is a requirement that our grant recipients spend the 1 percent as they see fit. We do not really dictate to them how they should spend it, but we do review how they spend it.

And I would like to also say, Senator, that our grant recipients are very much aware of the need to protect their property, and security is their number one priority. In my short tenure at the FTA, I have had the privilege to travel to New York City to see what is going on there. At every meeting I had with them transit security was truly the number one topic.

Senator MENENDEZ. I ask that question because under the DOT budget, it says that FTA will emphasize security training in these following areas: Training for transit system employees, emergency preparedness and response, and public awareness efforts, all which are welcomed, but it does nothing about application of technology in terms of creating security.

So is that, is your understanding of how you are going to use the budget in accordance with what DOT has listed in their budget?

Ms. BUSHUE. Our grantees will be using the \$43 million for those three areas. And again, the Department of Homeland Security does have jurisdiction, and we will be working with them as a consultant to see how they use those additional monies.

Senator MENENDEZ. Now, the \$150 million that you mentioned before, is that fiscal year 2006 or fiscal year 2007?

Ms. BUSHUE. It is fiscal year 2006.

Senator MENENDEZ. What about 2007? Do we know?

Ms. BUSHUE. I am not—

Senator MENENDEZ. If you could get back to us through the Committee, I would appreciate that.

Ms. BUSHUE. Yes, we will absolutely get back to you.

Senator MENENDEZ. Last, let me just say that our challenge is very significant. We have 100,000 New Jersey Transit riders every day; we have a huge number of PATH riders between New York and New Jersey. We spend \$9 for everybody who flies in an airplane, like I did coming in here; we spent a cent in terms of transit riders.

And when we look at that \$600 million that is overall in terms of security grants to cover all the critical infrastructure, and we hear what the Coast Guard is saying is necessary just for the security of our ports, I look at it, and I say after Madrid, after London, how much of a wakeup call do we need?

That is a concern that we have. I know that we are constrained, but there are certain questions of priorities and values, security being the number one thing the Federal Government does on behalf of its citizens. So, I hope we are going to have a more robust effort in the days ahead. Clearly, the \$42.5 million is nowhere near what we need to do to protect the Nation's public transportation system.

Thank you, Mr. Chairman.

Chairman SHELBY. Thank you.

Thank you, Madam Administrator. We look forward to working with you. They have propounded, the Members have a number of questions to you, and I hope you will be diligent in answering those.

Ms. BUSHUE. Absolutely, sir, I will.

Chairman SHELBY. And I hope you will also follow up on Senator Sarbanes' request to get those cars.

Ms. BUSHUE. Will do, sir.

Thank you, Mr. Chairman.

Chairman SHELBY. Thank you very much.

Chairman SHELBY. Our second panel is Patrick McCrory, the Mayor of Charlotte, North Carolina. He is testifying on behalf of the United States Conference of Mayors; William Millar, President, American Public Transportation System. Gentlemen?

Thank you, Mayor, Mr. Millar. Senator Sarbanes has to go to another Committee. He wants to make a statement.

Senator SARBANES. Mr. Chairman, yes, I regret very much that I am not going to be able to stay for this panel. I have, as so often happens here, competing obligations. But I did want to welcome both of our witnesses. Mayor McCrory has been here before. I particularly recall some very helpful testimony he gave to the Committee a few years ago on the importance of integrating transit into a community's long-term planning process. I want you to know, Mayor, that was extremely helpful. We referred back to that testimony from time to time.

Mr. MCCRORY. Thank you very much.

Senator SARBANES. So thank you very much.

And Bill Millar, I do not know that there is a more articulate or effective advocate for transit in the country, and he was with us all through that reauthorization process, and we are extremely appreciative to him for his very positive contributions, and I apologize

to both of our witnesses that—I mean, I have your statements, and I obviously will read them very carefully.

Mr. MILLAR. Thank you.

Chairman SHELBY. Thank you, Senator.

Mayor, you and Mr. Millar's testimony will be made part of the record. If you will just briefly sum up your remarks.

**STATEMENT OF PATRICK L. McCRORY
MAYOR, CHARLOTTE, NORTH CAROLINA
ON BEHALF OF**

THE UNITED STATES CONFERENCE OF MAYORS

Mr. McCRORY. That would be fine. In fact, I am going to, instead of reading the statement, I am going to talk from the heart.

Chairman SHELBY. Absolutely.

Mr. McCRORY. I have some comments I wrote on the envelope on the way here in the airplane.

Let me first thank you, Mr. Chairman, for your past work and the Committee's recommendations. I would also like to thank FTA. They have been a good partner in working with them and their staff, especially the previous Administrator Dorn, and I look forward to working with the new administrator also. Also, it is an honor to be Mayor of the City of Charlotte, a great suburb of Shelby, North Carolina.

[Laughter.]

Chairman SHELBY. A little larger than Shelby, I think.

Mr. McCRORY. Just a tad. We follow your lead all the time, though.

Let me first say I also speak on behalf of the U.S. Conference of Mayors, where I have been Chairman of the Environmental Committee for the past 6 to 7 years, and on behalf of all the mayors, I just want to stress to you the importance of mass transit in all of our cities. Our employers are demanding it as they look at their long-term plans for whatever city they are going to invest in the future.

And their primary concern is how am I going to get people to and from work and around the congestion? And if I cannot get them to and from work in a reasonable amount of time with many choices, we are going to move elsewhere. And so, it is extremely important for not only cities in North Carolina, and I am glad to see Senator Dole's staff here also; it is great to see you all here, but also cities throughout the United States.

I also want to say it is very important to us from an environmental standpoint, from an economic development standpoint, and just preparing not just plans for transit but housing, brownfields, economic development; it has to be part of a comprehensive plan, which I appreciate the Senator mentioning earlier.

In Charlotte, by the way, we do have, we continue the implementation of our 25-year plan. We appreciate your full funding grant agreement. We hope to implement our 10-mile line in the fall of next year. We are on budget; we are on time, although we are having to make some major adjustments due to the cost escalations, but we just have to adjust, and we are doing the best job we can.

I do want to get quickly to the issues in the limited amount of time that we have. I would like to speak on behalf of the Mayors

and for the City of Charlotte. We totally agree with you regarding the Small Starts programs. In fact, if anything, I anticipate cities and towns throughout the United States wanting more of the Small Starts programs, not less.

In fact, there is already becoming a backlog of these programs. And what is happening right now is we are seeing the Small Starts programs are going to be more effective. It has the potential to just be an excellent program, because it is more flexible; you can finish in a timely manner; you can show the results, and we also think they cost less money.

And we are also seeing the more larger New Start projects dealing with major budget implications because of the inflation we are seeing in construction costs, cement and steel and other matters. Also, I compare it to highway funding, where a lot of times, my highway funding, road funding, I want to improve an intersection before building a new highway. And this is very similar to intersection improvement or right-of-way improvement, which will try to increase the flow of traffic and reduce congestion, and that is our goal.

The second thing I want to state is that we really want to emphasize for the Small Starts program is that the bureaucracy has to be lessened. You cannot treat it as New Start lite. If we treat this where you have to go through so many bureaucratic steps to get it implemented, it is just going to add to the cost and the time, and it is going to become like a New Start program. The advantage of the Small Start is to save money. It is the flexibility; it is the implementation, and it is getting it on time.

So, I would like us to review the process in which we implement those, and maybe that would then help implement getting the money that you originally budgeted, too, if we cut out some of the bureaucratic steps.

I also want to state, as a Mayor, and I think all Mayors agree with me, in Charlotte, we are only going to recommend, whether it be a New Start program or a Small Start program, programs that make sense financially, make sense to ridership, make sense to economic development. We are not going to submit programs that are pie in the sky, because in the long run, I have to pay for it; you have to pay for it; and it makes no sense, and I make that commitment on behalf of all mayors.

The last thing I want to talk about is this, is that we cannot de-emphasize land use and economic development. You have in your bill and in statute right now an emphasis on economic development and land use, and right now, we want to emphasize the need to make sure that FTA also emphasizes that as a priority, not as a subset, because I am convinced—I am a Republican mayor. If you do not have the right land use; if you do not have economic development as part of the plan, we are wasting our money.

It has to be implemented as part of a total package, and in the long-run, Mr. Chairman, that will save us money in infrastructure costs and water and sewer, infrastructure costs in roads, and infrastructure costs in future transit monies.

And my time is up, and I would love to spend more time with you, but I am here to answer any questions you might have.

Chairman SHELBY. Thank you, Mayor McCrory.

Mr. MCCRORY. Thank you, Mr. Chairman.
Chairman SHELBY. Mr. Millar, welcome to the Committee.

**STATEMENT OF WILLIAM MILLAR, PRESIDENT,
AMERICAN PUBLIC TRANSPORTATION ASSOCIATION**

Mr. MILLAR. Mr. Chairman, thank you very much, sir, and it is a pleasure to be back in front of the Committee, and I appreciate your and Senator Sarbanes' kind comments. We always get a good welcome here, and we appreciate that very much.

Again, I want to thank you as I have on so many other occasions. You have been and are a great leader of this Committee. We are so appreciative of the way you have worked through all of the issues in SAFETEA-LU, and we are now moving to play our part in implementing that program. And on behalf of my 1,600 members all across the country, we really do appreciate it.

It is also a great pleasure to be here with one of the great urban leaders in America, Mayor McCrory, and we have been to Charlotte and seen the great work that he and his colleagues are doing there.

Mr. Menendez, I am so pleased to be with you on this side of the Hill, and we appreciate particularly your concern for transit and the terrorism issue, which I will be discussing momentarily.

I really have three issues that I want to address briefly here. The first is the Small Starts program. I think I will shorten up my comments there, because I think the Committee has a good understanding of our concerns. The second relates to security issues; and then, finally, I want to pick up on some issues that Mr. Carper raised relating to commuter rail fees in the Northeast Corridor.

With regard to Small Starts, I certainly agree with all the statements that the Senators made and you made, in particular, Mr. Chairman; It is incomprehensible that the President could sign a law 6 months ago with tremendous need and then turn around and cut the program in half as we get started. I am sure the Committee is aware this is not the first Small Starts program. There used to be a smaller New Starts program, but it had a \$25 million cap, and there are many projects lined up that were already in line for the old program that could easily be funded by the new program, could quite properly use at least \$200 million worth of investment, and we would certainly encourage the Administration to consider that as well.

Also, we very much appreciate the Committee's concern about the careful balance between highways and transit. As I have testified, we certainly understand the importance of highways, as we do transit, but that was a carefully crafted bill, and the effect of the Administration, whether they intended it or not, was to thwart the Congressional intent in that regard. So we certainly hope that the Administration will listen carefully to what you all told them, and we certainly stand ready to work with you and the Committee in that regard.

The other irony of cutting Small Starts is that critics of the public transit program for decades have said we need to learn to do things cheaper and quicker, and this program is designed to do both that, and yet, it is the one program they choose to cut.

With regard to transit security, and perhaps I can embellish on some of the answers that were given to you previously, Senator, we

continue to be concerned about the lack of attention on transit security by the Administration. We are most appreciative of the work of this Committee in acting on Senate Bill 2032 that would establish a 3-year, \$3.5 billion program. We are very hopeful that the full Senate will take that up, and we are very hopeful that the House will have companion legislation as well.

We particularly appreciate your leadership and that of Mr. Sarbanes last summer during the appropriations and budget fights where you tried to raise dramatically the amount of investment in public transit security. As you know from personal experience in London, as I understand it, these terrorist acts can occur anywhere, anytime and we need to take reasonable steps to move forward to secure our transit systems.

The Deputy Administrator is correct. The primary responsibility is over at the Department of Homeland Security, and we do appreciate that FTA has been as supportive as they can be given where the primary responsibility lies, but Mr. Menendez, you are quite correct: \$600 million to do transit, to do ports, to do all the other infrastructures that are intended is nowhere near enough.

In the current fiscal year, the Department of Homeland Security is yet to decide how they will divide up between transit and the other infrastructures. In the 2005 year, they provided about \$130 million of the \$150 million for public transit. So we continue to be concerned that not only when Congress has acted, the Administration is slow to allocate the money, and that is a very important concern for us.

A final issue I wish to discuss very briefly is the one that Senator Carper raised, and that relates to the taxation is the word I will use of commuter rail users in the Northeast Corridor to help fund Amtrak. We certainly all understand the importance of having good intercity rail transit, but commuter rail properties in the Northeast Corridor have negotiated with Amtrak over the years the proper balance between what costs those commuter rail operators impose in the corridor and what they should pay, and now, to come along and just out of the blue say that they should pay at least \$59 million more makes no sense.

Over 800,000 commuters a day use the Northeast Corridor for commuter rail. Only a few thousand use Amtrak. There has to be a better way. The Congress called for an open process to determine this. So far, we have not seen any evidence of that open process.

Thank you, Mr. Chairman. I would be happy to expand on these points as you might wish.

Chairman SHELBY. Thank you.

My first question is to Mayor McCrory. In June of last year, Mayor, you will recall the U.S. Conference of Mayors Working Group on Transportation sent a letter to the House and the Senate conferees of the transportation bill urging us to maintain an 80/20 highway and transit split. Why is this parity important to mayors?

Mr. MCCRORY. Well, it shows a commitment to a dual transportation system. And if you visit any city, you cannot live on one transportation mode alone. And if you do not reserve a certain percentage for one versus another and have that guaranteed percentage, you know it will constantly dwindle away.

And I think there is a very strong feeling among mayors, you have to have choice among transportation. You have to have both highways, but you also have to have mass transit. And that seems to be a very fair and consistent formula that has stayed in place for a pretty long time, and we need to continue that.

Chairman SHELBY. Mayor, you are the mayor of a fast growing city, the second largest financial center in the United States is my understanding from being here on the Banking Committee.

Mr. MCCRORY. That is correct.

Chairman SHELBY. You have drawn on Federal funds to address growing congestion in the Charlotte area. If the \$100 million cut in the Small Starts program were to stand, how would smaller communities wishing to build smaller, cost-effective projects be impacted?

Mr. MCCRORY. I think you are going to first of all have very few projects using \$100 million. I mean, that could be 5 or 6 at most projects, 7 projects.

Chairman SHELBY. It would wipe out most of the——

Mr. MCCRORY. Yes; in fact, Charlotte alone has two projects that they would like to submit, which are excellent projects. So just looking at ourselves is one, 17th largest city; we would take two of the projects if we got what we wanted.

And again, in the long-run, I think these projects are the types of projects that cities and towns throughout the United States are going to direct a lot of the resources to, because you see immediate results, and the cost-effectiveness is very good.

Chairman SHELBY. What is the approximate population of the metropolitan area now in Charlotte?

Mr. MCCRORY. It is about 1.5 million now, and our city population is 615,000 people.

Chairman SHELBY. So 1.5 million in the metropolitan——

Mr. MCCRORY. That is correct.

Chairman SHELBY. And growing, right?

Mr. MCCRORY. And it is one of the fastest growing areas in the Nation. And, you know, we have a choice. We can either prepare for that growth or react to it 20 years from now, and we will find out reacting to it is much more expensive.

Chairman SHELBY. Very much.

Mr. Millar, you spent a lot of time in your written testimony and in your comments sharing APTA's concerns about the Administration's effort to have commuter rail authorities pay additional costs for their usage of Amtrak-owned Northeast Corridor. I understand that among other issues, that your association is concerned about how the costs are to be calculated and how existing contracts for usage in the Northeast Corridor would be treated.

Are you also concerned that Amtrak may wish to assuage their own serious financial woes by tapping into the limited funds made available in the mass transit account at some time in the future?

Mr. MILLAR. Yes, sir, that is a concern. My association has a longstanding policy. We are in favor of intercity rail transportation, but we do not believe that the limited amount of funding that is available for public transit use in the Mass Transit Account, which it does not even cover those costs of, let alone trying to expand the Mass Transit Account to cover intercity rail and bus as well.

So it is very much a concern, as is the concern that somehow, the Federal Transit Administration can just routinely deduct money from grants that are going to be used for other purposes and redirect it in different ways. We think that is wrong as well, sir.

Chairman SHELBY. What should the Department of Transportation and the Department of Homeland Security be doing to address the transit security needs in this country that we have worked together on?

Mr. MILLAR. Yes, sir. First and foremost, DHS needs to admit that there is a big problem and that it takes resources, Federal resources in partnership with State and local resources, to improve the situation with regard to security on our public transit systems. As I have testified here before, we have spent over \$18 billion on the aviation system; about \$250 million on the public transit system. Yet, every day, 16 times more people use local public transit than use the air network.

Now, we do not begrudge the air network. They need to be secure. But we need to get serious. We need money for planned drilling, for training, for new equipment, for the application of new technology that could make our systems that much safer, for new communications systems; the list goes on and on and on, and I do not understand why that is so difficult for the Department of Homeland Security to understand.

Chairman SHELBY. I share a lot of views on that, as you know.

Mr. MILLAR. Thank you, sir.

Chairman SHELBY. Gentlemen, I appreciate your patience here this morning in waiting and your views here before the Committee. The Committee will take those into consideration as we always do and work together.

The hearing is adjourned.

[Whereupon, at 11:59 a.m., the hearing was adjourned.]

[Prepared statements and response to written questions supplied for the record follow:]

PREPARED STATEMENT OF SENATOR ROBERT MENENDEZ

Thank you very much, Mr. Chairman, and I would like to start off by saying how pleased I am to be here for the first hearing on public transportation since I joined the Committee. As you may know, I served for 13 years in the House on the Transportation and Infrastructure Committee, and I represent a densely packed state that has the second highest percentage of transit ridership in the country, so this is an issue that is very close to New Jersey's heart, and to my own.

Just last weekend, I had the honor of helping to open two new stations on the Hudson-Bergen Light Rail system, including one in my old home of Union City, where, as mayor, I helped to start the planning process for this project many years ago. This light rail system has been a textbook example of the power of public transportation to revitalize communities. It has been an economic engine that fueled new businesses, created new jobs, and brought people back to our waterfront. It helps to clean our air and make commutes easier for people in Hudson County and around the region, allowing them to spend more quality time at home with their families and less stuck in traffic. There are few things we do in government that can bring all of these things together, and I am tremendously proud at having helped to make the Hudson-Bergen Light Rail a reality.

I am also very proud of the work that we did last year on the transportation bill, which I helped to negotiate as part of the House delegation of the conference committee. In particular, I am proud of the large increases in transit funding that the bill contained, and I know that much of that was due to the hard work of this committee, and I commend the Chairman and Ranking Member for their leadership in ensuring that transit will see record levels of funding in the coming years. I would also like to extend my sincere gratitude to them for working with Senator Corzine to make sure that we got a number of provisions in the bill that are very important for New Jersey, including some language that will help facilitate the construction of a new trans-Hudson tunnel.

We have already reached the practical capacity of the existing 2-track tunnel, with well over 42,000 people arriving on 186 trains between 6 and 10 AM. Meanwhile, more and more people are moving from New York to New Jersey to live, while maintaining jobs in Manhattan. The last Census found that the New York to New Jersey net migration was the third highest State-to-State migration in the country. In order to keep up with this influx of new residents, and to make sure that people can get to jobs on both sides of the river, we desperately need to build a new tunnel under the Hudson River, and we need to do it quickly. In SAFETEA-LU, there is language expediting the entry of the project into the Preliminary Engineering portion of the New Starts process, and I hope to hear from the Deputy Administrator about FTA's timetable for getting this project to that next step.

In general, I am very pleased with this transit budget, although I join many of my colleagues on the Committee in expressing some concern about the fact that the Small Starts program was cut by \$100 million. As I mentioned, I know how important these types of projects can be for communities, and I think it is unfortunate that we are seeing these cuts proposed before this program even has a chance to get off the ground.

There are other transit issues in the overall budget that I am also very concerned about, even though not all fall under FTA's jurisdiction. First of all, the Administration has proposed to once again slash Amtrak's budget below the level that would allow it to avoid bankruptcy. If Amtrak were to go bankrupt, nearly 100,000 New Jersey commuters would be stranded each day because they depend on New Jersey Transit trains that use the Northeast Corridor. So, I can not let that happen. Also, there is a provision in the fiscal year 2006 appropriations for the Federal Railroad Administration that could result in commuter agencies having to pay Amtrak considerably higher fees for use of the Northeast Corridor. New Jersey Transit already pays Amtrak \$120 million each year, and a very murky process is just beginning where they could end up being forced to pay an extra \$10 to \$20 million, and it is not clear that they will be fully informed about how those fees are calculated. Nor is it clear if their existing contributions will be fully credited. And, in the end, the real loser in this process will be the commuters of New Jersey, who would probably be forced to endure service cuts as a result of the higher fees.

I am also very concerned about the level of funding in the budget for transit security. This is, unfortunately, part of a pattern from this Administration. As I have known for a long time, but is now becoming clear to the rest of the country through the recent debate over port security, the Administration has simply not taken substantial enough steps to protect the security of our critical infrastructure assets, whether we are talking about ports, chemical plants, or public transit passengers. We have plenty of all of those in New Jersey, and it is extremely important to me

to make sure this country commits the necessary resources to protect them. And yet, it appears that once again transit security will get neglected, despite the lessons of Madrid in 2004 and London in 2005. The Federal Government spends over \$9 in security for each flying passenger, but less than one cent for the security of each person on a transit bus or train. If we do not take serious action now, I am afraid that we will be doing it in the aftermath of another deadly attack on our own soil.

PREPARED STATEMENT OF SANDRA BUSHUE

DEPUTY ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

U.S. DEPARTMENT OF TRANSPORTATION

FEBRUARY 28, 2006

Thank you, Mr. Chairman, for the opportunity to testify today on the Federal Transit Administration's fiscal year 2007 budget request. We appreciate your continued interest and strong commitment to public transportation as embodied in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) enacted by Congress and signed by the President on August 10, 2005.

I am pleased to report to the Committee that the President's fiscal year 2007 budget for transit is a record \$8.9 billion. This is a significant commitment given the overall context of the President's fiscal year 2007 budget. At a time when most non-security related domestic programs are experiencing reductions in their funding levels and when the Department of Transportation's total budget is holding steady, funding for transit in this budget grows by more than 4 percent or \$370 million above the fiscal year 2006 level. This shows the high priority this Administration puts on funding public transportation among many competing national priorities.

Top Fiscal Year 2007 Priorities

Since my recent arrival, I have been impressed with the energy and dedication of FTA's staff. Thus I want to take this opportunity to focus on FTA's top priorities. They include:

- Effective and timely implementation of SAFETEA-LU;
- Effective management and oversight of almost \$8.9 billion in formula and capital investment grants, especially New Starts full funding grant agreements;
- Improved coordination of human services transportation for disabled persons, older adults and individuals with lower incomes;
- Continued work with the Department of Homeland Security to strengthen transit security, including training, emergency preparedness, and public awareness;
- Use of performance information and program assessments to better manage risk and drive agency results; and
- Attracting and retaining the best workforce with the skill-set to meet the challenges facing the agency.

SAFETEA-LU Implementation

SAFETEA-LU authorizes a total of \$45.3 billion in guaranteed funding for Federal transit programs over the 5-year period fiscal years 2005–2009, an increase of 46 percent over TEA-21 funding. In addition to historic funding levels, SAFETEA-LU added new programs such as New Freedom and Alternative Transportation in the Parks and Public Lands that began in fiscal year 2006, and modified other programs. SAFETEA-LU also required that FTA promulgate about a dozen new regulations for joint planning requirements, New Starts (including the Small Starts program), Buy America, Charter Bus, and a joint rulemaking on security with the Department of Homeland Security.

Since the President signed SAFETEA-LU in August 2005, FTA has worked diligently to implement the many changes and requirements. FTA has demonstrated progress with an aggressive schedule to meet the requirements in SAFETEA-LU and facilitate program implementation. In the early months following enactment, FTA signed the Memorandum of Understanding Annex with the Department of Homeland Security, published interim fiscal year 2006 transit program guidance for public comment, and initiated a communications and outreach strategy that included publishing informational materials on its website and hosting several dozen listening sessions to solicit public and industry input on its program proposals.

Since January, FTA has worked to publish for public comment in the *Federal Register* New Starts Policy Guidance, an Advance Notice of Proposed Rulemaking on the Small Starts program, and a Notice of Proposed Rulemaking on Buy America.

FTA will continue its aggressive implementation of SAFETEA-LU and will hold additional listening and outreach sessions to obtain public input for agency consideration as it develops circulars and guidance for official comment.

Fiscal Year 2007 Budget Request

Now, I would like to touch on some of the highlights of the President's fiscal year 2007 budget for the FTA. The budget reflects the Administration's commitment to public transportation as envisioned in SAFETEA-LU.

Urbanized Area Programs

In fiscal year 2007, \$7.3 billion is requested in a solely trust-funded account for Formula and Bus Grants. This includes \$3.9 billion for the Urbanized Area Formula Grants Program, including Growing States and High Density States and \$1.4 billion for the Fixed Guideway Modernization Program to ensure that the Nation's older fixed guideway systems continue to meet the transportation needs of the communities they serve.

Formula Grants funding can be used for all capital transit purposes and, in areas under 200,000 in population, for operating assistance. Eligible capital expenses include: Planning, bus, van, railcar, intelligent transportation systems (ITS), and equipment purchases; facility repair and construction, new technology introduction, and preventive maintenance. These funds help public transit agencies reduce congestion, ensure basic mobility, promote economically vital communities, and meet the requirements of the Americans with Disabilities Act (ADA) and the Clean Air Act (CAA).

Bus and Bus-Facilities

FTA requests \$856 million for bus and bus-related capital projects that enhance the efficiency and safety of the Nation's bus systems. In fiscal year 2007, FTA is proposing a clean fuels and electric drive bus deployment (hybrid-electric) program to encourage and provide incentives to transit agencies to procure low emission technology buses, including hybrid electric buses. The FTA hybrid-electric program will develop a comprehensive approach to addressing existing barriers and challenges to the adoption and deployment of new low emission technology by a greater number of the Nation's transit agencies.

State Administered Grants

The important goal of improving mobility for the elderly, persons with disabilities, and individuals with low incomes requires more flexibility and fewer funding constraints on communities. FTA's budget requests \$809 million for several transit programs administered primarily by States. For the Nonurbanized Area Formula program, \$467 million may be used to support intercity bus service as well as to help meet rural and small urban areas' transit needs and includes funding for the new Growing States program. A total of \$117 million in formula grants for the Elderly and Individuals with Disabilities program will be apportioned to each State according to a legislatively required formula to assist in providing transportation to the elderly and individuals with disabilities. The budget includes \$144 million for the Job Access and Reverse Commute program apportioned to States by formula for grants to nonprofit organizations and local transit agencies to support transportation services for welfare recipients and low-income individuals. Funding for the New Freedom program totals \$81 million and will provide additional support to overcome the significant transportation barriers facing millions of Americans with disabilities seeking access to jobs and integration into the workforce.

Metropolitan and Statewide Planning

In fiscal year 2007, FTA requests a total of \$99 million for Metropolitan and Statewide Planning. Funding will support implementation of the expanded analytic, environmental, transportation air-quality conformity, and evaluative work necessary to ensure that Federal and other transportation investments are cost-effective. Metropolitan Planning Organizations (MPOs) and State departments of transportation use these funds for planning activities that support over \$8 billion in annual capital transit projects located in all 50 States, Puerto Rico, and the District of Columbia. These funds also support planning activities for FTA capital grants that will be made to rural transit operators and tribal governments. Both the FTA and the Federal Highway Administration (FHWA) carry out statutory planning requirements through Metropolitan Planning Organizations, State DOTs, and transit operators as a condition of Federal assistance for most mass transportation and highway projects.

Alternative Transportation in Parks and Public Lands

For fiscal year 2007, \$23 million is requested to enhance the protection of America's national parks and public lands by improving the experience of those visiting our national parks, while ensuring transportation access and mobility for all visitors, including individuals with disabilities. FTA is working with the Department of the Interior and the U.S. Forest Service to implement this new program. Investment in alternative transportation solutions in our national parks and public lands has many benefits, such as relieving traffic congestion and parking shortages, enhancing visitor mobility, accessibility, and safety, enhancing mobility and safety for local residents, conserving sensitive natural, cultural, and historic resources, and reducing pollution.

Clean Fuels Grant Program

The Clean Fuels Grant program is requested at \$45 million to provide financing for the purchase or lease of clean fuel buses and facilities and the improvement of existing facilities to accommodate these buses. This includes buses powered by compressed natural gas, biodiesel fuels, batteries, alcohol-based fuels, hybrid electric technology, fuel cell and certain clean diesel fuels (up to 2 percent of grants annually), and other low or zero emissions technology.

Major Capital Investments

The budget requests almost \$1.5 billion for the New Starts program. New Starts projects help improve mobility, reduce congestion and pollution, and promote new economic activity throughout the Nation. The \$1.5 billion fully funds the Federal commitment included in 16 existing full funding grant agreements (FFGAs) with transit agencies. Funding also supports two FFGAs that we expect to sign before the end of fiscal year 2006, one in Pittsburgh and one in New York City.

I am also pleased that five new projects have made it to the New Starts finish line and are ready for FFGAs. These projects include three light rail transit projects in Denver, Portland, and Dallas. In addition, commuter rail projects in Washington County, Oregon, and Salt Lake City, Utah, are also ready for FFGAs.

I want to share with the committee our plans for implementing the new "Small Starts" program in fiscal year 2007. This program will provide Federal Small Starts funding up to \$75 million for projects under \$250 million in total cost. We are very excited about this new program. It is a program we recommended to Congress because it levels the playing field for medium and small communities.

We know from several listening sessions we have held that communities across the country are interested in this new program and how it will work. Last month, we published in the *Federal Register*, for public comment, an Advance Notice of Proposed Rulemaking on the evaluation criteria and other requirements. Final regulations are not expected until June 2007. Given all the work ahead of us and the strong interest by communities to help develop the program requirements, we believe that \$100 million will provide a sound first investment for a program we are committed to implement during fiscal year 2007.

Project Oversight

FTA remains committed to ensuring the completion of New Starts projects on time and on budget. Our successful oversight program works with transit agencies to identify potential problems before they grow into major crises. The DOT Inspector General has reported that FTA's oversight program is "essentially a sound approach that can provide early warnings of cost, schedule, and quality problems."

One tool we use to help ensure that projects meet their cost, schedule, and transportation benefit expectations is a quantitative risk assessment. These risk assessments help project sponsors identify the issues that could affect schedule or cost, as well as the probability that they will do so. Utilizing the risk assessment tool, every project sponsor is required to: Identify the project's key cost drivers; identify, quantify, and prioritize based on impact and probability the risks associated with potential cost increases and schedule delays; and develop contingency levels and risk mitigation plans sufficient to assure confidence in the project cost estimates.

Research and University Research Centers

In 2007, \$61 million is requested for the National Research and Technology program, Transit Cooperative Research Program, the National Transit Institute and University Research Centers. Of this amount, \$40 million is requested for the National Research and Technology program. These funds support the goals of FTA's Strategic Transit Research Plan developed in consultation with the transit industry. The budget includes \$9.3 million for the Transit Cooperative Research Program (TCRP), which focuses on issues significant to the transit industry. The budget requests \$4.3 million for the National Transit Institute (NTI) and \$7 million for Uni-

versity Research Centers that provide continued support for research, education, and technology transfer activities aimed at addressing regional and national transportation problems.

Administrative Expenses

FTA is requesting \$85 million in administrative expenses to help ensure it can effectively and efficiently fulfill its mission. This request supports 14 additional full time equivalent (FTE) personnel for a total of 531 FTEs, information technology, space management, travel, training, and other related administrative expenses.

New requirements and program changes must be supported with higher staffing levels if FTA is to be effective and timely in implementing SAFETEA-LU. The law creates a number of new programs such as Small Starts, Transit in the Parks, and New Freedom, and requires that regulations be developed and published in the *Federal Register* for New Starts, Buy America, security, and Charter Bus. In addition, significant outreach efforts are needed in order to provide other Federal and State agencies, public transit agencies, the transit industry and the transit riding public with information on changes in statute, policies and procedures, guidance, and technical assistance.

Transit Security

The security of our public transportation system remains a high priority of this Administration and the Department and our budget includes \$42 million to support security, within which is the 1 percent set aside from urban formula grants to fund public transportation security projects. Transit agencies across America have strengthened their security systems and enhanced their emergency response plans, and FTA has placed a high priority on increasing the security of our public transportation systems and ensuring that they are prepared for security threats and emergency situations.

Working with the Department of Homeland Security, FTA has identified three priority areas with regard to security: (1) Training transit employees to deter, detect, mitigate, and respond to a variety of emergency scenarios; (2) ensuring local agencies have emergency plans in place and routinely practice them; and, (3) increasing public awareness, so that passengers can identify suspicious or unusual behavior, communicate with transit officials, and exit safely in the event of an emergency.

Enhanced Coordination of Human Service Transportation

In response to the recommendations of the President's Council on Access and Mobility, and in accordance with the President's Executive Order 13330, FTA implemented United We Ride, a five-part nationwide initiative to improve transportation services for people with disabilities, individuals with low incomes, and older adults. The initiative to improve the coordination of human services transportation includes: (1) Publication of "A Framework for Action"—a self-assessment tool that States and communities can use to identify areas of success and the actions still needed to improve the coordination of human service transportation; (2) recognition of leadership—in February 2004, Secretary Mineta recognized five States—Ohio, North Carolina, Washington, Florida, and Maryland that are leading the way in building and implementing infrastructures, policies and programs that facilitate human service transportation coordination; (3) holding a national Leadership Forum—Governor-appointed senior leadership teams from 47 States and U.S. territories met to raise the visibility of the need to improve human service transportation coordination among State leaders, provide technical assistance, and secure commitments to action; (4) providing grants—\$1.5 million to address gaps and needs related to human service transportation in their geographic regions; and (5) providing technical assistance—"Help Along the Way" was launched that built on the work of the Community Transportation Assistance Program, the Rural Transportation Assistance Program, and Easter Seals Project ACTION.

Mr. Chairman, we look forward to working with this Committee in support of public transportation in our great country. Thank you again for the opportunity to testify on the fiscal year 2007 budget request and other issues important to us. I would be happy to respond to questions from the Committee.

PREPARED STATEMENT OF PATRICK L. McCRORY

MAYOR, CITY OF CHARLOTTE, NORTH CAROLINA
ON BEHALF OF THE U.S. CONFERENCE OF MAYORS

FEBRUARY 28, 2006

Chairman Shelby and Members of the Committee. My name is Patrick McCrory and I am pleased to speak with you today as the Mayor of the City of Charlotte, North Carolina and to share with you my perspective of the President's fiscal year 2006 budget, as it relates to the Federal Transit Administration.

I would also like to extend greetings to you from The U.S. Conference of Mayors, as I serve on that organization's Executive Committee through my role as the Chair of the Conference's Environment Committee.

I would like to begin my remarks today by commending Congress for reauthorizing the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Your demonstrated commitment to invest in America's transportation infrastructure is invaluable and will continue to promote economic prosperity and will go a long way to address our overburdened transportation system. Most importantly, the act will live up to its name and truly leave a positive transportation legacy for users throughout America.

I, like Mayors across the country, certainly welcome the Federal Government's partnership in transit and transportation issues. North Carolina is a donor State when it comes to gas tax usage for transit and transportation funding. Given this situation, I am pleased to know that President Bush has identified the importance of investing nearly \$3 billion in "New Starts" and "Small Starts" in the Federal Transit Administration's budget for transit projects. These "New Starts" and "Small Starts" programs will go a long way to direct more money toward the Nation's rapid transit needs, such as light rail, street cars, and busways.

In 1998, Charlotte and Mecklenburg County voters approved a half-cent sales tax increase to establish a dedicated revenue stream to support the Charlotte-region's 2025 transit and land-use plan. This was a big leap of faith and a strong demonstration of support by Charlotte-Mecklenburg voters, as this additional sales tax gave Mecklenburg County the distinction of having the highest sales tax rate in the State—and this is a city and region that faces stiff competition for commerce from our adjacent neighbor, the State of South Carolina.

The pitch for establishing the dedicated transit revenue stream in Charlotte-Mecklenburg was an easy sell because of three factors—we presented a compelling vision in the 2025 transit and land-use plan, the State government agreed to be a funding partner and the Federal Government was identified as a partner through the Transportation Equity Act for the 21st Century (TEA-21) in 1998.

Today, I am proud to sit before you and highlight that the first leg of a light rail line is under construction in the South Corridor, our first of five corridors to be developed under the 2025 plan. The 10-mile South Corridor light rail line is slated to open in fall 2007 and when it does, I will be able to cut that ribbon and proudly say it was all possible thanks to the Federal Government's commitment to pay nearly half of the project costs through our Full Funding Grant Agreement and through our partnership with the State of North Carolina and with the foresight of those voters who helped to pass the Charlotte-Mecklenburg transit half-cent sales tax.

As the 19th largest city in the country by population, Charlotte is considered a tier-two city. Tier-two cities are those that have just begun to plan and implement transit projects in our communities as compared to the many U.S. cities that have had light rail, commuter rail, and other transit projects for decades.

The importance of transit investment in the life of a city, particularly a tier-two city like Charlotte cannot be underestimated. This first generation development of transit in Charlotte is having a profound impact in attracting new investment to blighted areas such as the more than \$400 million that has been invested in Charlotte's South End area in the way of new condominiums, mixed-use development, apartments, townhomes, and even hotels. And all of this is linked and generated by the anticipated opening of the South Corridor light rail line.

Our transit development has not only galvanized our way of thinking about planning and transit-oriented development issues, but it has helped us to consider how we address commute patterns, environmental impact, pedestrian accessibility to even looking at even bigger concepts of livability, sustainability, and quality of life.

Charlotte's transit and land-use plan is first and foremost a transportation plan that will address long-term congestion and air quality issues. Charlotte was ranked by the Texas Transportation Institute as the second-most congested second-tier city in the country. We view transit as a way to address our congestion and provide solutions to reduce vehicle miles traveled and redevelop brownfields instead of encour-

aging more urban sprawl to greenfields. We are developing mixed-use facilities and promoting transit-oriented development projects with high-density housing in conjunction with our park and ride lots and even putting a school playground and green space on top of a park and ride lot. The paradigm has changed in Charlotte on how we will grow and evolve as a dynamic sun-belt City.

I am pleased to say the Federal Government and particularly the President's budget have played a large role in this positive shift in Charlotte and many other communities across the Nation. I must give a personal note of appreciation to Transportation Secretary Norm Mineta, past FTA Administrator Jenna Dorn, and FTA Deputy Administrator Sandra Bushue for their efforts to invest in Charlotte's 2025 Transit and Land-Use Plan. Their willingness to be flexible in addressing local needs while adhering to the standards and spirit of Congressional and Presidential funding directives is to be commended. The Federal Government's support of transit programs throughout the country is helping to develop a more balanced transportation system for America.

While I am pleased with the funding level authorized for the FTA and its many programs, particularly the "New Starts" and "Small Starts" programs, I do want to offer some concerns and a cautionary note. The development of the "Small Starts" program for projects that will cost less than \$250 million (or up to \$75 million in Federal funds) is tremendously exciting and attractive for cities like Charlotte—and the "Small Starts" program is one I hope we can tap into. I worry that the reduction in the total level of funding to only \$100 million nationally among all the Small Starts proposals will make it harder for the Federal Government to be a catalyst to help cities like Charlotte get transit programs established.

While I think the "Small Starts" program is extremely positive and visionary, I would hate to see this innovative approach stymied by low funding and the pending rulemaking process that would squelch the flexibility and innovation designed in the "Small Starts" program. I am concerned that the FTA is considering requirements that will undermine Congressional intent to create a simplified and streamlined program that recognizes the lower risk associated with smaller transit projects. We need to make sure that the process of developing and evaluating Small Starts projects does not unnecessarily add time and costs.

In addition, I am concerned about the approach that the FTA is proposing to take in ranking land-use and economic development issues when evaluating Small Starts projects. Cost effectiveness is important but it is only one aspect of what needs to be looked at. Land-use and economic development are very important to cities, particularly cities like Charlotte that are trying to change how they are developing and see the investment in transit as a critical tool in accomplishing this change. The FTA's proposal to treat land-use as a risk factor trivializes the importance of land-use impacts when evaluating transit investments. I would like to see the FTA treat land-use and economic development as factors equal in importance to cost effectiveness when evaluating both Small Starts and New Starts projects. I urge that the FTA create a process which allows this to occur.

Finally, I would like to see the FTA strive to stabilize the requirements it expects transit project sponsors to adhere to in the development of fixed guideway transit projects. Over the past few years, we have seen a stream of new and revised requirements that project sponsors must comply with. When these requirements are continually changed the result is added time and increased project costs which can cause good projects to lose some of their attractiveness.

In conclusion, I am pleased with the work that we have done in Charlotte to implement our 2025 Transit and Land-Use Plan and the partnership we have established with the Federal Government to make our plan a reality. I would like to offer you all an early invitation to join us for the ribbon cutting of our first light rail line in August 2007.

Mr. Chairman and Members of the Committee, I thank you for allowing me to address the Committee today and I thank you for your continued interest and support of the necessary funding to ensure America's transportation and transit programs continue to address our needs.

PREPARED STATEMENT OF WILLIAM MILLAR
 PRESIDENT, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

FEBRUARY 28, 2006

Introduction

Mr. Chairman and Members of the Committee, on behalf of the American Public Transportation Association (APTA), we thank you for this opportunity to testify on the need for and benefits of investment in Federal Transit Administration (FTA) programs for fiscal year 2007.

About APTA

APTA's more than 1,600 public and private member organizations serve the public by providing safe, efficient, and economical public transportation service, and by working to ensure that those services and products support national economic, energy conservation, environmental, and community goals.

APTA member organizations include public transit systems and commuter railroads; design, construction, and finance firms; product and service providers; academic institutions; and State associations and departments of transportation. More than 90 percent of the people who use public transportation in the United States and Canada are served by APTA member public transportation systems.

Overview

Mr. Chairman, APTA's members deeply appreciate the work of this Committee throughout the development of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) which was enacted into law only last August 10. SAFETEA-LU incorporates the major goals that APTA set for the reauthorization process: grow the Federal transit program, preserve the funding guarantees and improve provisions that affect the program delivery. SAFETEA-LU provides a record level of Federal transit investment, \$52.6 billion over 6 years, an increase of 46 percent over the amount guaranteed in TEA 21. Again, our members very much appreciate and thank this Committee for its hard work and commitment to this important legislation. Now that the reauthorization process is behind us, APTA also appreciates this Committee's efforts to monitor the implementation of the law.

At the outset, Mr. Chairman, I want to commend FTA for acting expeditiously in implementing rulemakings and other activities required by SAFETEA-LU. The new law calls for FTA to implement a significant number of programs, rulemakings, notices, and other measures, some with very short deadlines, and the agency has made every effort to do this in an open and transparent way. We very much appreciate the FTA's efforts in this regard, and look forward to continuing the good working relationship we have with the agency and its new leadership.

Mr. Chairman, I want to focus today on three concerns we have with the Administration's fiscal year 2007 budget proposal.

While we appreciate that the Administration's budget proposal adheres to the SAFETEA-LU transit program in most respects, it proposes to fund only \$100 million of the \$200 million authorized in fiscal year 2007 for the Small Starts program that is meant to assist the development and construction of smaller fixed guideway projects such as streetcars, trolleys, commuter rail, and bus rapid transit systems.

Mr. Chairman, we are also concerned that the Administration's budget fails to adequately fund transit security and efforts by transit agencies to better protect transit riders from terrorism.

Finally, the President's budget proposal for the Federal Railroad Administration (FRA) proposes, as it did last year, that commuter railroad riders will assume a higher portion of maintenance and capital expenses on the Amtrak-owned portions of the Northeast Corridor. We are concerned that the unilateral imposition of these fees by the Federal Government will increase operating costs for these commuter railroads and will result in higher costs for commuter rail users and the State and local taxpayers who fund these systems.

New Starts/Small Starts

Mr. Chairman, APTA is disappointed that the Administration has proposed to fund transit below the level so recently authorized and guaranteed by Congress. The Administration requested \$100 million less than the amount authorized from the general fund for the New Starts program, proposing only half of the funding authorized for the new Small Starts program, a program to fund less costly fixed guideway projects such as light rail, commuter rail, and bus rapid transit systems.

As this Committee knows, there is overwhelming demand for New Starts projects, and SAFETEA-LU authorized 387 projects. These new fixed guideway projects are

an important part of meeting transit needs, but they each take a long time to develop and require a predictable funding commitment. Once appropriated for a fiscal year, New Starts program funding remains available for the two subsequent fiscal years. The effect of a funding cut will be felt disproportionately in future years by causing transit providers to fall further behind in the development of new less expensive projects due to the cuts that would be implemented under the Administration proposal, robbing communities of the congestion relief and environmental benefits associated with the projects.

We want to make another point, Mr. Chairman. SAFETEA-LU restructured the general fund and Mass Transit Account (MTA) funding sources so that MTA outlays are now scored when they are actually spent rather than when they are appropriated. The good news is that MTA balances now are significantly higher than they would have been under the old scoring system. But it also means that the New Starts program is now funded exclusively from the general fund. Mr. Chairman, it is important to emphasize that this was done to improve the overall financing of the Federal transit program, and was not meant to create an opportunity for program cuts. That is why we fought so hard in support of the guarantees in SAFETEA-LU, and why this Committee worked so hard to retain them. We look forward to working with this Committee and others in support of fully funding the fiscal year 2007 Federal transit program.

Public Transportation and Energy Independence

APTA is pleased that President Bush highlighted the need to focus on energy independence in his recent State of the Union address. The President said that “keeping America competitive requires affordable energy . . . America is addicted to oil, which is often imported from unstable parts of the world.” He further stated that “the best way to break this addiction is through technology.”

We agree, Mr. President! We cannot think of a more important technology in that regard than fixed-guideway transit, including heavy and light rail, commuter rail, and bus rapid transit. This technology is readily available and many communities already have systems which can be expanded with more investment.

The value of public transportation in this regard was quantified by economists Dr. Robert Shapiro and Dr. Kevin Hassett in their report: *Conserving Energy and Preserving the Environment: The Role of Public Transportation*. Among their findings:

- Public transportation saves more than 855 million gallons of gasoline a year, or 45 million barrels of oil. These savings equal about 1 month's oil imports from Saudi Arabia. In 2004, 9.6 billion trips were taken on public transportation.
- If Americans used public transportation at the same rate as Europeans—for roughly 10 percent of their daily travel needs—the United States would reduce its dependence on imported oil by more than 40 percent or nearly the amount of oil we import from Saudi Arabia each year.

Moreover, transit agencies are increasingly investing in alternative fuel buses to reduce dependence on oil. Almost 17 percent of fixed route buses now use alternative fuels and 20 percent of buses on order will use alternative fuels. Public transportation is clearly doing its part to promote energy independence through innovative technologies, and that is why we urge Congress to honor SAFETEA-LU and fully fund the transit program in fiscal year 2007.

Transit Security

APTA commends and thanks this Committee for advancing legislation that would authorize \$3.5 billion for transit security: The Public Transportation Terrorism Prevention Act (S.2032). We particularly thank this Committee and its leadership for leading the effort last summer to increase transit security funding to \$1.2 billion in the Department of Homeland Security (DHS) appropriations bill. Funding transit security is a clear Federal responsibility, and APTA is committed to working with the Bush Administration, this Committee and others to increase the level of funding for transit security. We look forward to working with the Committee in this critically important area.

Mr. Chairman, APTA is concerned that the President's proposed fiscal year 2007 DHS budget for the Targeted Infrastructure Protection program, a security infrastructure program that includes public transportation, fails to provide sufficient investment for public transportation security.

Like last year's proposal, the proposed \$600 million funding for the Targeted Infrastructure Protection program, is for the protection of several critical infrastructures, including transit and ports. This amount of funding is insufficient to meet transit security needs, which are in excess of \$6 billion, let alone other infrastructure needs. We are concerned not only about the level of funding, but also the uncer-

tainty of how much will be allocated to transit security given that the program would fund a variety of security efforts in nontransit areas.

APTA continues to press DHS and Congress for increased resources for public transportation security. While DHS has provided well over \$18 billion for aviation security since September 11, to date only \$250 million has been allocated to transit. There are 32 million trips a day on transit compared to 2 million on aviation; terrorists have struck transit rail systems in Madrid and London. APTA has surveyed its membership and has identified some \$6 billion in security needs—beyond basic infrastructure needs funded under SAFETEA-LU. Since September 11, transit systems have spent more than \$2 billion of their own resources on transit security.

Considering the attacks on the London Underground last summer, the time for limited investment in transit security has passed. Now is the time to propose transit security funding sufficient to protect the millions of people who use public transportation systems in the United States every day and to help strengthen the security of our Nation's transit infrastructure.

Northeast Corridor Commuter Rail Issues

Turning to another issue in the proposed fiscal year 2007 budget, the Administration proposes that commuter railroads will assume a higher portion of capital and maintenance expenses on the Amtrak-owned portion of the Northeast Corridor. An amount of \$59 million in fees on commuter railroads is assumed in each of fiscal year 2006 and 2007 to support Amtrak spending, even though we have seen little evidence of the "open and transparent process" which Congress called for in the fiscal year 2006 Transportation Appropriations to address this issue.

The Northeast Corridor commuter railroads already reimburse Amtrak for capital and maintenance costs based on contracts negotiated before the new legislation was enacted. The riders and State and local taxpayers that fund these commuter railroads should not be asked to pay more than has been negotiated. Mr. Chairman, while this Committee does not have direct jurisdiction over Amtrak, these increased expenses could directly affect the health of the Northeast Corridor's commuter rail systems and the hundreds of thousands of riders who use those systems every day. Furthermore, in a recent *Federal Register* Notice, FTA has raised the possibility of conditioning Federal transit grants on the payment of these increased expenses. We want to emphasize that the solution to Amtrak's funding problems cannot come from transit funding sources—including the Mass Transit Account of the Highway Trust Fund—which are not adequate to sustain the commuter rail and other transit programs our Nation requires. APTA has developed a comprehensive set of principles to guide us in this area which establish that existing contractual obligations must be respected; that ongoing support for intercity rail must remain separate from the Highway Trust Fund, and that the Northeast Corridor and other Amtrak-owned assets should remain under public ownership and control.

Conclusion

Public transportation plays a key role in meeting the goals of the Administration and Congress in providing energy independence, congestion relief, and transportation mobility options for Americans. APTA strongly believes that the Federal Government should invest no less than the level authorized and guaranteed by Congress for fiscal year 2007 in SAFETEA-LU if we are to advance these goals. APTA also believes that Congress must pass legislation that will dramatically increase funding for transit security, and we look forward to working with Committee to reach that goal.

Mr. Chairman, on behalf of APTA's member organizations, I thank you for this opportunity to express our views and would be pleased to answer any questions the Committee may have.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR BUNNING
FROM SANDRA BUSHUE**

Q.1. The New Freedom Program provides funds for public transportation alternatives beyond those required by the Americans with Disabilities Act “ADA” to assist persons with disabilities. Some communities have already exceeded the minimum “ADA” requirements.

What will happen in communities where existing services already exceed “ADA” minimum requirements? For example, will communities that provide door-to-door service rather than curb-to-curb service be able to use the new Freedom Program to fund the incremental cost difference?

A.1. FTA published a notice in the *Federal Register* on March 15, 2006, (71 Fed. Reg. 13456) seeking comments on the types of projects that should be eligible for New Freedom funding. FTA has not yet made the policy decision as to whether or not New Freedom funds will be available for existing services that exceed ADA requirements.

With regards to door-to-door and curb-to-curb paratransit service, FTA notes that under 49 CFR § 37.129, ADA complementary paratransit service is defined as “origin-to-destination” service, which may be defined by local communities as either door-to-door or curb-to-curb. When this U.S. Department of Transportation (DOT) regulation was first promulgated, the preamble language stated, “it is reasonable to think that service for some individuals or locations might be better if it is door-to-door, while curb-to-curb might be better in other instances. This is exactly the sort of detailed operational decision best left to the development of paratransit plans at the local level.” (56 Fed. Reg. 45604; September 6, 1991). In guidance issued on September 1, 2005, DOT provided further clarification of the nature of origin-to-destination service, stating, “where the local planning process establishes curb-to-curb service as the basic paratransit service mode, however, provision should still be made to ensure that the service available to each passenger actually gets the passenger from his or her point of origin to his or her destination point. To meet this origin-to-destination requirement, service may need to be provided to some individuals, or at some locations, in a way that goes beyond curb-to-curb service.” It would appear, then, that door-to-door service, whether provided across a community or only in circumstances in which a particular passenger needs additional assistance, is not beyond the ADA. Therefore, FTA proposed in the March 15, 2006, notice that the incremental cost of door-to-door service in a community that provides curb-to-curb service would not be eligible for New Freedom funds. FTA is seeking public comment on this proposal.

ADA complementary paratransit service is provided to origins and destinations within corridors with a width of $\frac{3}{4}$ mile on each side of each fixed route, including, within the core service area, those small areas not inside any corridors but surrounded by corridors. 49 CFR § 37.131. FTA acknowledged in the March 15, 2006, notice that some paratransit operators already provide service outside of the $\frac{3}{4}$ mile corridor. FTA proposes in the March 15, 2006, notice to permit New Freedom funds be used to fund this existing service, so long as it is part of a coordinated plan and is competi-

tively selected pursuant to 49 U.S.C. § 5317. FTA is seeking public comment on this proposal.

Other areas where providers may be exceeding the ADA would be paratransit hours of operation that exceed the hours of the fixed route and same day service. In the notice, FTA proposes that these services would be beyond the ADA and eligible for funding, but did not contemplate whether these services would be eligible for funding if they are currently being provided. If public comment supports the use of New Freedom funds for existing paratransit service beyond the $\frac{3}{4}$ mile fixed route corridor, FTA will consider permitting these funds to be used for additional, existing paratransit service that is beyond the ADA.

Q.2. The new Freedom and Job Access Reverse Commute Programs both require coordinated public transportation and human services plans.

How do you envision implementing this requirement? Will it be phased in? What will the expectation be for the coming Federal fiscal year?

A.2. FTA published a notice for comment in the *Federal Register* on March 15, 2006 (71 Fed. Reg. 13456), in which we made several suggestions regarding implementation of the coordinated planning process. Specifically, FTA suggested States and communities utilize tools developed through the Federal Interagency Coordinating Council on Access and Mobility and United We Ride to facilitate the coordinated planning process. One specific tool includes the Framework for Action, a self assessment instrument that provides concrete decision points for stakeholders to discuss as they are moving forward with assessment and planning. In addition, FTA is providing extensive technical assistance to State Department of Transportation offices through the United We Ride Ambassador program. This includes funding for experts who are assigned to assist States with implementing the provisions of SAFETEA-LU related to human services transportation coordination. FTA is also working with the Technical Assistance Centers funded through SAFETEA-LU (for example, Project ACTION, JobLinks) to provide a greater level of assistance in this area.

Through the March 15, 2006, *Federal Register* notice, we are seeking public comment on the coordinated planning requirements of the Job Access and Reverse Commute (JARC) and New Freedom programs. We expect to publish final guidance in the form of circulars later this year. In the notice, FTA acknowledged that the New Freedom program does not require projects to be derived from a locally developed, public transit-human services transportation plan until fiscal year 2007; however, there is no delay for the JARC program. We recognize that local public transit-human services transportation plans will require ongoing attention and are dynamic documents. Therefore, we also recognize that plans will change over time. Pursuant to the statute, FTA will require recipients to certify that projects were derived from a locally developed, public transit-human services transportation plan for fiscal year 2007.

The March 15, 2006, notice included guidance for fiscal year 2006, as follows:

- For the New Freedom and Elderly Individuals and Individuals with Disabilities (Section 5310) programs, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires that projects selected be derived from a coordinated plan beginning in fiscal year 2007. This requirement allows time for the development of a coordinated plan and permits projects to be funded in fiscal year 2006 even if a coordinated plan is not yet in place. FTA encourages designated recipients to conduct coordinated planning activities and consultation with planning partners before the selection of fiscal year 2006 projects, but it is not required in fiscal year 2006 that the projects selected be derived from a completed coordinated public transit-human services transportation plan.
- For JARC programs, there is no delay in the requirement that projects be derived from a coordinated plan since a similar requirement was in place for JARC under TEA-21. For areas that previously received JARC discretionary funding, the previously required JARC plan may satisfy the coordinated planning requirement for fiscal year 2006. In areas with no current JARC plan, for fiscal year 2006, the planning partners should, at a minimum, be consulted about projects and where possible expressions of support should be obtained and documented. Each grant application must describe activities undertaken to reach out to stakeholders, including providers and users of service, to identify community-wide needs and to begin to catalog available resources.
- If FTA subsequently establishes more specific criteria for the coordinated planning or competitive selection process, or for project eligibility that were not met by early applicants for fiscal year 2006 funds, the requirements will not be applied retroactively to grants awarded prior to the issuance of the guidance.

Q.3. I am sure you are hearing concerns over the \$100 million cut proposed to the Small Starts program. This program was intended to fund smaller transportation projects that require a Federal share less than \$75 million and have a total project cost of less than \$250 million. The idea of including this authorization in the highway bill was to get some of these small projects moving in a program with reduced criteria and procedures.

Given that Congress supported the idea of a Small Starts program to expedite projects at a lower cost, why can't your agency utilize some creative steps to implement this program and get things moving?

A.3. We believe we have made significant progress this year to implement the Small Starts program. FTA published an Advanced Notice of Proposed Rulemaking in the *Federal Register* on January 30, 2006, to solicit comment on the new "Small Starts" program. In addition, FTA wants to ensure that the industry helps to develop this new program. Thus, FTA has been meeting with transit agencies, industry representatives, and other stakeholders to solicit comments.

In order to advance projects before the formal Federal rule-making process is completed, FTA will issue interim guidance this summer for project sponsors to use in submitting information that

FTA can use to rate and evaluate projects under the Small Starts program. The interim guidance will specify a simplified evaluation and rating process for Small Starts reflecting the requirements specified in SAFETEA-LU.

Q.4. According to GAO, billions of dollars are spent on transportation under federally funded human service agencies, and are often not coordinated well with transportation departments and agencies. Improvements in coordination have been supported through the President's transportation coordination executive order and also through provisions of the highway bill.

What will the Federal Transit Administration and the Department of Transportation be doing next on the transportation coordination issue? What can you recommend to Congress and this Committee to make continuing progress on transportation coordination issues?

A.4. Congress has noted in other human services areas the importance of systems change initiatives to enhance interagency collaboration, such as the Medicaid Systems Change Grants, the Special Education State Improvement Grants, and others. Research shows that the implementation of systems change requires a sustained level of effort in the areas of leadership and partnership development in order to effectively enhance changes in policy, resources, and behavior. In the case of human services transportation, the complexities of addressing systems change at the Federal, State, and local levels, for people with disabilities, older adults, and families with lower incomes, across a multitude of services (for example, health, employment, education, rehabilitation, etc.) adds to the difficulty of creating a simplified and seamless coordinated human services transportation system.

The Federal Interagency Coordinating Council on Access and Mobility (CCAM) established by Executive Order 13330 includes 11 Federal Departments, representing over 62 Federal programs supporting human services transportation. In order to address the requirements of the Order, the CCAM outlined five key recommendations that create coordinated Federal policy in coordinated planning, vehicle sharing, cost sharing, and performance outcomes. Through the United We Ride initiative, the Council has also provided small grants to States to enhance their efforts in coordinating human services transportation. The Council has also developed several tools and strategies to assist communities.

FTA will continue to provide an active leadership role and work at the Federal, State, and regional levels to enhance coordinated human services transportation planning. FTA has dedicated staff resources to work specifically on coordination of human services transportation. Staff supports the work of the Federal Interagency Coordinating Council on Access and Mobility (CCAM), including participation in five active workgroups addressing policy, technical assistance, education/outreach, research and development, and emergency preparedness.

FTA is also working to implement the provisions of SAFETEA-LU regarding human services transportation. This includes utilizing the tools and strategies developed through United We Ride and making these tools widely available for FTA grantees. Exam-

ples include the Framework for Action, a self assessment tool for communities and states; the Useful Practice Database; and a Community Action Guide, currently in development.

SAFETEA-LU established several human services coordination provisions that are enormously helpful in establishing more fully human services coordinated transportation systems. These included: (1) Creating a locally developed coordinated public transit-human services transportation plan with transportation and human services partnerships and consumer involvement; (2) the ability to utilize and match Federal funds across Federal transportation programs for coordinated transportation services; and (3) creating, as an eligible expense, funding for mobility management that provides communities the resources to support coordination activities. To implement these provisions, FTA is actively providing technical assistance to States and communities and providing the tools developed through United We Ride to facilitate implementation.

Similar support for human services transportation coordination needs to be created in other Federal programs supporting transportation. In particular, Federal programs that establish or contract for transportation services should require grantees engaged in sponsoring transportation services to participate in locally developed, public transit-human services coordinated transportation planning processes.

Through United We Ride, FTA and partner agencies have offered small grants (between \$35,000–\$75,000) to States to enhance transportation planning between State agencies. It appears that even these small dollars have provided great incentives for moving the coordination activities forward. In less than 2 years, the number of States with a coordinated human services transportation plan has increased from 5 to 32. The remaining States are in the process of developing plans.

It would likely be equally beneficial to provide similar types of financial incentives for communities that create coordinated planning processes involving multiple human services transportation programs that create a single point of access for customers to access transportation services and establish a comprehensive, coordinated family of transportation services to meet the transportation needs of disadvantaged populations (low-income persons, including children, older adults, and persons with disabilities). Currently, uncoordinated programs force customers into a confusing maze of individual stove pipe programs to receive rides and often leave important service gaps. Incentives might include additional funding or more favorable matching requirements.

Q.5. The highway bill was signed into law on August 10, 2005. There is a need in Kentucky and elsewhere to get these dollars into the economy to meet transportation needs.

What is the Department of Transportation doing to streamline the delivery of funding and projects?

A.5. FTA has worked earnestly to improve program delivery and customer service. For several years, FTA has met or exceeded its goal of awarding at least 80 percent of grants within 60 days of receipt of a complete application. We also exceeded our goal to reduce

the average grant processing time to 36 days or less, even given the increase in the grant processing workload related to the multiple incremental extensions of funding during the reauthorization process.

FTA has worked with Congressional committees to clarify the intended recipients of earmarked projects when it was not apparent in bill or report language, and we have reached out to local communities, particularly new grantees, to help them develop applications for earmarked projects.

FTA summarized the new provisions and programs of SAFETEA-LU in a *Federal Register* Notice issued November 30, 2005, and conducted multiple listening sessions for communities throughout the country. We established the new codes and grant processing procedures necessary to award grants in fiscal year 2006 and issued interim guidance where necessary to allow grantees to apply for funding even while final program guidance is still being developed with opportunity for public comment.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SARBANES FROM SANDRA BUSHUE

Q.1. During consideration of SAFETEA-LU, the Banking Committee and the Transportation & Infrastructure Committee in the House received project requests totaling more than seven times the amount available for discretionary programs. After careful consideration, we determined that these requests justified a Small Starts program level of \$200 million per year.

What is the specific basis for FTA's conclusion that \$100 million is the maximum amount that can be distributed in fiscal year 2007? Once your program rules are in place, which you have estimated will occur in June 2007, why would there be a limit (other than the limit provided in SAFETEA-LU) on the amount of funds that could be distributed?

A.1. SAFETEA-LU requires regulations to implement the new Small Starts program, including the evaluation criteria for selecting projects and a new funding grant agreement. FTA expects that new regulations will not be finalized until the latter part of fiscal year 2007. While we plan to issue interim guidance this summer which will allow us to rate and evaluate Small Starts projects, we expect that a majority of the initial projects will only be ready to enter the project development process, not to receive Project Construction Grant Agreements. Given the long lead time needed to implement the new program, \$100 million is more in line with the level of effort for awarding grants in the first year of this program.

Q.2. I appreciate the fact that the President's budget requests the full \$23 million authorized for the new Transit in the Parks program. This program stems from legislation I introduced a number of years ago after a visit to some of our Western parks, in which I saw how congested park roads and parking lots can be, especially during heavy visitation seasons. This program is intended to help alleviate that congestion by providing resources to help parks develop transit systems and other transportation alternatives. When does the FTA expect to begin making grants under this program?

A.2. FTA plans to award funds in the summer of 2006 to projects under the new Alternative Transportation in Parks and Public Lands program. FTA has been working closely with representatives from Federal land management agencies to develop this new program. On March 23, 2006, FTA published a *Federal Register* "Notice of Funding Availability; Solicitation of Proposals for Funding through the Alternative Transportation in Parks and Public Lands Program," requesting project proposals for fiscal year 2006 funding. Proposals are due May 5, 2006, and will be evaluated according to the criteria in the law by an interagency team which includes FTA, each of the Federal land management agencies and the Department of the Interior. The team will provide recommendations to the Secretary of Interior who, following consultation with the Secretary of Transportation, shall determine the final selection and amount of funding for each project. The Department of the Interior plans to announce the projects selected by summer of 2006. FTA will publish the list of all selected projects and funding levels in the *Federal Register*. Funds will be awarded in summer and fall 2006, and administered according to Federal requirements as well as the appropriate policies, guidelines, and rules of the pertinent agencies.

Q.3. Before Hurricane Katrina, both New Orleans and the Gulf Coast of Mississippi had vibrant public transit systems. In New Orleans, the transit system carried 124,000 people every day, with a fleet of 372 buses and 64 streetcars, while Mississippi's Coast Transportation Authority provided over 2,000 trips per day to residents of Biloxi and Gulfport. Those systems are now struggling to get up and running again, so that the residents of those areas who do not own a car or who lost their cars as a result of the hurricane can access their jobs, doctors, and other needed services.

From all accounts, it will take many more months before the affected areas are restored to anything approaching their former size and level of activity. And yet, I understand that FEMA's authority to pay for operating subsidies to these systems is scheduled to expire on June 30 of this year. With little to no local tax base, these systems will be forced to cut service, stranding thousands of people and hampering the efforts of these areas to resume their normal life.

What is the FTA doing to help these systems make public transit available for as long as it takes these areas to recover from this devastating storm?

A.3. Since very early in the disaster response and recovery effort, FTA has worked closely with local and State officials to support public transit. In the early fall of 2005, FTA worked with FEMA to secure Mission Assignments and contracts to continue operating local transit services damaged by the hurricane in Louisiana and Mississippi. FEMA Mission Assignments totaled \$66 million for provision of transit service in New Orleans, Baton Rouge, as well as rural and other urban services in Louisiana. In Mississippi, FEMA Mission Assignments totaled \$3.35 million for provision of transit service in Gulfport-Biloxi and surrounding counties, as well as emergency transportation services in rural Mississippi. These Mission Assignments have or are expected to expire as of June 30, 2006.

As these communities move forward in recovery efforts, FTA has been and will continue to help local transit authority and metropolitan planning officials undertake both short-term and long-term planning projects. FTA has found that there is a correlation between the erosion of the tax base and the transit service requirements. FTA has supported planning efforts in both Mississippi and Louisiana designed to help local officials better understand and identify future revenues to support transit. Although, under the Stafford Act, FEMA has responsibility for funding and implementing long-term recovery in these areas, FTA's grantees will continue to receive formula funds, which in areas over 200,000 in population can be used for preventive maintenance costs and in areas under 200,000 in population can be used for operating assistance. In addition, FTA has deferred the local match for grants to transit agencies in the gulf area to help alleviate the burden on local funding while the tax base is rebuilt.

In Louisiana, FTA is working with State and local officials and long term recovery planning for New Orleans is currently underway through numerous organizations, including the Governor's Louisiana Recovery Authority, the Mayor's Bring Back New Orleans Commission, and FEMA's ESF-14 Long Term Recovery teams. In New Orleans, FTA is working with FEMA on the availability of FTA capital funds and FEMA public assistance funds for transit equipment replacement and transit facility reconstruction and to ensure that priority capital projects in the New Orleans area can proceed in the near future. In addition, FTA has deferred the local share for existing and future grants for the New Orleans Regional Transit Authority (NORTA). FTA will work with both FEMA and NORTA officials to help process contract modifications that will ensure that the \$47 million FEMA Mission Assignment for emergency transit services in New Orleans and Baton Rouge is utilized to the maximum extent feasible for priority transit services. FTA has provided in-house staff expertise and has funded contractors to support New Orleans planning by continued coordination with various Federal, State, and local long-term recovery efforts, and will support NORTA and the Regional Planning Commission (RPC) as they prepare their Five Year Strategic Plan for Recovery. In Baton Rouge, FTA has provided in-house staff expertise and has funded contractors to support the Capital Area Transit System and the Capital Region Planning Commission (CRPC) to prepare transit in Baton Rouge for expanded service needs.

In Mississippi, FTA provided direct, on-site technical support for several months beginning in September 2005 for Coast Transit Authority (CTA) to operate initial and interim disaster response and recovery transit services in the Gulfport-Biloxi area. FTA utilized in-house staff expertise and provided support to provide direct operational planning technical support to CTA. The Governor's Commission on Recovery, Rebuilding, and Renewal is undertaking long-term planning activities, coordinated with other local and county efforts. FTA is providing additional technical support for an Intermodal Transportation Working Group that has been established and, specifically for CTA and the Gulf Regional Planning Commission (GRPC) in short-term and long-term planning activities. FTA, CTA, CRPC, and the Mississippi Department of Trans-

portation are initiating a transit development plan, to be completed in coordination with the regional transportation plan and recovery efforts.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR CARPER
FROM SANDRA BUSHUE**

The Federal Transit Administration placed a notice in the *Federal Register* earlier this month stating that your agency will withhold transit funds from agencies that fail to pay any additional fees assessed by the Federal Railroad Administration for the maintenance of the Northeast Corridor.

Q.1. What was your involvement in the development of this policy?

A.1. The development of the policy occurred prior to my becoming Deputy Administrator of the Federal Transit Administration. Therefore, I did not participate personally in its development.

Q.2. What legal authority are you relying on?

A.2. FTA respectfully notes that the opening comment in question #1 above misstates the substance of FTA's publication in the *Federal Register* on February 10, 2006. FTA's notice did not state that FTA would withhold transit funds from agencies that fail to pay any additional fees assessed by the Federal Railroad Administration (FRA) for the maintenance of the Northeast Corridor. Instead, FTA's notice identified 49 U.S.C. § 5334(a)(9) as the authority of the Secretary to include in an agreement or instrument a covenant or term the Secretary considers necessary to carryout the transit law or to enforce the requirements of the Appropriation for "Capital and Debt Service Grants to the National Railroad Passenger Corporation" set forth in Division A of Title I of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act of 2006 (the Appropriations Act). The distinction between stating the basis of the Secretary's authority to enforce the Appropriations Act, on the one hand, and declaring FTA's intent to exercise that authority, on the other, is significant. As the Committee may know, FTA stated at a meeting with commuter rail agencies located in the Northeast Corridor on February 28, 2006, that the Department has no reason to believe that it needs to resort to the Secretary's powers under Section 5334(a)(9) (or the terms and conditions for grants already established thereunder) in order to enforce the Appropriations Act, since there is an open and inclusive process underway between such agencies and the Department to implement that law.

The legal basis for FTA's right to withhold funds from grantees for violation of the Appropriations Act rests on certain covenants and terms in the Master Agreement (to which each FTA grantee is subject) which are within the authority of the Secretary to include in the Master Agreement pursuant to 49 U.S.C. § 5334(a)(9). Please note, in particular, that Section 2(d) of the Master Agreement provides that a grantee shall comply with Federal law: "[t]he Recipient agrees that it . . . is ultimately responsible for compliance with all applicable Federal laws, regulations, and directives, this Master Agreement, and the underlying Grant Agreement or Cooperative Agreement for the Project, except to the extent that

FTA determines otherwise in writing.” (See § 2(d), Master Agreement (MA–12), October, 2005).¹ Separately, Section 11 of the Master Agreement provides FTA with the right to suspend or terminate all or any part of the Federal assistance provided by FTA to a grantee as a remedy for any violation by the grantee of its covenant in Section 2(d): “[t]he Recipient agrees that the Federal Government may suspend or terminate all or any part of the Federal assistance to be provided if the Recipient has violated the terms of the Grant Agreement or Cooperative Agreement for the Project, including this Master Agreement. . . .” (See § 11, Master Agreement (MA–12), October, 2005). In the event that a transit agency violated the Appropriations Act, it would thereby (a) violate its covenant in the Master Agreement to comply with Federal law and (b) trigger FTA’s remedies set forth in Section 11 of the Master Agreement, including the remedy to suspend or terminate all or any part of the Federal assistance payable to the grantee. The Master Agreement, which each FTA grantee agrees to enter in connection with the disbursement of FTA funds, has long included Sections 2(d) and 11.²

Q.3. How long will transit agencies and States be given to budget for increased Northeast Corridor maintenance fees before the Federal Transit Administration starts withholding transit funds?

A.3. The FRA, rather than FTA, is responsible for all aspects of calculating and assessing the fees contemplated by the Appropriations Act, including the terms and conditions relating to the enforcement of the obligations of commuter rail agencies thereunder. FTA has therefore asked the Office of Chief Counsel of FRA to answer this question by separate letter to the Committee.

Q.4. Will you expect States to come up with this additional funding outside of their regular budget cycle?

A.4. FRA, rather than FTA, is responsible for all aspects of calculating and assessing the fees contemplated by the Appropriations Act, including the terms and conditions, if any, that would bear on the source of funds utilized by commuter rail agencies or States to satisfy their obligations thereunder. FTA has therefore asked the Office of Chief Counsel of FRA to answer this question by separate letter to the Committee.

Q.5. Since most additional fees owed for Northeast Corridor maintenance will be paid by States, why did the Administration decide to threaten to withhold transit funds instead of highway funds or other transportation funds?

A.5. The Secretary takes seriously his obligation faithfully to execute the laws of the United States, including the directives applicable to the Secretary under the Appropriations Act with respect to

¹ Please note that pursuant to Section 2(c)(1) of the Master Agreement, each FTA grantee also “agrees that all Federal laws and regulations control Project award and implementation.” Section 2(c)(1) of the Master Agreement also states that the grantee “agrees that the most recent of such Federal laws, regulations, and directives will govern the Administration of the Project at any particular time”

² Please note that, notwithstanding what the Master Agreement currently provides, the Secretary has the authority under 49 U.S.C. § 5334(a)(9) to include in any future Master Agreement a covenant or term that expressly requires payment of assessments made by the Secretary in accordance with law, provided the Secretary considered such term or covenant necessary to carry out Chapter 53 of Title 49.

the assessment and collection of fees for capital and maintenance costs attributable to commuter rail operations over the Northeast Corridor. It is a requirement of the Appropriations Act that “revenues from [the assessments] shall be merged with this appropriation and be available for obligation and expenditure consistent with the terms and conditions of this paragraph.” By implication, therefore, the Secretary is obliged, at a minimum, to act with a view to collecting a portion of such assessments prior to the end of fiscal year 2006. However, the Appropriations Act itself provides the Secretary no means of enforcing the payment of the assessments that he is required by law to collect. For that reason, and given the shortness of time the Secretary has to implement the law, the Department needed to identify a flexible enforcement mechanism. Among the mechanisms available to the Department, the arrangements governing FTA’s grants afforded the Secretary the most flexible and effective means to ensure compliance with the law. The Department, however, believes that such enforcement mechanism is strictly one of last resort, and, again, has no reason to believe that the Department would need to resort to it.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR BUNNING
FROM WILLIAM MILLAR**

Q.1. Mr. Millar, during the delay over the reauthorization of the program, many of the businesses that are involved in transportation planning, design, and construction were concerned about the impact that the delays were having on their businesses.

What can you tell this Committee about the condition of the business side of the transit industry? How are the manufacturers and suppliers and consultants doing now that we have a new law?

A.1. The business side of the transit industry was particularly concerned about the 2-year delay in getting SAFETEA-LU enacted into law. That delay created uncertainty and limited the ability of transit agencies to make long-term planning and investment decisions—which curtailed business activity and thus had an obvious negative impact on transit businesses. All of our members, and particularly our business members, were pleased that reauthorization legislation became a reality with the enactment of SAFETEA-LU on August 10, 2005. While it took a few months longer for the fiscal year 2006 transportation appropriations to become law, and while it takes time for that law to be translated into the apportionment and then allocation of Federal transit funds by the Federal Transit Administration, there is a clear sense now on the part of both our public and private sector members, with a long-range reauthorization law in place with guaranteed funding, that the transit industry business climate is greatly improved going forward. On behalf of our more than 1,600 member organizations, we thank the Senate Banking Committee for its key role in getting SAFETEA-LU enacted into law with significant increases for public transportation.