

**NOMINATIONS TO THE  
DEPARTMENT OF HOMELAND SECURITY,  
DEPARTMENT OF TRANSPORTATION, AND  
FEDERAL AVIATION ADMINISTRATION**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION**

**UNITED STATES SENATE  
ONE HUNDRED EIGHTH CONGRESS**

**FIRST SESSION**

**MARCH 4, 2003**

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



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COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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**NOMINATIONS TO THE DEPARTMENT OF  
HOMELAND SECURITY, DEPARTMENT OF  
TRANSPORTATION, AND FEDERAL AVIATION  
ADMINISTRATION**

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**TUESDAY, MARCH 4, 2003**

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

The Committee met, pursuant to notice, at 10 a.m., in room SR-253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN MCCAIN,  
U.S. SENATOR FROM ARIZONA**

The CHAIRMAN. Good morning. I am pleased to convene this hearing to consider the nominations of Dr. Charles McQueary, to be Under Secretary of Science and Technology at the Department of Homeland Security (DHS); Jeffrey Shane, to be Under Secretary of Transportation for Policy at the Department of Transportation (DOT); Emil Frankel, to be Assistant Secretary for Transportation Policy at DOT; and Robert Sturgell, to be Deputy Administrator at the Federal Aviation Administration (FAA). I am hopeful the Committee and full Senate can work to move these nominations quickly.

The positions for which these individuals have been nominated are important. The Department of Homeland Security faces a tremendous task in ensuring the safety of the United States. Numerous agencies have been moved under the Department's umbrella and it is essential that experienced personnel be in place to effectuate the goals of DHS. Dr. McQueary has been nominated to head the research and development program at DHS, and will be in charge of developing countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats.

The Department of Transportation has a very busy schedule this year, with the reauthorization of the various FAA programs and the reauthorization of the highway funding legislation. The Administration and Congress face a significant task, given the enormity of both these multibillion programs. Confirmation of Mr. Shane and Mr. Frankel will ensure a breadth of knowledge and provide needed continuity that will be essential to developing sound transportation policy on behalf of the Administration.

Finally, should Mr. Sturgell be confirmed, the FAA will have its first Deputy Administrator in almost 6 years. Given the many-fac-

eted functions of the FAA, it is essential that the Administrator have a deputy in place to assist her in carrying out her many duties to promote a safe and efficient air transportation system. I have been critical of the fact that this position has not been filled for such an extended period, and am pleased we are moving forward on this nomination.

I would like to take this opportunity to thank the nominees for being here today. I know your nomination is a great honor, and that your families are very proud. I want to welcome all of you and your family members who are with you in the audience today. We will have a number of questions for you, and I look forward to hearing from you to learn about your views.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN,  
U.S. SENATOR FROM ARIZONA

I am pleased to convene this hearing to consider the nominations of Dr. Charles McQueary, to be Under Secretary of Science and Technology at the Department of Homeland Security (DHS); Jeffrey Shane, to be Under Secretary of Transportation for Policy at the Department of Transportation (DOT); Emil Frankel to be Assistant Secretary for Transportation Policy at DOT; and Robert Sturgell to be Deputy Administrator at the Federal Aviation Administration (FAA). I am hopeful the Committee and full Senate can work to move these nominations quickly.

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Finally, should Mr. Sturgell be confirmed, the FAA will have its first Deputy Administrator in almost six years. Given the many-faceted functions of the FAA, it is essential that the Administrator have a Deputy in place to assist her in carrying out her many duties to promote a safe and efficient air transportation system. I have been critical of the fact that this position has not been filled for such an extended period and am pleased that we are moving forward on this nomination.

I would like to take this opportunity to thank the nominees for being here today. I know your nomination is a great honor, and that your families are very proud. I want to welcome you all and invite you to introduce any family members who are with you in the audience today.

We will have a number of questions to ask each of you today and I look forward to hearing from you to learn more about your philosophies. After we hear from any of my colleagues who may have opening comments, I will first call Dr. McQueary.

The CHAIRMAN. First, I would like to call on Dr. McQueary. Welcome, Dr. McQueary. Please proceed. Obviously, all of your written statements will be made a part of the record.

I am sorry, Senator Dole just came. Senator, would you join us to make any comment you would like to make? Welcome, Senator Dole, and thank you for coming this morning on behalf of this fine nominee.

**STATEMENT OF HON. ELIZABETH DOLE,  
U.S. SENATOR FROM NORTH CAROLINA**

Senator DOLE. Thank you very much, Mr. Chairman. It is a pleasure today to introduce President Bush's nominee for the position of Under Secretary for Science and Technology at the Department of Homeland Security, Dr. Charles E. McQueary. Dr. McQueary, known as Chuck to friends, is uniquely qualified to serve as the Under Secretary for Science and Technology due to his extensive background and personal experience, and I am sure that you and the Committee are aware of his very impressive resume, and he served first at AT&T Bell Laboratories as department head, and then director, and then AT&T Lucent Technologies vice president, then president from 1987 to 1997, and then as president, General Dynamics Advanced Technology Systems from 1997 to 2002.

America was built and made strong by people who believed in the potential of scientific and technological innovation. As we confront new realities associated with the war on terror, it is clear that America must once again rely on its best minds and its innovative spirit to help protect our communities from the grim possibilities of terrorism within our own borders. I believe Dr. McQueary can help lead us toward the kinds of policies that fully capture our scientific and technological capabilities.

One of the tasks of the Under Secretary for Science and Technology is ensuring that we will have the technology in place to prevent the importation of nuclear materials and detecting and preventing chemical or biological attacks. Dr. McQueary is a leader in the field of advanced technology systems. His background in the different facets of science and technology, from academic and research to development and deployment of new technology, makes him the clear choice for this position. These assets, combined with his demonstrated leadership qualities, his abilities to work within budgets, and his dedication to public service, are truly what make him uniquely qualified for the position.

In addition, Dr. McQueary and his wife, Cheryl, have been invaluable members of our community in Greensboro, North Carolina, with a commitment to charitable work and educational opportunities for our children. Dr. McQueary is joined today by his wife and strong partner, Cheryl, who spent many successful years with Lucent Technologies and now leads an active civic life while serving on numerous boards and committees. I know both to be dedicated to whatever tasks they undertake.

He is also accompanied by his daughter, Joanna, son-in-law Donnie, and granddaughter Carley, and it is my privilege, Mr. Chairman, to present Dr. Charles McQueary.

The CHAIRMAN. Thank you very much, Senator Dole. We thank you for being here on behalf of this fine nominee, and we know you have other things on your busy schedule, and we thank you for stopping by. Thank you, Senator Dole.

Senator DOLE. Thank you.

The CHAIRMAN. Before we move to Dr. McQueary, I would like to submit for the record a statement in support of the nomination of Emil Frankel to Assistant Secretary of Transportation from Sen-

ator Joe Lieberman on your behalf, Mr. Frankel. Without objection, that statement will be made a part of the record.

[The prepared statement of Senator Lieberman follows:]

PREPARED STATEMENT OF HON. JOSEPH I. LIEBERMAN,  
U.S. SENATOR FROM CONNECTICUT

Mr. Chairman and members of the Committee, I am pleased to come before you today to speak on behalf of the nomination of a longtime colleague of mine, Emil H. Frankel. My office and I have had the opportunity to work closely with Emil over the years on a wide range of transportation policy questions. My experiences with Emil have led me to believe he is eminently qualified to serve as the Assistant Secretary of Transportation Policy and it is with great pleasure that I come before you to strongly support his nomination.

Since March of last year, Mr. Frankel has worked in the Department of Transportation as the Assistant Secretary for Transportation Policy, the position for which he now appears before you once again. During this past year, Emil has illustrated his talent and capabilities while working under the auspices of Transportation Secretary Norman Mineta.

I first worked closely with Mr. Frankel in his capacity as Commissioner of the Connecticut Department of Transportation from 1991-1995. Throughout his tenure with the Connecticut DOT, Emil was a great source of innovative ideas and approaches. As the chief executive officer of the state's consolidated transportation agency of over 4,000 employees, he was responsible for an annual budget of over \$1 billion. He was also responsible for the construction, rehabilitation, maintenance and management of a truly multi-modal transportation system. This system included Connecticut's state system of highways and bridges, bus and commuter rail services, and airports.

Mr. Frankel additionally served as Chairman of the Standing Committee on the Environment of the American Association of State Highway and Transportation Officials (AASHTO) and Vice Chairman of the I-95 Corridor Coalition. Throughout his involvement with transportation issues, in Connecticut and beyond, Mr. Frankel brought to his various positions in-depth understanding of Intelligent Transportation System technologies, inter-city rail services, transportation planning and managing, and transportation and air quality.

From my position on the Environment and Public Works committee I had the opportunity to work on ISTEA legislation with Emil, who provided my office with much thoughtful guidance. He was a strong supporter of the innovative features in the bill, including its focus on balancing environmental concerns with those of transportation infrastructure. After leaving the Connecticut Department of Transportation he continued to follow these issues through projects at Harvard, Yale, and the University of Connecticut where he has taught and written on the issues of transportation planning, and transportation and the environment.

After leaving the Connecticut Department of Transportation, Mr. Frankel spent time as an advisor to the Massachusetts Port Authority on proposals to reorganize state government and worked on a major transportation Joint Feasibility Study for the Massachusetts Turnpike Authority and Massachusetts Highway Department. Furthermore, he served as counsel to the New York City Partnership and Chamber of Commerce regarding Federal surface transportation legislation and he advised the Delaware Department of Transportation. I believe Mr. Frankel has a strong grasp of transportation, including some exciting areas for transportation innovations, and he truly understands state and local transportation needs.

Mr. Frankel also has very strong academic credentials; he graduated Phi Beta Kappa from Wesleyan University and was a Fulbright Scholar. From 1981 to 1997 he served as a Trustee to Wesleyan. He received his law degree from Harvard University Law School and, in 1995, was a Fellow at Harvard's John F. Kennedy School of Government. At the University of Connecticut, he was an adjunct professor. Mr. Frankel has also been a fellow at the Yale School of Management and a Senior Fellow at the Yale School of Forestry and Environmental Studies.

When not occupied by teaching and the law, Emil has also found time to serve on a number of non-profit boards, including the National Trust for Historic Preservation. While Emil's credentials overwhelmingly speak for themselves and demonstrate his high qualification to continue serving as the Assistant Secretary of Transportation, I would like to emphasize my own personal support. Emil's experience in the public and private sector, as well as in academia, allow him to understand the complex nature and importance of transportation in today's economy and society. He is an innovator and a thinker with great understanding of state and

local transportation needs. I can think of no better person for the job. I hope you will confirm him quickly and I thank the Chair and Committee members for their time.

Thank you.

The CHAIRMAN. Dr. McQueary, please proceed.

**STATEMENT OF DR. CHARLES E. McQUEARY, ADVISOR,  
DEPARTMENT OF HOMELAND SECURITY**

Dr. MCQUEARY. Thank you, Mr. Chairman. I have submitted a more extensive statement, but I would like to excerpt a few points from that statement for you this morning. First of all, it is an honor for me to appear before you today regarding my nomination as Under Secretary for Science and Technology in the new Department of Homeland Security. I am honored to have been nominated for this position by the President, and I thank him for his confidence and support.

I want to thank Senator Dole, even though she has left at this point, for being here this morning, and thank her for her kind remarks. North Carolina is very fortunate to have a person of her distinction as one of its Senators.

Now, more than ever, our Nation needs a systematic national effort to harness science and technology in support of homeland security. The United States possesses a vast, multidisciplinary science and technology research development sector made up of companies, universities, institutes, and Government labs of all sizes. The Science and Technology Directorate will focus this national capability on homeland defense by serving as the national lead for homeland security research and development and by working with private and public entities to assure an R&D effort of sufficient size and scope to counter the threats of modern terrorism.

Creating and guiding such an effort is a major undertaking. I believe my education and business background provide me with a strong base for leading the Science and Technology Directorate should I be confirmed. As an engineer and a senior executive, I have led large research and development businesses that designed, manufactured, installed and supported a wide variety of high-technology solutions for national security and commercial customers. I understand both the size and the scope of work this effort will require.

If confirmed, I will base my plans on the Department's science and technology priorities articulated in the President's National Strategy for Homeland Security and on the Homeland Security Act. I would engage the industrial base of our Nation through the Homeland Security Advanced Research Project Agency, an agency that will solicit innovative ideas from private and public members of the industry and work to develop and demonstrate cutting-edge, high-payoff projects that fundamentally improve our ability to protect the United States and our citizens.

The Science and Technology Directorate and HSARPA in particular will engage in rapid prototyping, testing, and evaluation of technologies that are off-the-shelf, or nearly so, and put them in the hands of appropriate users to support specific homeland security requirements.

The S&T Directorate will work with other Federal agencies and departments to develop and promulgate standards for equipment to be purchased by Federal agencies and State and local governments for specific homeland security purposes. A key capability of the Science and Technology Directorate will be a national laboratory for homeland security, which will consist of components from several Department of Energy laboratories staffed by a multidisciplinary cadre of scientists and engineers who make it their business to understand the various facets of homeland security, establish relationships with relevant stakeholders, and provide the core internal research and systems engineering expertise for the new Department's activities.

All of these capabilities will ultimately be focused on providing the Department of Homeland Security, State, local, and other Federal agencies with new systems and technologies for performing their missions better and making our Nation safer. As our customers, they will help define the problems we will need to address, and the parameters for deciding our success.

It would be my job to provide a science and technology enterprise that is up to this challenge. I will focus on the creation of a disciplined and efficient systems engineering process that delivers the appropriate homeland security capabilities as efficiently as possible and when and where they are needed. Should the Senate confirm my appointment, I would welcome the opportunity to work with the Congress and this Committee in particular to accomplish the important mission of homeland security before us.

Thank you for your consideration of my nomination, and for the honor of appearing before you today. I would be happy to answer any questions that you might have.

[The prepared statement of Dr. McQueary follows:]

PREPARED STATEMENT OF DR. CHARLES E. MCQUEARY, ADVISOR,  
DEPARTMENT OF HOMELAND SECURITY

Chairman McCain, Senator Hollings and distinguished Members of the Committee, it is an honor to appear before you today regarding my nomination as Under Secretary for Science and Technology in the Department of Homeland Security. I am most honored to have been nominated for this position by the President, and I thank him for his confidence and support.

Senator Dole, thank you for being here this morning and thank you for your kind remarks.

This past Saturday, under the very able leadership of Secretary Ridge and Deputy Secretary England, the Department assumed operational control of the majority of agencies transferred to DHS under the Homeland Security Act. This marked the passage of a major milestone in the effort to combine these agencies and re-focus their efforts to secure and protect the Homeland. Included in this transfer were agencies with inherent research and development capabilities, all of which the Science and Technology Directorate will now oversee.

Now, more than ever, our nation needs a systematic national effort to harness Science and Technology in support of Homeland Security. Today, the United States of America possesses a vast Science and Technology enterprise. Companies, Universities, Institutes and Government Labs of all sizes conduct Research and Development across a very broad range of disciplines.

The Department of Homeland Security, and specifically the Science and Technology Directorate, will serve to focus this national capability on the defense of our homeland. It will serve as the national lead for homeland security Research and Development, and it will work with private and public entities to assure an R&D effort of sufficient size and scope to counter the threats of modern terrorism.

Creating and guiding such an effort is a major undertaking. My education and business background provide me a strong base for leading the Science and Technology Directorate, should I be confirmed. As an engineer and a senior executive,

I led a large Research and Development business that designed, manufactured, installed and supported a wide variety of high technology solutions for national security and commercial customers. I understand both the size and scope of work this effort will require.

If confirmed, I will base my plans for the Department's Science and Technology work on the priorities articulated in the President's National Strategy for Homeland Security.

As identified in the National Strategy, and as provided for in the founding legislation of the Department of Homeland Security, I would engage the industrial base of our nation through the Homeland Security Advanced Research Projects Agency. It will be the role of this Agency to solicit innovative ideas from private and public members of the industry. Once identified, the agency will work to develop and demonstrate them for appropriate application. The focus will be on cutting edge, high payoff projects that fundamentally improve our ability to protect the United States and our citizens.

The Science and Technology Directorate, and HSARPA in particular, will engage in rapid prototyping, testing and evaluation of technologies that are "off the shelf", or nearly so, and put them in the hands of appropriate users to support specific homeland security requirements. To accomplish this, the Science and Technology staff will work with the Technical Support Working Group that is managed by the Departments of State and Defense. This group has for many years accomplished this task for our armed forces.

In addition, should I be confirmed, I would foster pilot deployments of the systems and technologies developed by the Science and Technology Directorate to refine these capabilities and develop operational concepts for direct use.

The Science and Technology Directorate will work with other agencies, such as the National Institute of Science and Technology, and Departments, such as Justice, to create a capability for the development and promulgation of standards for equipment to be purchased by federal agencies and state and local governments for specific homeland security purposes. To do this, the S&D Directorate will create reference standards, develop certification protocols, and then encourage the formation of certification labs that could test this specific equipment. This process would support not only the agencies that purchase this equipment, but also the businesses that develop and produce these capabilities.

In the founding legislation there is a general mandate to support our national leadership in Science and Technology. I feel it particularly important to insure that our best minds have the opportunity to enter careers and perform research in fields important to the homeland security R&D enterprise. To that end, the Science and Technology Directorate will fund postgraduate and post doctoral fellowship programs and create scholarships in support of this mandate.

A key capability for the Science and Technology Directorate is a National Laboratory for Homeland Security. This laboratory will consist of components from several of the Department of Energy laboratories, staffed by a multidisciplinary cadre of scientists and engineers who make it their business to understand the various facets of homeland security; establish relationships with relevant stakeholders; and provide the core internal research and systems engineering expertise for the new Department's activities.

The Science and Technology Directorate will need to develop and maintain core technical expertise in life sciences research. We will exercise our responsibility for assessing the biological, chemical and radiological threat and our nation's ability to respond to them with appropriate medical countermeasures being developed at the Department of Health and Human Services.

Should I be confirmed, I would work in close collaboration with the leadership at DHHS to assure a robust effort in this area as well as the other Departments and Agencies I have already mentioned. I will also work closely with the Department of Agriculture to protect our agricultural infrastructure from terrorist activities with appropriate measures.

All of these capabilities will ultimately be focused on providing the Department of Homeland Security, and state, local, and other federal agencies with new systems and technologies for performing their missions better and making our nation safer. As our customers they will help define the problems we will need to address and the parameters for defining our success.

It will be my job to provide a Science and Technology enterprise that is up to this challenge. I will focus on the creation of a disciplined and efficient systems engineering process that delivers the appropriate homeland security capabilities as efficiently as possible, when and where they are needed.

Should the Senate confirm my appointment, I would welcome the opportunity to work with the Congress, and this Committee in particular, to accomplish the impor-

tant mission of homeland security before us. Thank you for your consideration of my nomination, and for the honor of appearing before you today.

I am happy to answer any questions you may have.

#### A. BIOGRAPHICAL INFORMATION

1. Name: Charles Everette McQueary  
Nickname: Chuck
2. Position to which nominated: Under Secretary for Science and Technology in the Department of Homeland Security
3. Date of nomination: February 14, 2003
4. Address: (Information not made available to the public).
5. Date and place of birth: Sept. 1, 1939; Gordon, TX.
6. Marital status: (Include maiden name of wife or husband's name.) Married to Cheryl Lee McQueary  
Wife's maiden name: Bath
7. Names and ages of children: Joanna Lea Gossett, Age: 40.
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)  
Gordon High School 1954-1958. Diploma May 1958  
University of Texas at Austin 1958-1966; BS Mechanical Engineering June 1962; MS Mechanical Engineering August 1964; PhD Engineering Mechanics August 1966
9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)  
General Dynamics—Consultant: 2002  
General Dynamics—President, Advanced Technology Systems, 1997-2001  
Lucent Technologies—President, Advanced Technology Systems 1995-1997  
AT&T—President, Advanced Technology Systems 1993-1995  
AT&T—Vice President, Navy Systems 1987-1993  
AT&T—Bell Laboratories:  
Director, Technical Staff 1983-1987  
Department Head, Technical Staff 1971-1983  
Supervisor, Technical Staff 1969-1971  
Member of Technical Staff 1966-1969
10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.)  
(a) Advisor to Department of Homeland Security (part time December 2002, January 2003)  
(b) Consultant to Department of Homeland Security January 25, 2003 to present
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.)  
United Way of Greater Greensboro, 1500 Yanceyville Street Greensboro, NC 27405; Board Member since 1993; Board Chair 2002/2003  
Action Greensboro, 317 South Elm Street, Greensboro, NC 27401; Chair of Action Greensboro Public Education Initiative (since 4/01)  
North Carolina A&T University, 1601 East Market Street, Greensboro, NC 27411  
Member Board of Trustees (since 1998 est.)  
World Trade Center of North Carolina, 118 South Person Street, Raleigh, NC 27601 Board Member (since 11/01)  
Leadership North Carolina, 711 Hillsborough Street, Raleigh, NC 27603; Board Member (Since 2001 est.)  
Guilford County Educational Network, c/o Community Foundation of Greater Greensboro, 100 South Elm Street, Greensboro, NC 27401; Board Member (since 9/02)  
National Defense Industrial Association, 2111 Wilson Blvd., #400, Arlington, VA 22201; Member until 12/01  
Navy League, 2300 Wilson Blvd., Arlington, VA 22201; Member until 12/01  
Naval Submarine League, P.O. Box 1146, Annandale, VA 22003 (this may be an old address); Member until 12/01  
Greensboro Chamber of Commerce, 330 E. Lindsay Street, Greensboro, NC 27401; Member until 2001 (est.)  
A&B Investments, LTD, P.O. Box 77764, Greensboro, NC 27417; Technical Manager for "Vette-N-Vestments". A Corvette Market Letter. (since 3/02 est.) This is an unpaid position. Resigned 1/03

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.)

Honor societies: Phi Eta Sigma; Pi Tau Sigma; Tau Beta Pi; Phi Kappa Phi

13. Political affiliations and activities:

Contributor	Occupation	Date	Amount	Recipient
McQueary, Cheryl .....	Retired .....	11/19/2002	\$535	North Carolina Republican Executive Cmte.
McQueary, Charles ..	General Dynamics ATS .....	6/25/2002	1,000	Dole, Elizabeth
McQueary, Charles ..	General Dynamics ATS .....	6/25/2002	1,000	Dole, Elizabeth
McQueary, Charles ..	General Dynamics ATS .....	6/11/2002	1,000	Dole, Elizabeth
McQueary, Cheryl .....	Retired .....	4/4/2002	1,000	Dole, Elizabeth
McQueary, Cheryl .....	Retired .....	4/4/2002	1,000	Dole, Elizabeth
McQueary, Cheryl .....	Retired .....	3/15/2002	1,000	Dole, Elizabeth
McQueary, Cheryl .....	Retired .....	1/6/2001	1,000	Dole, Elizabeth
McQueary, Chuck .....	General Dynamics ATS .....	1/6/2001	1,000	Dole, Elizabeth
McQueary, Cheryl .....	Self/Telecommunications .....	5/31/2000	1,000	Bush, George W.
McQueary, Cheryl .....	Lucent Technologies .....	6/8/1999	1,000	Dole, Elizabeth
McQueary, Charles ..	General Dynamics Advanced Tech .....	6/9/1998	500	Faircloth, Lauch
McQueary, Charles ..	Lucent Tech .....	4/8/1997	1,000	Coble, Howard
McQueary, Charles	AT&T .....	10/20/1992	1,000	Hefner, W G "Bill"

14. Honors and awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.)

(a) NASA Fellowship for Graduate Studies 1962-1966

(b) Tau Beta Pi—Outstanding Senior Engineer at the University of Texas 1962

(c) Distinguished Engineering Graduate, University of Texas—1997

(d) Bronze Medal from American Defense Preparedness Association 1996 (est.)

(e) See item 12

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.)

a. Nonlinear Periodic Modes of Oscillation of Elastic Continua (technical paper, 1968);

b. Oscillations of a Circular Membrane on a Nonlinear Elastic Foundation (technical paper, 1967);

c. Bessel-Function Integrals Needed for Two Classes of Physical Problems (technical paper, 1967);

Periodic Oscillations of a Class of Non-Autonomous Non-Linear Elastic Continua (technical paper, 1967);

e. The SPARTAN Missile—A Major Component of the Sentinel System (technical paper, 1968)

f. Recipe for Success in Defense Industry: "Acquire or Be Acquired", (National Defense article, October 1998)

g. Industry Interview (Military Information Technology, Vol. 4, Issue 5)

16. Speeches: None

17. Selection: (a) Do you know why you were selected for the position to which you have been nominated by the President?

I believe I was selected because of my scientific training and experience in a Technology based industry. My responsibilities have included research, development, test, evaluation, manufacturing and fielding of systems for the Government and Commercial Sectors. My capabilities are directly applicable to the role of Science and Technology, in the Department of Homeland Security.

(b) What in your background or employment experience do you believe affirmatively qualifies you for this particular appointment?

Since beginning my career in 1966 at AT&T Bell Laboratories, I have both worked in and led organizations focused on applying leading edge technologies in defense and commercial applications. I have led organizations with more than 1,000 people and sales of almost \$400M.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations, or business organizations if you are confirmed by the Senate?

- Yes
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.
- No
3. Do you have any plans, commitments, or agreements after completing government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization?
- No
4. Has anybody made a commitment to employ your services in any capacity after you leave government service?
- No
5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?
- Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.  
I receive a monthly pension from the General Dynamics Corporation as a part of my retirement on December 31, 2002. My wife receives a retirement pension from Lucent Technologies.
2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.  
I have attached a memorandum for Designated Agency Ethics Official Department of Homeland Security which describes the steps that I intend to take to avoid any actual or apparent conflict of interest.
3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated?  
None
4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.  
None
5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)  
The letter attached to item C-2 outlines my planned actions.
6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?  
Yes

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain.  
No
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than for a minor traffic offense? If so, please explain.  
No
3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.  
No
4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, please explain.  
No
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

None

#### E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees?

Yes

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?

Yes

2. Will you cooperate in providing the committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee?

Yes

4. Please explain how if confirmed, you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the law passed by Congress.

I will endeavor to learn from Senate and House staff the intent of Congress as well as review the legislative record. Any proposed regulations arising from Science and Technology (S&T) agencies would be reviewed by policy experts within the S&T directorate and DHS to assure compliance with the intent of the legislation.

5. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

#### F. GENERAL QUALIFICATIONS AND VIEWS

1. How does your previous professional experience and education qualify you for the position for which you have been nominated?

Throughout my career I have worked in and led leading edge technical organizations ranging in size from small to more than 1,000 people and sales of almost \$400M. Cost control, schedules and performance have always been paramount in my business approach to program execution.

2. Why do you wish to serve in the position for which you have been nominated?

Having grown up in a very small town in Texas (Gordon), I am truly indebted to this country for the opportunities that I have had. This is my chance to give something back in an area of great importance. The opportunity to construct the Science and Technology Directorate to be responsive to the needs of the Department of Homeland Security and our country is enormously exciting and challenging, and I have the experience in building new organizations to do this well.

3. What goals have you established for your first two years in this position, if confirmed?

First, and foremost is the assembly of a highly skilled technical and business management team to operate the Science and Technology Directorate. Second, we must gain rapid knowledge of the technologies that are currently available in our national and federal labs, universities and private industry to be brought to use in a coherent and effective manner to support Homeland Security. Third, we must stimulate both government and private investments in forward looking technologies to be ready to meet threats from enemies who will continually become more sophisticated in their approaches to harming our country. Fourth, we must have quantifiable metrics to show how well we are executing our responsibilities.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

I will need to become more versed in the technical aspects of biological and radiological sciences. My approach to bolstering these skills is to assure that members of the Science and Technology workforce have such capabilities. Also, I have been having and will continue to have technical briefings from experts in these areas.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

I believe that the role of government should be a limited one, based on the responsibilities laid out in our Constitution. Government is better positioned to perform certain necessary functions that the private sector either can not or is not willing to perform, for the greater public good. National defense and homeland security are clearly government functions. Government also enforces safety or health standards in the public interest. Yet the government's success in these missions involves part-

nership with the private sector. The vast majority of the nation's infrastructure is owned or operated privately, so government needs to consider the impact of its actions on the private sector entities involved. Further, by leveraging competitive market forces and the expertise of private partners, government is able to utilize innovative solutions and more efficiently allocate its resources.

In addressing society's problems, volunteer and charitable organizations are often better positioned than government to implement solutions and meet the community's needs effectively. The government needs to step in, again, when the private sector is unable to take on a particular problem, such as unemployment assistance and social security. Yet, government programs should be assessed on a routine basis to ensure they are meeting society's needs effectively and that conditions have not changed. I am a firm believer in establishing sound, quantifiable metrics to measure how well programs are meeting their requirements.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

The Science and Technology Directorate will conduct, stimulate, and enable, research, development, test, evaluation, and timely transition of homeland security capabilities to federal, state and local operational end-users. The major programs will be focused on providing new capabilities to counter chemical, biological, radiological, nuclear, explosive attacks in the United States; develop standards for homeland security technologies; anticipate emerging threats; and enhance the conventional missions of Department.

The major operational objectives will be to partner with end-users to identify requirements and field capabilities to counter threats and enhance mission operations; engage government, academic and private sectors in innovative research, development, test, evaluation, and rapid prototyping of technologies and systems; execute a rapid, efficient, and disciplined process for systems engineering and development; provide the nation with an enduring research and development capability dedicated to homeland security.

7. What do you believe to be the top three challenges facing the department/agency and why?

(a) Assembling a top notch team of professionals and integrating the various components of the Science and Technology directorate effectively.

(b) Identifying and putting existing, relevant technologies to best use while dispensing with those which are not relevant.

(c) Assuring that we have obtained the right requirements and specifications from the other Homeland Security Directorates to begin technology development, and integration.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

The Science and Technology Directorate is a new agency, and so it has not yet had the opportunity to meet, or fail to meet, performance goals.

9. Who are the stakeholders in the work of this department/agency?

Stakeholders include the other operational directorates in Homeland Security, employees of the agencies and laboratories transferring in private sector technology corporations, universities, federal, state and local governments, Congress, and of course, the American people.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

I view S&T's stakeholders as its client base. An appropriate relationship would entail open dialog and frequent communication with stakeholders as S&T's policies are developed and programs implemented. The Science and Technology Directorate will be accountable to the American people through oversight by the Homeland Security Department and the Congress.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your department/agency has proper management and accounting controls?

I am a firm believer in, and a practitioner of, sound financial management systems. Therefore, I will follow the practices established by the Under Secretary for Management in consultation with the Secretary, should I be confirmed as Under Secretary.

(b) What experience do you have in managing a large organization?

I have run a business exceeding 1,000 people and approaching \$400M in annual sales. For this, I had full financial responsibility and accountability.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on progress in achieving those goals?

I believe that having meaningful performance goals and reporting on them will be essential for ensuring that the mission of the Science and Technology Directorate is accomplished. Goals and reporting requirements ensure that successful practices can be identified and emulated, and potential deficiencies can be identified and corrected before they become large problems.

(b) What steps should Congress consider taking when a department/agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing, or consolidation of departments and/or programs?

Performance goals should be continually evaluated for achievability and relevance. If both of these are reasonable, then corrective measures, which could include added oversight and reporting requirements, management changes, downsizing, consolidation or privatization, should be taken if an agency's goals are repeatedly missed without cause.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

I believe that meeting the following personal performance goals will result in an S&T Directorate that provides the Nation with an R&D capability to counter the threat of modern terrorism.

Develop and implement a process that partners with operational end-users to identify requirements, develop and field capabilities to counter threats and enhance mission operations.

Develop and implement processes and organizational constructs to engage government, academic and private sectors in innovative research, development, rapid prototyping and systems development

Provide a rapid, efficient, and disciplined process for systems engineering and development

Provide the Department with an enduring research and development complex dedicated to homeland security

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I am a firm believer in both horizontal and vertical communication. I personally try to know most, if not all, of the people in an organization reporting to me. In briefings, I prefer to hear directly from the person(s) who has done the work. Whenever possible I have a strategic plan that becomes the guidepost for all people in an organization.

No employee complaints have been brought against me.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain:

Although I have not had a great deal of interaction the Congress, my professional experience has included occasional interactions with individual Members of Congress in social, fund raising and professional exchanges.

16. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.

Open access and dialog within appropriate security guidelines, for all aspects of the Science and Technology Directorate's activities.

17. In the areas under the department/agency's jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities? Please state your personal views.

The Science and Technology Directorate was recently created by Congress as a component of the new Department of Homeland Security, and is only now beginning to be formed and implement directives set forth in the Act. As this process goes forward, I will be better able to assess what, if any, legislative priorities should be set, and will work with Congress to set them.

18. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria?

If yes, please explain what steps you intend to take and a time frame for their implementation. If not, please explain why.

I am committed to creating a robust and enduring National R&D effort in support of homeland security. The Nation possesses a vast S&T enterprise—companies, universities, institutes, and government labs of all sizes conduct R&D over a very broad range of disciplines. The Department of Homeland Security, and specifically the Science and Technology Directorate, will serve to focus this capability on the defense of the homeland. It will serve as the federal lead for homeland security R&D, and

work with private and public entities to assure an R&D effort of sufficient size and scope to counter the threat of modern terrorism.

In order to build a national research and development enterprise focused on homeland security, it is crucial that the allocation of funds, both in practice and perception, be conducted in accordance with fair and objective criteria; I pledge to develop and assure the implementation of such a system immediately.

We will engage the private sector and the academic community primarily through the HSARPA, and where appropriate, through the technology clearinghouse we are developing for rapidly fielding available technologies. We must clearly begin that engagement with a clearly understood solicitation process, and with well-defined source selection criteria. We will assure that the source selection process is conducted in an unimpeachable manner, and that awards are made in accordance with the Federal Acquisition Regulations.

The CHAIRMAN. Thank you, Doctor.  
Mr. Shane, welcome back.

**STATEMENT OF HON. JEFFREY N. SHANE, UNDER SECRETARY FOR POLICY-DESIGNATE, DEPARTMENT OF TRANSPORTATION**

Mr. SHANE. Thank you, Mr. Chairman. It is always a pleasure to appear before you, and never more so than on an occasion like this. I want to express my thanks to you for scheduling this hearing, and my thanks, of course, to President Bush and Secretary Mineta for proposing that I serve as the first Under Secretary for Policy at the Department of Transportation.

As you know, the creation of this new office is intended to serve as the foundation for a far more effective approach to the formulation of transportation policy at DOT, and I can tell you with some confidence that it represents the most significant change in the structure of the Office of the Secretary of Transportation in many years. That is one of the biggest reasons why I am hoping to be confirmed in this new position.

As you will have seen from my resume, I have spent a lot of years moving in and out of the Department of Transportation in a variety of legal and policy positions. I know a lot about the Department, and it is exciting to think I might be able to put that knowledge to use in helping Secretary Norm Mineta make it a far more effective institution.

But there are some other reasons as well. First, I have known Secretary Mineta for a great many years, and I know that on day one, he brought more experience and knowledge of Federal transportation programs to the Office of the Secretary than anybody in the history of the Department. Our Deputy Secretary, Michael Jackson, was a colleague during the first Bush Administration at the Department of Transportation, and he is one of the most talented people I have ever had the privilege to work with. I knew when I was first contacted about this job that it would be great run for DOT, and I felt very lucky to be asked to be part of it.

Second, if confirmed, I will have the opportunity to oversee the transformation of the way transportation policy is made within the Department, in keeping with Secretary Mineta's vision. By elevating the policy function and reorganizing it, he intends to pull the Department's diverse responsibilities together as never before, giving real life to Congress' vision of the Department as reflected in the Department of Transportation Act of 1966.

Third, of course, this is a time when we will be working with Congress to reauthorize all of our core Federal transportation pro-

grams, highways, transit, aviation, intercity passenger rail service, highway safety. For anybody who has devoted a career to transportation law and policy, this is a moment not to be missed.

The original plan was for me to continue practicing law until the Under Secretary position was created through legislation and until I was nominated by the President and confirmed by the Senate. Then, of course, came 9/11. Secretary Mineta asked that I come in and help lead one of the teams he set up immediately to deal with aviation security, and so I began work immediately, first in a consulting capacity and then as Associate Deputy Secretary. As a result, I have had the privilege of working closely with DOT's leadership and staff for the past year-and-a-half. That experience has left me feeling even more fortunate at having been tapped for this opportunity.

President Bush and Secretary Mineta have assembled a remarkably talented team of managers for the Department's many transportation programs. They work together in a spirit of cooperation and camaraderie that exceeds anything I have seen at the Department in the past. That spirit, together with the structural changes that Secretary Mineta has called for, will facilitate important changes in the way the Department does business.

As you know, Mr. Chairman, the United States Coast Guard and the Transportation Security Administration transferred to the Department of Homeland Security 3 days ago. While I know that the President is right in wanting all of the agencies with homeland security responsibilities to be part of the same Cabinet Department, and while I know that the Coast Guard and TSA will flourish in their new home, I will confess as a personal matter that I was very sad to see them go, but for DOT, their departure creates an unparalleled opportunity to refocus and rededicate our mission and our people to the core objectives spelled out in the Department of Transportation Act 37 years ago. That will be one of our most important objectives going forward, and I look forward to working with Secretary Mineta and his team to accomplish it.

In sum, this is a special time for transportation policy, and that is why I am so grateful for the opportunity I will have, if confirmed, to help shape the future of these programs. Let me conclude by underscoring my commitment, if I am fortunate enough to be confirmed by the Senate, to work closely with this Committee and its staff, as I have enjoyed doing for so many years, in addressing the extraordinary challenges that confront our Nation's transportation system today. I look forward to answering any questions you may have.

[The prepared statement of Mr. Shane follows:]

PREPARED STATEMENT OF HON. JEFFREY N. SHANE, UNDER SECRETARY FOR POLICY-DESIGNATE, DEPARTMENT OF TRANSPORTATION

Chairman McCain, Ranking Member Hollings, and Members of the Committee:

I want to express my thanks to you for scheduling this hearing and for providing me the opportunity to testify here today.

I am extremely grateful to President Bush and Secretary Mineta for proposing that I serve as the Department's first Under Secretary for Policy at the Department of Transportation.

As you know, the creation of this new office is intended to serve as the foundation for a far more effective approach to the formulation of transportation policy at DOT.

I can tell you with some confidence that it represents the most significant change in the structure of the Office of the Secretary of Transportation in many years.

I base that assessment on many years of experience working at DOT in a variety of legal and policy positions. I know you have my c.v., but allow me to summarize the most relevant aspects of my background as a way of explaining why I am so pleased at the opportunity to serve in this new capacity.

My first tour of duty at the Department of Transportation began in the late 1960s, when I served as a trial attorney and later Special Assistant for Environmental Affairs in the Office of the General Counsel. I represented DOT in a great many regulatory proceedings before the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, and spent a considerable amount of time on the implementation of the National Environmental Policy Act in the context of the Nation's transportation programs.

I left government in 1972 and spent several years traveling and working overseas—mostly as an environmental lawyer specializing in the environmental management problems of less developed countries. I returned to DOT in 1979 as Assistant General Counsel for International Law. After four years in that position I moved to the Office of Policy and International Affairs as Deputy Assistant Secretary. My immediate supervisor was the late Matt Scocozza, a former senior staff member of this Committee and a great boss from whom I learned an immense amount. My ultimate boss at that time was one of your newest colleagues, Senator Elizabeth Dole.

In 1985 I moved to the Department of State as Deputy Assistant Secretary for Transportation Affairs to serve, among other things, as chief U.S. aviation negotiator. During my four years at State I also taught a seminar in international transportation law as an adjunct professor at the Georgetown University Law School.

In 1989 I returned to the Department of Transportation yet again in my first political appointment—Assistant Secretary of Transportation for Policy and International Affairs. While in that job I worked for Secretaries Samuel Skinner and Andrew Card on the full range of transportation issues for which DOT has responsibility.

After leaving the Department in early 1993 I joined a Washington law firm and launched a transportation-based legal practice. I enjoyed practicing law a lot and expected to spend the rest of my career doing just that. In the summer of 2001, however, I received a call from Deputy Secretary of Transportation Michael Jackson. He described Secretary Mineta's ideas for reorganizing the policy function, told me of the proposed new Under Secretary position, and then asked me if I would take the job.

I confess to a bit of wavering at first. It's not easy to let go of a practice you have spent most of a decade building and to say goodbye to partners and associates for whom you have developed great affection and respect. But in the end I concluded that this was an opportunity I simply couldn't pass up.

First, I had known Secretary Mineta well for many years and I knew that he brought to his office on Day One more knowledge and experience of Federal transportation programs than anyone in the history of the Department. Our Deputy Secretary, Michael Jackson, had been a colleague during the first Bush Administration and is one of the most talented people I've ever had the privilege to work with. I knew that this would be a great run for DOT and I felt very lucky to be asked to be part of it.

Second, if confirmed I would have the opportunity to oversee the transformation of the way transportation policy is made within DOT, in keeping with Secretary Mineta's vision. By elevating the policy function and reorganizing the resources within it, he would make it possible to pull the Department's diverse responsibilities together as never before—giving real life to Congress's vision of the Department as reflected in the Department of Transportation Act of 1966.

Third, I was being asked to join the Department at a time when we would be working with Congress to reauthorize all of our core Federal transportation programs—highways, transit, aviation, intercity passenger rail service, and highway safety. For anyone who has devoted a career to transportation law and policy, this would be a moment not to be missed.

The original plan was for me to continue practicing law until the Under Secretary position had been created through legislation, and until I had been nominated by the President and confirmed by the Senate. Then came 9/11. Secretary Mineta asked that I help lead one of the teams he set up to deal with aviation security, and so I began work immediately—first in a consulting capacity and then as Associate Deputy Secretary. If I am confirmed as Under Secretary, the Associate Deputy Secretary position will terminate as a matter of law.

As a result, I have had the privilege of working closely with DOT's leadership and staff for the past year-and-a-half. That experience has left me feeling even more for-

tunate at having been tapped for this opportunity. President Bush and Secretary Mineta have assembled a remarkably talented team of managers for the Department's many transportation programs. Our assistant secretaries and modal administrators bring powerful credentials to their jobs. They are unparalleled in their commitment to excellence and their determination to develop creative approaches to the transportation policy challenges that we face today. Equally important, they work together in a spirit of cooperation and camaraderie that exceeds anything I've seen at DOT in the past. That spirit, together with the structural changes Secretary Mineta has called for, will facilitate some important changes in the way the Department does business.

As you know, two of the Department's largest component agencies transferred to the Department of Homeland Security three days ago: The United States Coast Guard and the Transportation Security Administration. As a personal matter, I will confess that I was very sad to see them go.

But the President is right in wanting all of the agencies with homeland security responsibilities to be part of the same Cabinet department, and I know that the Coast Guard and TSA will flourish in their new home at DHS.

For the Department of Transportation, their departure creates an opportunity to refocus and rededicate our mission and our people to the core objectives spelled out in the Department of Transportation Act 37 years ago. That will be one of our most important internal objectives going forward, and I look forward to working with Secretary Mineta and his team to accomplish it.

In sum, this is a special time for transportation policy makers, and that's why I am so grateful for the opportunity I will have if confirmed to help shape the future of these programs. Transportation's importance to our Nation's economic well being cannot be overstated, and will only increase as business continues to rely more heavily on the free flow of goods and people to achieve higher levels of productivity. We must provide new solutions to deal with rising demands on our transportation system. That will require some creative thinking on behalf of both the Department and Congress.

Let me conclude by underscoring my commitment, if I am fortunate enough to be confirmed by the Senate, to work closely with the Committee and its staff—as I have enjoyed doing over so many years—in addressing the extraordinary challenges that confront our Nation's transportation system today. I look forward to answering any questions you may have.

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#### A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nick names used.) Jeffrey N. Shane (Nick-name: Jeff)
2. Position to which nominated: Under Secretary of Transportation for Policy, Department of Transportation.
3. Date of nomination: February 11, 2003
4. Address: (Information not made available to the public).
5. Date and place of birth: March 27, 1941; New York, NY.
6. Marital status: (Include maiden name of wife or husband's name.) Married—Dzing Jean Wu.
7. Names and ages of children: (Include stepchildren and children from previous marriages.) N/A
8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.)  
 High School: Hempstead H.S., Hempstead, NY (9/54-6/57); West Hempstead H.S., West Hempstead, NY (9/57-6/58); High School Diploma, June 1958  
 College: Princeton University Princeton, NJ; A.B., June 1962  
 Law School: Columbia Law School New York, NY; LL.B., June 1965
9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)  
 Turret lathe operator, Sylvania-Corning Nuclear Corporation, Hicksville, NY, 6/59-9/59  
 Waiter, Frontier Village, Lake George, NY, 6/60-9/60  
 Management trainee, New York Telephone Company, Hempstead, NY, 6/61-9/61  
 Counselor, Camp Timber Lake, Phoenicia, NY, 6/62-9/62  
 Investigator, Retail Credit Co., New York, NY, 6/63-9/63  
 Summer Intern, Voice of America, Washington, DC, 6/64-9/64  
 Research Assistant, Columbia University, New York, NY, 9/65-10/65  
 Legislative Analyst, Basic Systems, Inc., New York, NY, 3/66-9/66  
 Trial Attorney, Federal Power Commission, Washington, DC, 6/66-4/68

Trial Attorney and Special Assistant to the General Counsel, Dept. of Transportation, Washington, DC, 4/68-10/72  
 Attorney and special investigator, Dept. of Transportation, Washington, DC, 3/74-7/74  
 Consultant, Environmental Law Institute, Washington, DC, 7/74-11/75  
 Attorney, United Nations Development Programme, Bangkok, Thailand, 11/75-1/78  
 Attorney and consultant (self-employed), Washington, DC, 1/78-12/78  
 Project Director, Library of Congress, Washington, DC, 12/78-3/79  
 Assistant General Counsel for International Law, Dept. of Transportation, Washington, DC, 3/79-3/83  
 Deputy Assistant Secretary for Policy and International Affairs, Dept. of Transportation, Washington, DC, 3/83-3/85  
 Deputy Assistant Secretary for Transportation Affairs, Dept. of State, Washington, DC, 3/85-6/89  
 Adjunct Professor of Law, Georgetown University, Washington, DC, 1985-89  
 Assistant Secretary for Policy and International Affairs, Dept. of Transportation, Washington, DC, 6/89-1/93  
 Counsel, Wilmer, Cutler & Pickering, Washington, DC, 4/93-12/96  
 Partner, Wilmer, Cutler & Pickering, Washington, DC, 12/96-4/00  
 Partner, Hogan & Hartson L.L.P., Washington, DC, 4/00-3/02  
 Advisor to the Secretary of Transportation, 10/01-4/02  
 Associate Deputy Secretary, Department of Transportation, 3/02-present  
 10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.)  
 Member, Architectural and Transportation Barriers Compliance Board, 1989-93; (Vice-Chairman, 1992-93)  
 Vice-Chairman, Advisory Commission on Conferences in Ocean Shipping, 1992  
 Member, Study Group of Experts on Future Regulatory Arrangements, International Civil Aviation Organization, 1993-94.  
 11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.)  
 Director, A.A. & S. Real Estate, Inc. (family corporation established for estate planning purposes) Member, Shane Family LLC (family corporation established for estate planning purposes)  
 12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.)  
 Member, D.C. Bar  
 Member, American Bar Association  
 Chairman, Commission on Air Transport, International Chamber of Commerce (Paris), 1994-2001  
 Vice President, National Defense Transportation Association, and Chairman, NDTA Military Airlift Committee, 1994-2001  
 Chair, American Bar Association Forum on Air and Space Law, 2001  
 Member, International Aviation Club of Washington (President, 1999-2000)  
 Member, Aero Club of Washington  
 Member, Board of Directors, International Institute of Air and Space Law, Leiden University, Holland, 1993-95  
 Member, Wings Club, 1993-present (Board of Governors, 1994-97)  
 Member, Cosmos Club, 1987-present  
 Member, Columbia Country Club, 2000-present  
 13. Political affiliations and activities: (a) List all offices with a political party which you have held or any public office for which you have been a candidate.  
 None.  
 (b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.  
 None.  
 (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee; or similar entity of \$500 or more for the past 10 years.  
 Oberstar, James: (via Friends of James Oberstar); 10/07/1997 \$500.00; 04/21/1999 \$500.00; 09/14/1999 \$500.00; 02/09/2000 \$500.00;  
 Allen, George: (via Friends of George Allen): 08/11/2000 \$1,000.00;  
 Lazio, Rick A.: (via Lazio 2000 Inc.); 09/30/2000 \$1,000.00;  
 Republican National Committee, RNC; 11/01/2000 \$1,000.00;

Hogan & Hartson Political Action Committee; 10/02/2000 \$950.00;  
 Dole, Elizabeth: (via Elizabeth Dole for President Exploratory Committee Inc.),  
 03/30/1999 \$1,000.00;

Bush, George W.: (via Bush for President Inc.); 06/30/1999 \$1,000.00;

Reid, Harry: (via Friends for Harry Reid); 12/28/1997 \$1500.00;

Hogan & Hartson Political Action Committee; 04/23/2001 \$1100.00;

McCain, John S.: (via McCain 2000 Inc.); 02/15/2000 \$1,000.00;

Dole, Elizabeth: (via Friends of Elizabeth Dole, Inc.); 12/23/2002 \$1,000.

14. Honors and awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.)

Full-tuition academic scholarship, Princeton University (1958-62)

New York State Regents' Scholarship, Columbia Law School (1962-65)

Presidential Meritorious Rank Award, Department of State, 1988

Senior Executive Service Performance Award, Department of State, 1987

Secretary's Medal for Meritorious Achievement, Department of Transportation,  
 1971

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.)

"Aviation Policy: Who Decides?" *LatinCEO*, June 2001.

"It is Time for Foreign Investors," *Business Travel News*, October 1998.

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16. Speeches: Provide the Committee with two copies of any formal speeches you  
 have delivered during the last 5 years which you have copies of on topics relevant  
 to the position for which you have been nominated.

Please see accompanying compilation.

17. Selection: Do you know why you were chosen for this nomination by the President?

I believe it was felt that my fifteen years of experience at the Department of Transportation in a variety of legal and policy positions, together with four years supervising our international transportation negotiations at the Department of State and eight years of practicing transportation law in the private sector, provided a suitable background for the position.

What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

During my previous government service I had the opportunity to work with most of the Department of Transportation's modal administrations on a variety of issues. As Assistant Secretary for Policy and International Affairs (1989-93) I was involved at a senior level in the entire range of policy issues for which DOT has responsibility, both domestic and international. My time in the private sector, predictably, has enhanced further my understanding of many of those issues. As Associate Deputy Secretary during most of the past year, I have been privileged to work closely with Secretary Mineta, Deputy Secretary Jackson, and their superb team of modal administrators. I believe that the sum total of that experience will be invaluable in equipping me to assist the Secretary of Transportation and the President in addressing the important transportation policy challenges that face our country today.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

I severed all connections with previous employers, etc., upon my appointment as Associate Deputy Secretary—with the exception of two small family companies (established solely for estate planning purposes) of which I am a director or member. I perform no services for either company.

Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No.

Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

If confirmed, do you expect to serve out: your full term or until the next Presidential election, whichever is applicable?

Yes.

#### C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Please refer to the Deputy General Counsel opinion letter.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Please refer to the Deputy General Counsel opinion letter.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated?

Please refer to the Deputy General Counsel opinion letter.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

I have long believed, as a matter of personal conviction, that the United States should liberalize restrictions in its laws that impede U.S. airlines' access to the global capital market. I have made a great many speeches expressing that view, have written articles to that effect, and I have, on a few occasions, expressed that view in private conversations with Members of Congress and congressional staff members. During one period I also expressed the same view on behalf of an aspiring foreign investor in the U.S. airline industry who was my client.

In another assignment, I indirectly assisted in the preparation of legislative language designed to tighten up U.S. law in connection with the "Fly America" requirements as applied to foreign military sales to Israel.

Finally, I communicated with agencies of the U.S. Government and congressional offices in effort to persuade the Agency for International Development to use U.S. airlines for the emergency shipment of foodstuffs to Honduras rather than employing a Russian airline.

I have not mentioned a larger number of objectives that I pursued on clients' behalf in the context of on-the-record administrative proceedings before the Department of Transportation.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Please refer to the Deputy General Counsel opinion letter. A copy of my ethics agreement with DOT is enclosed.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

#### D. LEGAL MATTERS

Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

The FBI reported to me in late September of this 2001 while performing a background check in connection with the appointment I presently hold that a complaint was filed against me in February 1994 with the Public Integrity Section, Criminal Division, Department of Justice, alleging that, while earlier employed by the Department of Transportation, I entered into negotiations regarding post-government employment with a company doing business with the Department. The file was apparently closed without action in October 1994. I was never interviewed with respect to this complaint and was wholly unaware of it until the FBI brought it to my attention during the course of the aforementioned pre-appointment background investigation. I have never been disciplined or cited for any breach of ethics or unprofessional conduct by any government agency or other entity.

Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

See previous answer regarding an apparent Justice Department investigation in 1994. I have never been arrested, charged, or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than minor traffic offenses.

Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details?

Since leaving government in early 1993 I have been a partner in two major international law firms. I sure that each has been involved from time to time as a party in interest in administrative agency proceedings and in civil litigation. I have had no direct involvement in any such proceedings or litigation.

Have you ever been convicted (including pleas of guilty or polo contendere) of any criminal violation other than a minor traffic offense?

No.

Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

#### E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by congressional committees for information?

I will certainly do everything within my power to ensure that such deadlines are routinely met.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?

I will do everything within my power to ensure that the Department of Transportation protects congressional witnesses and whistle blowers from reprisal.

3. Will you cooperate in providing the committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the committee?

Yes.

4. Please explain how you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress.

My training and experience as a lawyer specializing in administrative regulatory issues amply equip me to understand whether a proposed regulation complies not only with the letter, but also with the spirit of enabling or other relevant legislation. I am also fully aware of Congress's interest in seeing laws implemented promptly. I know that Secretary Mineta and Deputy Secretary Jackson are fully committed to enhancing the Department's performance and to increasing the Department's accountability in this regard. I wholly share that commitment, and look forward to joining them in achieving this important objective.

5. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

#### F. GENERAL QUALIFICATIONS AND VIEWS

1. How have your previous professional experience and education qualified you for the position for which you have been, nominated.

I have spent the major portion of my career in public service. Most of that time has been devoted to transportation policy issues at the federal level. In my current assignment—Associate Deputy Secretary of Transportation—I am the senior advisor to the Secretary of Transportation on the full range of policy issues for which the Secretary has responsibility.

2. Why do you wish to serve in the position for which you have been nominated?

When this opportunity was first presented, I felt some ambivalence, having already enjoyed so many tours of duty in public service, and having found a home in a wonderful law firm with a practice that had hit its stride. Following a lengthy deliberation, however, I concluded that, for someone with my particular background and interests, it would be a profound mistake to say no—to forgo the opportunity to spend at least a few more years working to rebuild our Nation's transportation infrastructure, to address the congestion and gridlock that threaten to impede our future economic growth, to help ensure the safety and security of our transportation system, and to ensure the maintenance of meaningful competition for the benefit of travelers and shippers of goods, both domestically and internationally. The extraordinary quality of DOT's current leadership—Secretary Norman Mineta and Deputy Secretary Michael Jackson—was an essential factor in my decision to pursue this position.

The events of September 11, 2001, dramatically altered DOT's agenda for a great many months, but they only served to underscore my conviction that this is clearly the right thing for me to do, if the Senate agrees. The creation of the new Department of Homeland Security and the transfer there of the U.S. Coast Guard and the Transportation Security Administration create the opportunity to refocus and rededicate the Department of Transportation to the core issues for which it was created 36 years ago. I look forward to working with Secretary Mineta and Deputy Secretary Jackson to achieve that important objective.

3. What goals have you established for your first two years in this position, if confirmed?

My most immediate personal goal will be to work closely with the Secretary, Deputy Secretary, and modal administrators to improve the Department's transportation policy making capability. As I noted above, because the Coast Guard and the Transportation Security Administration will soon move to the new Department of Homeland Security, we find ourselves with a special opportunity to rededicate the Department to the transportation policy goals for which it was created. I hope to help establish new deliberative and decision making mechanisms that pull the Department's modal administrations together in a more effective way, and thereby to more effectively engender intermodal approaches to our transportation needs wherever possible.

The Nation's surface transportation and aviation programs are up for reauthorization during the current Congressional session. I look forward to working closely with my DOT colleagues and the Congress to build on the important advances that were incorporated in ISTEA, TEA21, and AIR-21. We have to ensure the availability of

a national transportation infrastructure that not merely accommodates, but enhances the Nation's economic growth.

Closely tied with the previous goal is a growing concern about the quality of competition in our transportation system. DOT, in cooperation with the Department of Justice, must find ways to preserve and enhance that competition. Any measures adopted for the enhancement of consumer welfare in this regard, however, must be taken without compromising deregulation.

I am concerned about our government's approach to decisions affecting the allocation of spectrum resources. Specifically, I do not believe that DOT is sufficiently "at the table" when key decisions are made that could affect the reliability of spectrum-dependent safety-of-life navigation systems for which the Department of Transportation has responsibility.

Unless immediate steps are taken to augment DOT's professional staff—notably in the areas of transportation policy generally and aviation policy in particular—the Department simply will not have the wherewithal to carry out its mission. Accordingly, a major goal is to launch a concerted and focused response to this problem.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

I believe my 19 years in a variety of transportation policy positions equips me well for the responsibilities I will assume if confirmed.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

My late father was an entrepreneur—the owner of a chain of retail shoe stores in and around New York City. His business collapsed during the recession of the late 1950s, but he built it back up again over a period of 15 years. To me, he was a typical American success story. He was wholly self-reliant and never thought about turning to the government for help. My mother had been a registered nurse before her marriage. When Dad's business failed, she went back to work and before long was put in charge of a local nursing home. I remember her chief complaint: She had to spend so much time each day filling out paper work for the (then) Department of Health, Education and Welfare that there was precious little time to spend with her patients.

Those were the experiences that shaped my early impressions of government.

Still, I became the first civilian federal employee in my family. I had enjoyed studying about economic regulation in law school and, after getting my degree, sought work at a classic regulatory agency. I ended up at the Federal Power Commission (now FERC), and I specialized in the regulation of natural gas pipeline rates. That experience, and my subsequent work in transportation following the deregulation of our airline, motor carrier, and railroad industries has confirmed for me the importance of placing the greatest possible reliance on market forces, confining the exercise of government authority to those issues unlikely to be correctly addressed without government involvement—whether financial or regulatory. I believe that an essential responsibility of any senior manager in government today is to question constantly the purpose and consequence of what we do, ensuring in every case that the "value added" is readily apparent. That would be true in the best of circumstances; in a time characterized by steadily diminishing financial resources, the importance of this vigilance cannot be overstated.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

The Department of Transportation is charged with providing leadership in the development and administration of policies and programs that ensure the availability of safe, secure, efficient, coordinated, competitive, cost-effective, and environmentally sound transportation services as a critical ingredient in the economic health of our country. From the Department's inception, the safety of our transportation system has been its most important goal; it remains so today, particularly in this time of extraordinary challenge to the security of our country. A second key objective is the maintenance and expansion of the Nation's transportation infrastructure. Third, the Department must enhance mobility by ensuring the availability of fully accessible, competitive, and affordable transportation services to all of our citizens. Fourth, the Department has an obligation to protect the quality of our Nation's environmental resources in the course of its infrastructure-related responsibilities. Finally, the Department must work with other governments around the world to enhance the efficiency, reliability, and security of the international transportation system. I have worked with each of the Department's modal adminis-

tration over the years in carrying out the Department's mission, and I look forward enthusiastically to continuing in this endeavor if I am confirmed.

7. What do you believe to be the top three challenges facing the department/agency and why?

Renewal and rededication. The Department of Transportation is about to lose two of its largest component elements: the United States Coast Guard and the Transportation Security Administration. The Department's residual components for the most part have been little changed since DOT opened its doors in 1967. The Department will experience a massive wave of retirements within a few years. In short, it is essential that we find ways to refresh the Department's structure, to undertake a major effort to bring in younger staff while there are still mentors around, and to refocus and rededicate the organization to its critical missions.

Expanding our transportation infrastructure. It is fair to say that money for transportation infrastructure investment will be in short supply for a while. Taxes on airline tickets produce less money for the Airport and Airways Trust Fund because fewer tickets are being sold and they are being sold for less. Advances in fuel efficiency and ethanol, together with generally diminished economic activity over the past few years, have similarly reduced receipts in the Highway Trust Fund. At the same time, we have an absolute obligation to continue expanding our transportation infrastructure now if is to deliver the essential support our economy will need in the future. The biggest danger in a downturn of the sort we are currently experiencing is that we will leave ourselves unprepared for the inevitable rebound.

Enhancing connectivity and intermodalism. Despite the important strides that we have made in the past decade, DOT has a long way to go in fostering the more integrated and intermodal transportation planning and decision making that legislators and administrators have been talking about for many years. I believe that there are ways to pull the diverse elements of the Department together in a far more effective way and thereby to engender a more rational approach to addressing the country's transportation challenges at all levels of government.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

I have spent much of my professional career at the Department of Transportation, and I believe that the Department has made steady progress in achieving the different elements of its mission, as discussed in response to Question 6. Nevertheless, a number of impediments need to be addressed. While the Department's transportation safety record should be a source of pride in most areas, the loss of life on our highways continues to be a national scandal. We need more focused incentives that encourage states to enact positive seat belt laws ("click-it-or-ticket"). Second, despite important steps in the right direction in TEA-21, we need to encourage more private sector participation in the expansion of our transportation infrastructure. Third, we need to address more effectively the bottlenecks—at all levels of government—in our project approval process. Fourth, we need to find new ways of ensuring the continued availability of convenient and affordable air services to our citizens, such as relaxing current restrictions on our airlines' access to the global capital market and enhancing access to airport facilities at our most congested airports. Finally, we need to work more effectively with our trading partners to further enhance the efficiency and security of international transportation. The principal impediment to achievement of these objectives, I believe, are a reluctance to re-examine the relevance in today's circumstances of a lot of the "conventional wisdom" that has governed transportation policy thinking for too long.

9. Who are the stakeholders in the work of this agency?

The primary stakeholders for DOT are, of course, the traveling and shipping public. Other important stakeholders are the providers of transportation, both direct and indirect, our transportation workforce, state and local transportation agencies, and, of course, the Congress.

10. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number nine?

Given my proposed role in helping to shape transportation policy at the federal level, I believe it is essential that I maintain an open channel for communications with all stakeholders. In my experience, a constant challenge for federal policy makers is to remain closely in touch with those likely to be affected by the federal government's decisions.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices similar to those practiced in the private sector.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your agency has proper management and accounting controls?

As a senior manager at the Department of Transportation, I would be obligated to ensure that the Department approaches its programs in an effective, business-like way, wholly within available budgetary resources. I know that Secretary Mineta is committed to improving the Department's performance on this front, and I will support him in every way possible.

(b) What experience do you have in managing a large organization?

As Assistant Secretary of Transportation for Policy and International Affairs, I managed a staff of 185-200. I supervised three Deputy Assistant Secretaries and five office directors, and a greater number of division chiefs. I held that position for four years (1989-1993), and served as a Deputy Assistant Secretary in the same office for two years (1983-1985).

As Deputy Assistant Secretary of State for Transportation Affairs (1985-1989) I supervised a staff of approximately 30.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on your progress in achieving those goals?

The most important responsibility of any public servant privileged to serve in a decisionmaking capacity is to help set the public policy agenda. Unless there is a determined effort to establish identifiable performance goals, the tendency to slip into a passive mode of operation is almost irresistible. At this point in my own career, joining a government agency provides the opportunity to participate in the setting of the agenda and then to help ensure that it is accomplished in real time. The responsibility to report to Congress on the Department's success in achieving established goals helps to ensure that the agenda isn't subordinated to merely "answering the mail."

(b) What steps should Congress consider taking when a department/agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing or consolidation of departments and/or programs?

Congress should attempt to analyze the organic reasons for an agency's failure to achieve its performance goals. In some cases, no doubt, ineffective management may be the root cause, and improvements on the managerial front may be a sufficient remedy. In other cases, it may well be that a Department function would be carried out more effectively at a different level of government or in the private sector. Still other programs may be found, upon investigation, to have outlived their usefulness and be targets for elimination.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

My performance should be measured against the goals I outlined in the answers to Question 3. I will be particularly disappointed if, by the time this tour of duty ends, DOT does not have a more effective policy making capability, and has not hired new staff capable of carrying the Department's mission forward following the anticipated retirement of large numbers of professionals in the next few years. Similarly, the quality of the Department's contribution to the process of reauthorizing the federal aviation and federal highway programs should be seen, I think, as another performance indicator for the position I hope to assume. Finally, I hope it will be possible to look back on important improvements and the quality of competition found in our domestic airline industry.

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I believe that the first duty of a manager is to empower employees and to create the most interesting and engaging work environment possible. To be productive, the supervisor-employee relationship must be characterized by mutual respect and collegiality. Given the extraordinary quality of the Department's career professionals, it will not be difficult to adhere to this model.

No employee complaints have been brought against me.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please describe.

In a number of my past positions in the federal government, I have been called upon to meet with and testify before Members of Congress on a regular basis. The opportunity to exchange views with Members of Congress and staff on key issues has been one of the great privileges in these positions. I am looking forward to further opportunities to engage the Congress.

15. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.

The Inspector General is charged with looking at the Department's activities with a more detached, independent, and objective view than those of us "on the line" are likely to have. For that reason, the IG is often in a position to offer essential insights and constructive criticism of the Department's activities. I have always tried, in past positions at the Department, to engage the Inspector General in a spirit of cooperation, with communications predicated on mutual integrity, respect, and a shared commitment to problem solving. I would expect to maintain this approach if confirmed. I know that Secretary Mineta and Deputy Secretary Jackson will insist that the Department bring this spirit to all interactions with the Inspector General.

16. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your department/agency comply with the spirit of the laws passed by Congress.

As a lawyer with a practice substantially devoted to regulatory issues, my training and experience amply equip me to understand whether a proposed regulation complies not only with the letter, but also with the spirit of enabling or other relevant legislation. I will make myself readily available to the Committee and its staff to address concerns relating to regulations issued by the Department of Transportation.

17. In the areas under the department/agency's jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views.

Congress and the Administration are already addressing the most important near-term priority: the establishment of much tighter security measures for our transportation system, with a particular focus on aviation.

The most important long-term priority for Congress in the transportation policy arena will be the reauthorization of our transportation infrastructure programs. There is an even greater danger now, given the current downturn in economic activity—and the consequent reduction in demand for transportation—that we will be misled into believing that our infrastructure is adequate. It would be a huge public policy mistake not to take steps now to ensure that our transportation system is fully capable of supporting a more robust level of economic activity.

18. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please explain what steps you intend to take and a time frame for their implementation. If not, please explain why.

I wholly agree that discretionary spending must be predicated on a clearly articulated set of policy objectives and that decisions must be made pursuant to transparent criteria. I will have to acquaint myself with the extent to which this principle already characterizes DOT spending programs. If not, I look forward to an early project to address this issue more effectively.

The CHAIRMAN. Thank you very much.  
Mr. Sturgell.

**STATEMENT OF ROBERT A. STURGELL, SENIOR COUNSEL TO  
THE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION**

Mr. STURGELL. Good morning, Mr. Chairman, Senator Dorgan. It is an honor to appear before you today as the President's nominee for the position of Deputy Administrator of the Federal Aviation Administration. I would just like to take a moment to introduce my wife, who is seated behind me, along with my mother and father. I am very grateful that they could be here today and also for their love and support over the years, and seated behind them is my sister-in-law, Kathy Stewart, and her daughter, Michelle, and Senator Dorgan, you will be pleased to know her husband, Dave, is a graduate of the UNDR Space Program, and in the fall of 9/11 was one of the commanding officers of the First F-18 squadron to do battle in Afghanistan, and I am forever grateful for the support of those who serve, as well as the families that stand behind them.

Mr. Chairman, I just want to acknowledge the exceptional leadership provided by the President, Secretary Mineta, and this Congress. Just a few days ago, the Transportation Security Administration was transferred to the newly created Department of Home-

land Security. It has taken the leadership of many to see this effort to its completion, and I am confident that the result has been the strengthening of the security of our aviation industry and our country. I wish Admiral Loy the best as he continues in his efforts to improve the security of all modes of transportation.

Mr. Chairman, at this point in our Nation's history, I cannot think of a more challenging, rewarding, or important endeavor than public service in the field of aviation. I have spent most of my life in aviation, as a naval aviator, an aviation attorney, and a commercial pilot. During the past year, I have had the good fortune and opportunity to work with Administrator Blakey, serving first as her senior policy advisor at the National Transportation Safety Board and, most recently, as her senior counsel at the FAA, and I am pleased that she is here today in support as well.

In these roles, I have worked closely with the industry leaders, airport officials, citizen groups, labor leaders, and Members of Congress on many important aviation issues. I have also seen firsthand the importance placed by the Administrator on partnership and collaboration between the public and private sectors in advancing aviation safety. Should I be confirmed, I intend to duplicate this approach to address the agency's current and future challenges, which include improving aviation safety through increased emphasis on accident prevention and the use of new technology and data based programs, the continued modernization of our air traffic system and increasing capacity through development of new technologies, new procedures, and new runways before anticipated increases in traffic levels.

Finally, the Committee has already begun hearings on the FAA's reauthorization, and will shortly receive the Administration's aviation reauthorization proposal. If confirmed as Deputy Administrator, I will work closely with this Committee to help ensure that the FAA's reauthorization further improves upon the successes of the AIR-21 legislation.

Mr. Chairman, I am honored and humbled by the trust that the President, the Secretary, and the Administrator have placed in me as their nominee for Deputy Administrator. If confirmed, I pledge to do my utmost to assist the Administrator in leading the FAA through the many challenges that lie ahead. I would like to thank this Committee for its consideration of my nomination and, should I be confirmed by the full Senate, I look forward to a close working relationship with its members.

Thank you for your time and your service. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Sturgell follows:]

PREPARED STATEMENT OF ROBERT A. STURGELL, SENIOR COUNSEL TO THE  
ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION.

Good morning Mr. Chairman, Senator Hollings, and distinguished members of the Committee.

It is an honor to appear before you today as the President's nominee for the position of Deputy Administrator of the Federal Aviation Administration.

I would like to take a moment to introduce my wife, Lynn. I am grateful that she could be here today and am thankful for her love and support over the years.

Mr. Chairman, I want to acknowledge the exceptional leadership provided by the President, Secretary Mineta and this Congress. Just a few days ago, the Transportation Security Administration was transferred to the newly created Department of

Homeland Security. It has taken the leadership of many to see this effort to its completion and I am confident that the result has been the strengthening of the security of our aviation industry and our country. I wish Admiral Loy the best as he continues in his efforts to improve the security of all modes of transportation.

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I have also seen first-hand the importance placed by the Administrator on partnership and collaboration between the public and private sectors in advancing aviation safety. Should I be confirmed, I intend to duplicate this approach to address the agency's current and future challenges. These challenges include:

- Improving aviation safety through increased emphasis on accident prevention and the use of new technology and data-based programs;
- The continued modernization of our air traffic system; and
- Increasing capacity through the development of new technologies, new airspace procedures and new runways, before anticipated increases in traffic levels.

Finally, the Committee has already begun hearings on the FAA's reauthorization and will shortly receive the Secretary's aviation reauthorization proposal. If confirmed as Deputy Administrator, I will work closely with the Committee to help ensure that the FAA's reauthorization further improves upon the successes of the AIR-21 legislation.

Mr. Chairman, I am honored and humbled by the trust that the President, the Secretary and the Administrator have placed in me as the nominee for Deputy Administrator. If confirmed, I pledge to do my utmost to assist the Administrator in leading the FAA through the many challenges that lie ahead.

I would like to thank this Committee for its consideration of my nomination and, should I be confirmed by the Senate, I look forward to a close working relationship with its Members.

Thank you for your time and your service. I would be pleased to answer any questions you may have.

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#### A. BIOGRAPHICAL INFORMATION

1. Name: Robert Allan Sturgell (Bobby Sturgell)
2. Position to which nominated: Deputy Administrator, Federal Aviation Administration
3. Date of nomination: January 15, 2003
4. Address: (Information not made available to the public.)
5. Date and place of birth: Aug. 1, 1959; Washington, DC.
6. Marital status: (Include maiden name of wife or husband's name.) Wife: Lynn Ann Sturgell (Stewart)
7. Names and ages of children: None.
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)  
High School: Southern Senior High School, Harwood, Maryland, 1973-1977, Diploma received 1977; Prep School: Naval Academy Preparatory School, Newport, Rhode Island, 1977-1978, Diploma received 1978; College: United States Naval Academy, Annapolis, Maryland, 1978-1982, Diploma received 1982; Anne Arundel Community College, Arnold, Maryland, 1981-1982, no diploma received (completed 25 hours of financial accounting courses while simultaneously attending USNA); Graduate School: University of Virginia School of Law, Charlottesville, Virginia, 1991-1994, Diploma received 1994.
9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Employer	Dates	Address	Type of Work
U.S. Naval Academy .....	May 1982-Jan. 1983 .....	Annapolis, MD .....	Physical Fitness Instructor
Training Squadron Six .....	Jan. 1983-Oct. 1983 .....	NAS, Pensacola, FL .....	Student Pilot
Training Squadron Twenty-three .....	Oct. 1983-Aug. 1984 .....	NAS, Kingsville, TX .....	Student Pilot
Training Squadron Twenty-two ...	Aug. 1984-March 1985 ...	NAS, Kingsville, TX .....	Student Pilot
Fighter Squadron One Two Four	March 1985-March 1986	1NAS Miramar, San Diego, CA ..	Fleet Replacement Pilot
Fighter Squadron Fifty-one .....	March 1986-May 1989 ....	NAS Miramar, San Diego, CA ....	Training Officer, Weapons Instructor, Administrative Officer
Navy Fighter Weapons School ....	May 1989-Aug. 1991 .....	NAS Miramar, San Diego, CA ....	Instructor Pilot, Administrative Officer, Readiness Officer
Fighter Composite Squadron Twelve.	Nov. 1991-Oct. 1998 .....	NAS Oceana, Virginia Beach, VA	Instructor Pilot, Safety Officer
Securities and Exchange Commission.	Summer 1992 .....	Washington, D.C. ....	Summer Intern
Shaw, Pittman, Potts & Trowbridge.	Summer 1993 .....	2300 N Street, NW, Washington, D.C..	Summer Intern
Shaw, Pittman, Potts & Trowbridge.	June 1994-Feb. 1996 .....	2300 N Street, NW, .....	Associate
United Airlines .....	March 1996-March 2002 **ERR17* *ERR17*	Dulles Int'l Airport, Washington, D.C..	Flight Operations Supervisor, Pilot
National Transportation Safety Board.	March 2002-Sept. 2002 ..	490 L'Enfant Plaza, SW, Washington, D.C..	Senior Policy Advisor to the Chairman
Federal Aviation Administration	Sept. 2002-Present .....	800 Independence Ave. SW, Washington, D.C..	Senior Counsel to the Administration

\*\*ERR17\* \*ERR17\*Leave of absence began March 2002. Resigned Nov. 7, 2002.

10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.)

Served as a member of the Anne Arundel County Small Area Planning Committee, 1999-2000.

Served as the president of the Citizens Advisory Committee to the Calvert County Board of County Commissioners, 1999-2002.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.)

Blue Heron Properties, LLC—president

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.)

District of Columbia Bar Association—1994 to present

Maryland State Bar Association—1994 to present

NTSB Bar Association—1994-1996, 2002-present

Southern Anne Arundel County Chamber of Commerce—1999-2001 (Board member)

Boys and Girls Club of Southern Maryland—2000 (Board member)

Air Line Pilots Association—1996-2002

13. Political affiliations and activities: (a) List all offices with a political party which you have held or any public office for which you have been a candidate.

1998—Candidate, Maryland State Senate, District 27

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

1998-Present—Member, South County Republican Club

1998-Present—Member, Southern Prince George's County Republican Club

1998-Present—Member, Calvert County Republican Club

2000—Volunteer, Bush/Cheney 2000

2002—Volunteer, Ehrlich for Governor

2002—Volunteer, Hale for County Commissioner

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

2002—Ehrlich for Maryland, \$500.00

2002—Wayson for County Council, \$500.00

14. Honors and awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.)

National Society Daughters of the American Revolution Award, 1978

United States Naval Academy Alumni Association Award, 1982

Secretary of the Navy Distinguished Midshipman Graduate Award, 1982

Lieutenant Clarence Louis Tibbals Memorial Award, 1982

Phi Kappa Phi Honor Society, 1982

Commodore's List, Training Air Wing Two, 1985

Sea Service Deployment Ribbon (2 awards), 1986 and 1988

Meritorious Unit Commendation, 1988

Armed Forces Expeditionary Medal, 1988

Navy Achievement Medal, 1989

White House Fellow, Regional Finalist, 1990-91

National Defense Service Medal, 1991

University of Virginia School of Law, Dillard Fellow, 1992-1994

The Virginia Trial Lawyers Award for Trial Advocacy, 1994

Navy Achievement Medal, 1997

Navy and Marine Corps Commendation Medal, 1998

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.)

"When All Else Fails, Blame the ADB", *Approach Magazine*, September 1989

"More BFM: Out of Plane Maneuvering and Effective Rate/Radius", *Topgun Journal*, Spring/Summer 1989

"Carrier Battlegroup Defensive Weapons Systems," *Topgun Journal*, 1990

"F-14 Section Tactics: The Intercept Phase", *Topgun Journal*, Fall 1990

"F-14 Section Tactics: The Weapons Employment Phase", Winter 1990-91

"F-14 Section Tactics: Post-Merge Phase," *Topgun Journal*, Spring 1991

"Forward Quarter Tactics in Desert Storm," *Topgun Journal*, Summer 1991

Letter to the Editor, *The New Bay Times*, September 1998.<sup>1</sup>

Commentary, *The New Bay Times*, October 1998

Letter to the Editor, *The Capital*, September 9, 1999

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated. None.

17. Selection: (a) Do you know why you were chosen for this nomination by the President?

I believe I was chosen for this position because of my extensive operational and technical experience in the aviation industry. My experience as a pilot, aviation attorney and policy advisor at the National Transportation Safety Board (NTSB) has prepared me to deal with the many operational, technical, safety and modernization issues facing the Federal Aviation Administration (FAA).

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

The mission of the FAA is to provide a safe, secure and efficient air transportation system. As the Senior Policy Advisor to the Chairman of the NTSB, I worked closely with the FAA and other stakeholders to improve aviation safety. During my tenure, I provided management and technical advice to the Chairman and served as the point person in coordinating the NTSB's safety recommendations with the various modal administrators at DOT. As a commercial and military pilot over the past twenty years, I have developed an extensive understanding of the safety, operation and maintenance issues facing the aviation industry. In addition, my experience as a naval officer and flight operations supervisor have provided me with the leadership and management skills to be an effective deputy to the Administrator. Finally, as the Senior Counsel to the Administrator of the FAA during the last four months, I have developed familiarity with and experience in managing the FAA's organization, programs and personnel.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations, or business organizations if you are confirmed by the Senate?

<sup>1</sup> Various letters to editor during 1998 election campaign, articles not retained and not available by website search (New Bay Times, Calvert Recorder, Calvert Independent, and The Capital newspapers).

Yes.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during, your service with the government? If so, explain.

No.

3. Do you have any plans, commitments, or agreements after completing government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

#### C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

Please refer to the enclosed General Counsel's Opinion letter.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Please refer to the enclosed General Counsel's Opinion letter.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated?

None. Potential conflicts relating to my prior position with United Airlines have been resolved. Please see the enclosed General Counsel's Opinion letter.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

As the Senior Policy Advisor to the Chairman of the National Transportation Safety Board, I assisted in the preparation of testimony presented before the House and Senate Authorization and Appropriations Committees. I also assisted in the preparation of testimony by the Chairman on behalf of the NTSB in hearings related to rail and highway safety.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Please refer to the enclosed General Counsel's Opinion letter.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

#### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than for a minor traffic offense? If so, please explain.

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, please explain.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.  
None.

#### E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees?

Yes, to the best of my ability.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?

Yes, to the best of my ability.

3. Will you cooperate in providing the committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee?

Yes, to the best of my ability.

4. Please explain how if confirmed, you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress.

If confirmed as Deputy Administrator of the FAA, I will take an active role in ensuring that the agency's regulations comply with Congressional intent. I will work to establish open communications with Congress, the public, and the affected stakeholders.

5. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

#### F. GENERAL QUALIFICATIONS AND VIEWS

1. How does your previous professional experiences and education qualify you for the position for which you have been nominated?

My professional career has focused extensively on aviation and the aviation industry.

As a veteran military and commercial pilot, I have substantial operational aviation experience, both domestically and internationally. My military experience has enabled me to develop the leadership and management skills that are necessary to be an effective deputy administrator. As a military and commercial pilot, I have an intimate understanding of the air traffic control system as well as the issues facing the FAA's stakeholders.

As an aviation attorney, I am familiar with the regulatory and enforcement framework within which the FAA operates.

Finally, as the Senior Policy Advisor to the Chairman of the NTSB, I worked closely with the FAA to improve the safety of the Nation's aviation system. In that position, I advised the Chairman on complex technical issues and developed an understanding of the major safety issues facing the aviation community.

2. Why do you wish to serve in the position for which you have been nominated?

I am a strong believer in public service and commitment. At this point in our Nation's history and in my professional career, I cannot think of a more important service that I could perform. I am grateful for the support that has been given me by the Administrator and the Secretary, and I am deeply honored that the President has nominated me to serve as Deputy Administrator.

3. What goals have you established for your first two years in this position, if confirmed?

I have been serving as the Administrator's Senior Counsel for four months and believe it would be both premature and inappropriate for me at this point to establish multi-year goals. However, I have recently begun working with the Administrator and her senior management team at the FAA to develop a strategic plan that will include multi-year goals, and I look forward to helping her achieve those goals during her tenure.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

Although much of my work in the military and at the NTSB and FAA involved management issues, I have not previously managed an agency as large as the FAA. In this respect, I believe that the operational and technical skills that I possess complement the strong management and leadership skills of Administrator Blakey. As we continue to work together, I expect to increase my management expertise. In fact, my initial four months at the FAA have provided me with invaluable management experience.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

The President's campaign slogan—compassionate conservatism—espouses a balance of two guiding principles for government in which I strongly believe.

It is difficult to define a simple rule by which government should decide to either involve or extricate itself from the private sector. Much of our Nation's prosperity is a result of the government's significant investment in our transportation infrastructure. It is clear that that investment must continue. At the same time, private and public-private innovation often produces better and faster results than that which occurs from the public sector alone and, where consistent with the Nation's interest, we should encourage such private sector solutions. Congress has wisely vested within itself the necessity to reauthorize and reassess our fundamental transportation programs on a periodic basis. If confirmed, I look forward to working with the Administration and the Congress in addressing the public sector's involvement in our Nation's transportation infrastructure.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

The mission of the FAA is to provide a safe, secure and efficient global aerospace system that contributes to national security and the promotion of U.S. aerospace safety.

The FAA fulfills this mission by operating the nation's air traffic control system; developing, operating and maintaining air navigation facilities and radar and communications equipment; regulating the manufacture, operation and maintenance of aircraft; regulating the certification of airmen and airports; administering the airport improvement program; promoting aviation safety abroad; and regulating and promoting the commercial space industry.

The FAA's major operational objective is the safe and efficient utilization of navigable airspace.

7. What do you believe to be the top three challenges facing the department/agency and why?

The top three challenges facing the Federal Aviation Administration are modernization of the air traffic control system, improving aviation safety, and increasing system efficiency.

Even though the aviation industry is facing tremendous pressures and trust fund revenues are falling, it is important that the FAA remain focused on modernizing the system and increasing its efficiency and capacity so that it will be able to provide an acceptable level of service to keep pace with the future predicted growth of the aviation industry. Equally important, as the industry evolves from its current state, the agency must be prepared to meet the challenge of improving safety, not only in commercial aviation, but also general aviation.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

All three of the above issues cannot be solved at any given point in time. Rather, they are challenges that require an ongoing effort of continuous improvement and assessment in order to accomplish.

9. Who are the stakeholders in the work of this department/agency?

Every person in this country is a stakeholder in the FAA, including all FAA employees, pilots, flight attendants, mechanics, and all those who travel by air. In addition, since the aviation system crosses international lines, even international travelers are stakeholders in the FAA.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

The stakeholders mentioned above are also the FAA's constituents. As Deputy Administrator, I would strive to ensure that the FAA provides responsive, accurate and timely service to its constituents. I also believe that the FAA should ensure that all stakeholders are heard by the agency and treated fairly, whether they are pilots or the public protesting enforcement proceedings, union employees raising employment concerns, or members of Congress requesting assistance or information.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your department/agency has proper management and accounting controls?

As Deputy Administrator, I would be responsible for ensuring that taxpayer money is spent prudently and efficiently in executing the mission of the FAA. I would work closely with the Administrator, the FAA's Chief Financial Officer and

the DOT's Chief Financial Officer to become familiar with the FAA's budget and to ensure that the agency is complying with its financial plans, and congressional and statutory requirements.

(b) What experience do you have in managing a large organization?

Although I have not previously managed an organization as large as the FAA, as a naval officer, I was responsible for leading and managing maintenance personnel as well as planning and executing a squadron's operating budget. All of my assignments as an active-duty naval officer involved leadership and management of squadron personnel, both officer and enlisted. As the Senior Policy Advisor to the Chairman of the NTSB, I also often dealt with management and personnel issues. Finally, during my tenure thus far as the Senior Counsel to the Administrator, I have been intimately involved in the internal management issues of the FAA.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on progress in achieving those goals?

The benefits of identifying performance goals consistent with those of the President and Secretary of Transportation and reporting on the progress in achieving those goals are good business practices which force the agency to plan, focus and dedicate resources on a priority basis. Agency goal setting provides every employee with the proper expectations and achievement of those goals results in increased effectiveness and progress.

(b) What steps should Congress consider taking when a department/agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing, or consolidation of departments and/or programs?

As Deputy Administrator, I would work closely with the Congress and the Administrator to identify performance concerns before steps such as elimination and privatization would become necessary. I am committed to working with the Congress and the Administrator to address any and all concerns.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

My performance goals should be directly related to the mission of the agency. They should require that I manage with integrity, efficiency and effectiveness and that I be accountable to the Administrator, the Secretary of Transportation and the President for the achievement of the agency's missions and goals.

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I am a firm believer in the team approach of supervisor/employee relationships. At the same time, I believe the role of the supervisor is to set goals for the agency, to provide the resources necessary to achieve those goals, and to work with the employees to ensure success. I also believe in delegating authority when appropriate and holding people accountable for their actions.

To the best of my knowledge, no employee complaints have ever been brought against me.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain.

During my tenure at the NTSB and FAA, I worked with several staff from the respective House and Senate Appropriation and Authorizing committees to address member concerns and FAA issues. I have also worked closely with the Chairman of the NTSB and the Administrator of the FAA in responding to Congressional correspondence and addressing member concerns.

16. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.

In order to have the proper oversight and accountability, it is important to have the independent audit and investigative voice of the DOT Inspector General. In my role as Senior Counsel to the FAA Administrator, I have been working closely with the IG to address concerns identified by the IG related to FAA's capital projects and procurement processes. Our relationship thus far has been both candid and constructive. If confirmed as the Deputy Administrator, I expect to continue that kind of relationship with the IG.

17. In the areas under the department/agency's jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities? Please state your personal views.

It is important that the Congress and the FAA work together closely to ensure an on-time reauthorization of the AIR 21 legislation. If confirmed as the Deputy Ad-

ministrator, I will work with Congress to continue to improve the safety and efficiency of the air transportation system.

18. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please explain what steps you intend to take and a time frame for their implementation. If not, please explain why.

Discretionary spending should be spent in a manner that is fair and includes well-known or established criteria. Spending should reflect the priorities established by statute or those set by the President, Secretary of Transportation and FAA Administrator.

The CHAIRMAN. Thank you very much.

Mr. Frankel.

**STATEMENT OF HON. EMIL H. FRANKEL, ASSISTANT SECRETARY FOR TRANSPORTATION POLICY, DEPARTMENT OF TRANSPORTATION**

Mr. FRANKEL. Thank you, Mr. Chairman and Members of the Committee. Mr. Chairman, I would like to thank you for scheduling this hearing and for your interest in and support for this nomination over the last several months. I would also like to thank my wife, Kathryn, who is here, for her support over the last years, I might say, and certainly in support of my accepting this position in the Administration. This is kind of welcome home for her. I think this is probably her first visit to this building since she and I worked in it a long, long time ago.

I am honored to have served as President Bush's Assistant Secretary for Transportation Policy of the Department of Transportation for the past 11 months. Over that period of time, I have worked closely with Secretary Mineta and the fine leadership team at the Department in a variety of policy areas, including the Administration's proposal for the reauthorization of TEA-21.

Prior to my Federal service, I was deeply involved in the transportation field at the State and local levels for over 10 years. For 4 years, I led a State transportation agency as Commissioner of Transportation in Connecticut. In that capacity, I led a consolidated multimodal transportation agency making policy and implementing programs for all elements of the State's transportation system, for the construction, maintenance, and management of highways, bridges, and arterial roads, for commuter rail and bus services, for commercial and general aviation airports and seaports.

As State Transportation Commissioner, I never forgot that the agency I led was providing some service to every resident and business of the State every day, and that what we did affected people's daily lives and their work. I believe strongly in the need to continue moving toward a transportation system that operates seamlessly, and one that provides for greater coordination between freight and passenger modes.

As a result of my experience at the State and local levels, I believe that I have brought an important and relevant perspective to the development of policy at the Federal level, and I hope that I can contribute to the goal of a Department of Transportation that speaks with one voice across all modes.

After leaving State government, I remained deeply engaged in these issues as a professional providing legal and consulting advice to public agencies and private organizations engaged in transportation services and infrastructure development, and as a teacher of

transportation policy and public management at the undergraduate and graduate school levels.

The events of September 11 underscored the pivotal role transportation plays in the Nation's prosperity and quality of life. Our obligation now is to enhance the safety and security of our Nation's transportation system in every way possible, while ensuring that world class mobility Americans enjoy is not jeopardized and, of course, those remain, even with the creation and now the establishment and operation of the Department of Homeland Security. Working with our new partners at DHS, we must ensure that America's transportation system emerges from this transformation even stronger and more efficient than before.

Secretary Mineta has often said that nothing has as great an impact on economic development, patterns of growth, and quality of life as transportation. We face an urgent need to improve safety and ease congestion in all modes of transportation, and to improve the connections between modes for people and goods. Under Secretary Mineta's leadership, these goals will continue to inform my work, if confirmed.

This year, Congress will take up DOT's surface, air, and intercity passenger rail program authorizations. It is an historic opportunity. We have been hard at work with these bills, even as the Administration and Congress have dealt with the critical issue of transportation security in the post-September 11 world. I look forward to supporting President Bush and Secretary Mineta and working with Members of Congress, including, of course, importantly, Members of this Committee in helping to analyze and shape policies to create the safest and most secure, most connected, and most efficient transportation system in the world.

In the years since I first assumed an executive position in the transportation field, I have developed a passion for this field, a passion I am certain that many of you share. I think that we all recognize that the ultimate stakeholders in transportation are the citizens and businesses of America, who rely on the transportation sector to move people and goods safely and productively. If confirmed, I pledge my continued energy and commitment to meeting the critical challenges facing the Nation's transportation system, and I look forward to working with you in improving and protecting our Nation's transportation system.

Thank you again for the opportunity to appear before you today as you consider my nomination to be Assistant Secretary of Transportation for Transportation Policy and, as my colleagues, I would be pleased and look forward to responding to any questions you may have.

[The prepared statement of Hon. Frankel follows:]

PREPARED STATEMENT OF HON. EMIL H. FRANKEL, ASSISTANT SECRETARY FOR  
TRANSPORTATION POLICY, DEPARTMENT OF TRANSPORTATION

Thank you, Mr. Chairman and members of the Committee. It is a great privilege to appear before the Committee today.

I am honored to have served as President Bush's Assistant Secretary for Transportation Policy of the Department of Transportation for the past ten months. Over that period of time, I have worked closely with Secretary Mineta and the fine leadership team at the Department in a variety of policy areas, including the Administration's proposal for the reauthorization of the Transportation Equity Act of the 21st Century. Prior to my Federal service, I was deeply involved in the transpor-

tation field at the State and local levels for over ten years. For four years, I led a State transportation agency, as Commissioner of Transportation of Connecticut. In that capacity I led a consolidated multi-modal transportation agency, making policy and implementing programs for all elements of the State's transportation system—for the construction, maintenance and management of highways, bridges and arterial roads, for commuter rail and bus services, and for commercial and general aviation airports and seaports.

As State transportation commissioner, I never forgot that the agency I led was providing some service to every resident and business of the State every day and that what we did affected people's daily lives and their work.

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After leaving State government, I remained deeply engaged in these issues—as a professional, providing legal and consulting advice to public agencies and private organizations engaged in transportation services and infrastructure development, and as a teacher of transportation policy and public management at the undergraduate and graduate school levels.

The events of September 11, I underscored the pivotal role transportation plays in the Nation's prosperity and quality of life. Our obligation now is to enhance the safety and security of our transportation system in every way possible while ensuring that the world-class mobility Americans enjoy is not jeopardized. Working with our new partners at the Department of Homeland Security, we must ensure that America's transportation system emerges from this transformation even stronger and more efficient than before. Secretary Mineta has often said that nothing has as great an impact on economic development, patterns of growth and quality of life as transportation. We face an urgent need to improve safety and ease congestion in all modes of transportation and to improve the connections between modes for people and goods. Under Secretary Mineta's leadership, those goals will continue to inform my work, if I am confirmed.

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In the years since I first assumed an executive position in the transportation field, I have developed a passion for this field—a passion I am certain that many of you share. I think that we all recognize that the ultimate stakeholders in transportation are the citizens and businesses of America, who rely on the transportation sector to move people and goods safely and productively. If confirmed, I pledge my continued energy and commitment to meeting the critical challenges facing the Nation's transportation system. I look forward to working with you in improving and protecting our nation's transportation system.

Thank you for the opportunity to appear before you today, as you consider my nomination to be Assistant Secretary of Transportation for Transportation Policy. I would be pleased to respond to any questions you may have.

#### A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nicknames used.) Emil Hiram Frankel
2. Position to which nominated: Assistant Secretary for Transportation Policy, United States Department of Transportation.
3. Date of nomination: January 9, 2003
4. Address: (Information not made available to the public).
5. Date and place of birth: May 9, 1940: Bridgeport, CT.
6. Marital status: (Include maiden name of wife or husband's name.) Married to Kathryn Frankel (maiden name: Fletcher), November 24, 1968, in Washington, D.C.
7. Names and ages of children: (Include stepchildren and children from previous marriages.) None
8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.)

Harvard Law School, Cambridge, MA, 1962-1965—LL.B., May 1965  
 Manchester University, Manchester, United Kingdom, 1961-1962—Fulbright Scholar; no degree  
 Wesleyan University, Middletown, CT, 1957-1961—B.A., May 1961  
 Andrew Warde High School, Fairfield, CT, 1956-1957—high school diploma, June 1957  
 Roger Ludlow High School, Fairfield, CT, 1953-1956—no degree/diploma

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work; and dates of employment.)  
 Assistant Secretary for Transportation Policy, United States Department of Transportation, Washington, DC, March 29, 2002-Present (Recess appointment)  
 Consultant (Pending Appointment), Office of the Secretary, United States Department of Transportation, Washington, DC, August 2001-March 2002  
 Of Counsel, Day, Berry & Howard LLP, Stamford, CT, 3/95-3/02  
 Fellow (part-time faculty), Schools of Forestry and Environmental Studies and Yale School of Management, Yale University, New Haven, CT, 1995-2001  
 Adjunct Professor, School of Civil and Environmental Engineering, University of Connecticut, Storrs, CT, 2000  
 Fellow, John F. Kennedy School of Government, Harvard University, Cambridge, MA, 1995  
 Commissioner, Department of Transportation, State of Connecticut, Newington, CT, 1991-1995  
 President, E.H. Frankel Company, Inc., Bridgeport, CT, 1989-1991  
 Of Counsel, Cohen & Wolf, P.C., Bridgeport, CT, 1989-1991  
 Vice President, The Palmieri Company (formerly Victor Palmieri and Company Incorporated), Washington, DC, and Los Angeles, CA, 1985-1988  
 Partner, Cohen & Wolf, P.C., Stamford and Bridgeport, CT, 1982-1985  
 Division Vice President, Victor Palmieri and Company Incorporated, New York, NY, Greenwich, CT, and Washington, DC, 1975-1982  
 Visiting Lecturer, Yale University, New Haven, CT, 1972 and 1973  
 Associate, Wofsey, Rosen, Kveskin & Kuriansky, Stamford, CT, 1971-1975  
 Special Assistant to the Under Secretary, United States Department of Housing and Urban Development, Washington, DC, 1970-1971  
 Legislative Assistant to United States Senator Jacob K. Javits (New York), Washington, DC, 1967-1970  
 Special Assistant to the Chairman, Connecticut Republican State Committee, Hartford, CT, 1966  
 Associate, Day, Berry & Howard, Hartford, CT, 1965-1966  
 Assistant Counsel, Connecticut Constitutional Convention, Hartford, CT, 1965

10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.)  
 Selectman, Town of Weston, CT, 1999-2001  
 Member, Board of Finance, Town of Weston, CT, 1989-1999 (Chairman for five years)  
 Member, Conservation Commission, Town of Weston, CT, 1970s  
 Member, Charter Revision Commission, Town of Weston, CT, 1970s  
 Member, Governor's Council on Economic Competitiveness and Technology (Connecticut), 1996-2000  
 Member, Public Infrastructure Subcouncil, United States Competitiveness Policy Council, 1995  
 Member, President Bush's Transition Team at the United States Department of Housing and Urban Development, 1988  
 Member, President Reagan's Transition Team at the United States Department of Housing and Urban Development, 1980  
 Member, Governor Meskill's Task Force on Housing (Connecticut), 1970s

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.)  
 Trustee, Wesleyan University, Middletown, CT, 1981-1984 and 1985-1997  
 Trustee Emeritus, Wesleyan University, Middletown, CT, 1997-Present  
 See positions held (as officer, director, and/or trustee) of various non-profit organizations, as described in the answer to Question 12, below.  
 Between 1995 and 2001, I provided consulting services to the following corporations, business organizations, and/or public agencies, all of which entities were clients of Day, Berry & Howard LLP: New York City Partnership and Chamber of Commerce; AMTRAK; Joint Program Office of the United States Department of

Transportation (as a subcontractor of Parsons Brinckerhoff); Delaware Department of Transportation; Massachusetts Port Authority; Massachusetts Turnpike Authority and Massachusetts Highway Department (as a subcontractor of Commonwealth Capital Partners, Inc.); Massachusetts Bay Transportation Authority (as a subcontractor of Hamilton, Rabinowitz & Alschuler, Inc.); Connecticut Department of Transportation (as a subcontractor to Cambridge Systematics, Inc.); Connecticut Department of Economic and Community Development (as a subcontractor to Frasca & Associates); Williams Communications, Inc. (client of Day, Berry & Howard LLP); and Rock Acquisition LP (client: of Day, Berry & Howard LLP). All of these consulting relationships have been terminated with the exception of the project for the Connecticut Department of Transportation (as a subcontractor of Cambridge Systematics, Inc.), and representation of Rock Acquisition, L.P., which work is on-going. All of these; consulting relationships were terminated by, or prior to, December 31, 2001.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.)

Admitted to Connecticut Bar, 1965 Member, Connecticut Bar Association Member, Congregation B'Nai Israel, Bridgeport, CT Member, Weston, CT, Kiwanis Club

Positions No Longer Held:

Director, Weston Kiwanis Foundation, Inc.

Director, and former President, Intelligent Transportation Society of America, Connecticut Chapter

Director, Regional Plan Association (RPA), New York, NY, and Member of RPA's Connecticut Committee

Trustee, Connecticut Trust for Historic Preservation

Advisor, National Trust for Historic Preservation

Director, Surface Transportation Policy Project

Trustee, Merritt Parkway Conservancy (a charitable trust), and President and Director of Merritt Parkway Conservancy, Inc., a Connecticut non-profit corporation.

13. Political affiliations and activities: (a) List all offices with a political party which you have held or any public office for which you have been a candidate.

Selectman, Town of Weston, CT, 1999-2001

Member, Board of Finance, Town of Weston, CT, 1989-1999 (Chairman for five years)

Member, Connecticut State Republican Committee, 1979-1985

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Member, Weston, CT, Republican Town Committee, 2000-2001

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

*Christopher Shays for Congress Committee*: \$100.00, (September, 1994); \$135.00 (September and October, 1996); \$150.00 (May, 1997); \$250.00 (June and September, 1998); \$350.00 (May and October, 2000); \$200.00 (October, 2002);

*Weston, Connecticut Republican Town Committee*: \$25.00, (March, 1992); \$50.00 (August, 1995); \$105.00 (September and October, 1996); \$100.00 (September, 1997); \$500.00 (July and November, 1999); \$100.00 (October, 2002);

*Connecticut Republicans*: \$150.00 (May, 1996); \$150.00 (March, 1997); \$150.00 (May, 1998); \$250.00 (March and April 1999); \$200.00 (May, 2000); \$200.00 (April, 2001); \$150.00 (Sept., 2001)

*Weld for Senate*: \$600.00 (May and October, 1996).

*Bayley Senate '98*: \$500.00 (March, 1998).

*Friends of John Rowland*: \$500.00 (December, 1997); \$250.00 (May, 1998); \$500.00 (June, 2001).

*Republican Women's WISH List*: \$50.00 (May, 1993); \$100.00 (March, 1999); \$400.00 (March and May, 2000).

*Jodi Rell '02*: \$75.00 (March, 2002).

*Nielson Congress '98*: \$100.00 (August, 1998); \$75.00 (February, 1998).

*Nielson for Congress*: \$350.00 (August and September, 2000).

*Gov. George Bush Presidential Exploratory Committee*: \$500.00 (June, 1999).

*Victory 2000 for Connecticut*: \$500.00 (June, 2000).

Honors and awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.)

Honor Award, Conference Planning Committee for the Preserving the Historic Road in America

Management Fellow, School of Management, and Senior Fellow, School of Forestry and Environmental Studies, Yale University, New Haven, CT

Joint Fellow, Center for Business and Government and the Taubman Center for State and Local Government, John F. Kennedy School of Government, Harvard University, Cambridge, MA

Fulbright Scholar, United Kingdom

William Day Leonard Award, Wesleyan University, Middletown, CT

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.)

See attached.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated.

During the four years prior to my appointment, as Assistant Secretary of Transportation for Transportation Policy (January 1998 through March 2002), I frequently spoke to transportation groups and/or moderated panels before transportation organizations. These appearances largely occurred in Connecticut or in other parts of the metropolitan New York City region. My remarks were delivered from notes, and I did not prepare formal speeches for these occasions.

Copies of formal speeches and statements before Congressional Committees delivered, between my appointment as Assistant Secretary on March 29, 2002, and the present, are attached.

17. Selection: (a) Do you know why you were selected for the position to which you have been nominated by the President?

I assume that President Bush nominated me to be Assistant Secretary for Transportation Policy, because of my experience in this position, pursuant to a Recess Appointment, since March 29, 2002, and because of my experience and record in the transportation field prior to assuming this position. I served for four years, as Commissioner of the Connecticut Department of Transportation, and held a variety of leadership positions in state, regional and national transportation organizations, such as the American Association of State Highway and Transportation Officials and the I-95 Corridor Coalition. Prior to my appointment as Assistant Secretary of Transportation for Transportation Policy, I taught transportation policy and public management at the college and graduate school levels, and in my professional and civic activities I have been able to reach out to a wide variety of transportation stakeholders groups.

(b) What in your background or employment experience do you believe affirmatively qualifies you for this particular appointment?

I have been deeply involved in transportation issues for approximately twelve years, as a public official (Assistant Secretary for Transportation Policy, United States Department of Transportation, and Commissioner of the Connecticut Department of Transportation), as a professional, providing legal and consulting advice to public agencies and private organizations engaged in transportation services and infrastructure development, and as a teacher of transportation policy and public management at the college and graduate school levels.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Yes

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

#### C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings, with business associates, clients or customers.

Please refer to the opinion letter of the Deputy General Counsel

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Please refer to the opinion letter of the Deputy General Counsel.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated?

Commissioner of the Connecticut Department of Transportation (ConnDOT) from February 1991 to January 1995—No continuing relationship with this public agency. Legal or consulting services were provided to the following clients through Day, Berry & Howard LLP from 1995 to December 2001: AMTRAK; Joint Program Office of the United States Department of Transportation, as a subcontractor to Parsons Brinckerhoff; Delaware Department of Transportation; Massachusetts Port Authority; Massachusetts Turnpike Authority; Massachusetts Highway Department; Massachusetts Bay Transportation Authority, as a subcontractor to Hamilton, Rabinowitz & Alschuler, Inc.; and ConnDOT, as a subcontractor to Cambridge Systematics, Inc. (CSI). All such professional relationships were terminated on or before December 31, 2001.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy:

As Assistant Secretary of Transportation for Transportation Policy since March 29, 2002, I have testified before Committees of the United States Congress with regard to legislation and/or public issues of interest to the relevant committees, pursuant to my official responsibilities. During my tenure as Commissioner of the Connecticut Department of Transportation (ConnDOT), I frequently appeared before the Connecticut General Assembly with regard to legislation or budgetary issues, pursuant to my official duties. During that time I also spoke with Members of Congress (particularly members of the Connecticut Congressional Delegation), regarding consideration and enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and other matters of Federal legislation, regulation, and public policies which related to my official duties, as Commissioner of ConnDOT.

Between 1995 and 2001, I testified, as a private citizen and not on behalf of a client or clients, before a committee of the Connecticut General Assembly, regarding transportation financing and the establishment of a Transportation Strategy Board for Connecticut. I have represented legal clients of Day, Berry, & Howard LLP (DBH) before, and in meetings with, ConnDOT, regarding various right-of-way and condemnation issues. As a consultant to the New York City Partnership and Chamber of Commerce, I was involved in developing strategies for, and providing advice regarding, the reauthorization of the Federal surface transportation legislation in 1996 and 1997. In 1998 DBH provided lobbying services to SPX Corporation before the Connecticut General Assembly, regarding then pending legislative bills. For the purpose of that proposed legislation, I registered as a lobbyist with the Connecticut Ethics Commission. I provided no other lobbying services to, or on behalf of, DBH clients, nor was I registered as a lobbyist at the time I terminated my relationship with DBH.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Please refer to the opinion letter of the Deputy General Counsel

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

#### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain.

No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, please explain.

- No.
3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, please explain.
- No.
4. Have you ever been convicted (including-pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, please explain.
- No.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.
- None.

#### E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees?
- Yes, to the best of my ability.
2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?
- Yes, to the best of my ability.
3. Will you cooperate in providing the committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the committee?
- Yes, to the best of my ability.
4. Please explain how if confirmed, you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress.
- To the degree the position of Assistant Secretary for Transportation Policy is involved in the review of regulations issued by the Department, I will work with the Secretary, the Deputy Secretary, the General Counsel, and all of the modal administrations to insure that regulations meet the statutory intent of legislation enacted by Congress. Within the limits of the Administrative Procedure Act and consistent with my responsibilities and authority, as Assistant Secretary for Transportation Policy, I will exert my best efforts to keep Congress informed about the timetable and substance of proposed regulations. Moreover, Secretary Mineta has stated his commitment to making the rulemaking process more accountable and efficient, an important objective of Members of Congress. I will work closely with the Secretary, the Deputy Secretary, and my colleagues at the Department of Transportation to achieve this important goal.
5. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?
- Yes.

#### F. GENERAL QUALIFICATIONS AND VIEWS

1. How does your previous professional experiences and education qualify you for the position for which you have been nominated?
- For approximately twelve years I have been deeply involved in transportation issues. This period includes my current tenure, as Assistant Secretary for Transportation Policy of the United States Department of Transportation (by recess appointment of the President on March 29, 2002), and my service, as Commissioner of the Connecticut Department of Transportation (ConnDOT) from 1991 to 1995. In the years between my public service I provided consulting and legal services to a range of transportation-related agencies and private organizations, and served as a frequent speaker, panelist, and moderator on transportation issues, as a teacher of transportation policy and public management at Yale University and the University of Connecticut, and as a writer on transportation issues and the interface between transportation and economic development, environmental quality, and community renewal. In these different capacities I have been involved in almost all elements and issues facing transportation policy-makers—public transit, aviation, highways, rail, freight and goods movement, transportation operations and management, intelligent transportation systems (ITS), and institutional reform.
2. Why do you wish to serve in the position for which you have been nominated?
- Since first becoming involved in transportation policy and management approximately twelve years ago, I have developed a passion for this field, a passion which grows out of an understanding of the effect which mobility and accessibility have on every aspect of our lives. Transportation plays a key role in the economy, in the environment, and in the safety, security and quality of life of every American. With

the leadership of President Bush and of Secretary Mineta I welcome the opportunity to contribute to the shaping of transportation policy at this time.

3. What goals have you established for your first two years in this position, if confirmed?

Secretary Mineta has pointed out that nothing has as great an impact on economic development, patterns of growth, and quality of life as transportation. The mission of the Department of Transportation emphasizes safety and enhanced mobility. We face an urgent need to ease congestion in all modes of transportation and to improve the connections between modes both for people and for goods. In the next few months Congress will be considering reauthorization of the surface transportation legislation (TEA-21), and I have been engaged in the preparation of the Administration's reauthorization proposal, since my appointment as Assistant Secretary for Transportation Policy. I am confident that the Executive and Legislative Branches will work together to build on the foundations of ISTEA and TEA-21 to improve the nation's transportation infrastructure and to enhance the management and operation of the existing system through technological innovation and institutional reform. I look forward to participating in the development of policies, which will contribute to these goals.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

Prior to assuming the position of Assistant Secretary for Transportation Policy at the United States Department of Transportation, my experience in the transportation field had largely been at the local, state and regional levels. Although I had extensive knowledge of national transportation issues, when I became Assistant Secretary, I have sought to reach out to my senior colleagues at the Department of Transportation, to career Federal employees, to Members of Congress, and to Congressional staff, in order to broaden that knowledge and to obtain the information necessary to participate constructively in the consideration and implementation of national transportation and transportation-related legislation.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

The role of government—at all levels—should be a limited one, confined to those areas in which public goods are to be provided, and the private sector, operating in a free market, cannot, or will not, meet those needs. Obviously, areas such as education, public safety, and the construction and maintenance of the transportation infrastructure are appropriate areas of public activity. However, even in the case of transportation, public agencies should not, or need not, provide all services. For example, the planning, design, construction, management and maintenance of the nation's transportation infrastructure (except for the freight railroad system) remain, for the most part, a public monopoly. We would benefit from the introduction of principles of the market, such as competition and customer-focus, in these activities.

On the other hand, it remains preeminently the role of government to ensure that those private entities, which are providing essential products or services to the public (whether they are airlines or banks or hospitals) do so in a safe, secure, and financially responsible way. Government's intervention in the private sector should be limited and selective, but firm and effective, when it is necessary and appropriate.

The test of whether a particular service should be provided by the public sector is whether a private provider, operating in a competitive market place, can provide that service more efficiently and at a lower cost than can a public monopoly. Those same standards should be applied not only to the initiation of a public program, but also to its continuation. In all regards our goal should be, not to dismantle government, but, rather, to seek public agencies which are lean, responsive and competitive.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

The Department of Transportation's mission is to support safe and efficient transportation. The Department's core activities include direct assistance, as provided by law, regulatory oversight and enforcement, operational safety services, public education, and research.

The Department of Transportation's current Strategic Plan describes five objectives for the Department for the years 2000 to 2005: First, the Department will promote health and safety by reducing transportation-related injuries and deaths; second, the Department will improve mobility by delivering an accessible, affordable and reliable transportation system for people and goods; third, the Department will

support economic growth; fourth, the Department will seek to enhance the human and natural environment; and, fifth, the Department will ensure the security of the nation's transportation system and support the National Security Strategy.

While supporting these strategic objectives, I will work with Secretary Mineta, Deputy Secretary Jackson, and my colleagues in the Office of the Secretary and in the Modal Administrations at the Department of Transportation to review these goals, to revise and enhance them, to the degree appropriate in light of changing circumstances, including establishment of the Department of Homeland Security, and to manage these operations and programs of the Department for which I might become responsible in support of these objectives.

7. What do you believe to be the top three challenges facing the department/agency and why?

The top three challenges facing the Department of Transportation are, first, to ensure that the Nation's transportation system will continue to function in all circumstances, including national emergency and natural disasters; second, to provide the American people with a safe and secure transportation system; and, third, to enhance the mobility of people and goods, on which the Nation's economic well-being and quality of life rest.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

Obviously, the events of September 11, 2001, and this department's response to them, have absorbed a great share of the Department's financial and intellectual resources. The Department has met the requirements and the deadlines for aviation security (as prescribed by the Congress in legislation in late 2001) with great skill and success, while remaining responsive to the on-going requirements of the nation's transportation system. Assuring the American people that our transportation system is safe and secure remains our highest priority. In this regard, a particular challenge to this agency is meeting not only the continuing needs for mobility, efficiency and accessibility, but also the heightened requirements for safety and security, in a manner respectful of the critical role of states and localities. Broad discretion in choosing projects, in establishing the priority of needs, and in operating and managing transportation system rests with state and local governments. The United States Department of Transportation must find a way to enhance the ability of state and local agencies to meet these needs, in a fiscally constrained environment.

9. Who are stakeholders in the work of this department/agency?

The ultimate stakeholders in the work of the Department of Transportation are the people and the businesses of America who rely on the nation's transportation system to move people and goods efficiently and safely. Public agency stakeholders are the Congress, state and local governments, regional and metropolitan area public authorities, and other transportation facility governing/managing agencies. In the private sector stakeholders include the workers and the companies (and the associations which represent them) who build, maintain and operate the nation's transportation system and facilities. Finally, stakeholders include all those who are engaged in, and concerned about, the impact of the nation's transportation system on economic growth and international competitiveness, community renewal, public health and quality of life, energy utilization, and technological innovation.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

Secretary Mineta has emphasized accessibility and accountability as essential values of the Department of Transportation. Consistent with that commitment, I would listen to, and work with, the Department's various stakeholders, in the development and implementation of the agency's policies and in carrying out the responsibilities of the position to which I have been nominated, if confirmed.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your department/agency has proper management and accounting controls?

The Department of Transportation has a centralized budgetary office, led by the Assistant Secretary for Budget and Programs, who also serves as the Department's Chief Financial Officer. While the Assistant Secretary for Transportation Policy is not directly responsible for the operational management of the Department's major programs, to the extent appropriate to the responsibilities of this position, at the direction of the Secretary and Deputy Secretary, I would work closely with the Assistant Secretary for Budget and Programs, the Department's Inspector General, and my senior colleagues at the Department, to assure the effective implementation of all Department programs.

(b) What experience do you have in managing a large organization?

As noted above, from 1991 to 1995 I served as the chief executive officer of the Connecticut Department of Transportation (ConnDOT), a consolidated, multimodal transportation agency with over 4,000 employees and an annual budget of over \$1 billion. Prior to my service at ConnDOT, for approximately ten years I served as a senior executive of The Palmieri Company (formerly, Victor Palmieri and Company), a nationally-known business reorganization firm. In my capacity as a Palmieri Company executive, I was responsible for the management and reorganization of large and complicated real estate assets and real estate-related companies.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on progress in achieving those goals?

I support the Government Performance and Results Act. This legislation required Federal agencies to establish measurable program targets, and it has helped the Department achieve a coherent vision. In my own experience as an executive in the public and private sectors, I have established goals for myself and for those under my supervision and have measured performance against those goals, as critical elements in improving operations. I would anticipate that I would use this experience in carrying out my management responsibilities at the Department of Transportation, if confirmed.

What steps should Congress consider taking when a department/agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing, or consolidation of departments and/or programs?

The Congress has a right to expect the Department to meet its performance objectives. If it fails to do so, there should be an examination of the reasons for this failure. While managers should be empowered and enabled to carry out programs and should be encouraged to introduce innovations in program administration and implementation, poor performance must have consequences. These might include the elimination, privatization, downsizing or consolidating of departments and/or programs

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

The Congress has a right to expect the Department to meet its performance objectives. If it fails to do so, there should be an examination of the reasons for this failure. While managers should be empowered and enabled to carry out programs and should be encouraged to introduce innovations in program administration and implementation, poor performance must have consequences. These might include the elimination, privatization, downsizing or consolidating of departments and/or programs

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

To my knowledge, no employee complaints have been brought against me.

My management style might be described as "consensual," that is, I consult broadly with my colleagues, empower employees, and then make decisions, based on the information and opinions provided to me. Information is a critical element of my management style: I insist on being informed of all important programmatic and operational issues, and I believe in intervening in a matter before it has become a crisis, if possible. Once decisions have been made, I believe in delegating implementation to subordinates, but I expect to be kept informed of progress, and I hold employees accountable for their performance.

When I served as the chief executive officer of the Connecticut Department of Transportation (ConnDOT), I typically managed by "walking around": I visited every highway maintenance facility and every branch office of ConnDOT, and frequently toured the headquarters building. I sought to meet with all ConnDOT employees on a regular basis, and during these meetings, I asked for their opinions and suggestions, and answered their questions about our policies, programs, and strategic goals.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain.

Since my recess appointment, as Assistant Secretary for Transportation Policy, I have made myself available to Members of Congress and Congressional staff, and I would anticipate continuing to work closely with all members of Congress, if confirmed. I have testified before Committees of both the Senate and the House of Representatives and have met with Congressional staff on many occasions, in my capacity as Assistant Secretary. As Commissioner of the Connecticut Department of

Transportation. I appeared frequently before, and worked closely with, members of the Connecticut General Assembly. Certainly, it would be an important priority for me to work closely with Members of Congress and their staffs on a bi-partisan basis and to support the work of Congressional committees, on all matters and issues that come before me in the position of Assistant Secretary for Transportation Policy.

15. [There is no Question 15]

16. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.

The Inspector General is a critically important position at the Department of Transportation and provides statutorily protected independence in evaluating effectiveness and integrity in implementation of the Department's programs. I would anticipate a respectful and candid working relationship with the Inspector General, and I believe that my own performance, as an executive of the Department, can and will benefit from the analyses, reports and opinions of the Department's Inspector General.

17. In the areas under the department/agency's jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities? Please state your personal views.

Creating a safer, smarter and simpler Federal transportation program should be a priority for both the Administration and the Congress, as we consider the reauthorization of all the major transportation programs in the next several months.

Among the specific areas which Congress may well consider as legislative priorities are the following: Reauthorization of TEA-21 and AIR-21; Creating programs for improved safety and security in the surface transportation modes, and assuring the continued operation of the nation's transportation systems and the movement of people and goods in all circumstances; Streamlining of capacity-enhancing transportation infrastructure projects and providing environmental stewardship in the transportation sector; Considering the critical elements of a national system of intercity passenger rail; Improving the movement of goods both domestically and in advancing national goals in a global trading system; Enhancing the role of the transportation sector in meeting the nation's energy needs; Improving management of the nation's air and surface transportation systems through the continued deployment of the most advanced information technologies; and with Congress, the Secretary and my colleagues at the Department of Transportation, working to strengthen the Department's ability to manage important economic and regulatory decision-making.

18. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please explain what steps you intend to take and a time frame for their implementation. If not, please explain why.

I believe that discretionary funds should be allocated pursuant to a fair, fixed and understood set of criteria. Although one of the largest grant-making agencies in the Federal Government, the Department has a relatively small percentage of funds over which it has discretion. Moreover, Congress increasingly earmarks even these funds for specific projects. I will support, and will be guided by, national priorities established by Congress and articulated by the Secretary in the allocation of those funds available to the Department which are genuinely discretionary, and, as Assistant Secretary for Transportation Policy, I look forward to advising the Secretary, the Deputy Secretary, and my colleagues at the Department of Transportation in the development of such priorities.

I understand that the Department's Inspector General has studied discretionary programs and that the Committee has held hearings on this issue. If confirmed, I will review these reports and hearings, as soon as possible, and will personally study the effect of Congressional earmarking on the discretionary programs of FHWA, FTA, and FAA.

The CHAIRMAN. Thank you, Mr. Frankel. Your nomination is long overdue, and I hope we can get it done as quickly as possible.

Dr. McQueary, have you ever been down on the U.S.-Mexico border?

Dr. MCQUEARY. I grew up in Texas, sir, and I did spend some time on the Texas-New Mexico border a few times, Arizona, going into—from San Diego, just sightseeing; not a great deal of time, but occasionally.

The CHAIRMAN. Are you aware that there are 30,000 illegal immigrants crossing the Arizona-Mexico border every month?

Dr. MCQUEARY. I am aware there are a very large number. I was not aware of the precise number.

The CHAIRMAN. A week or so ago, an Afghan citizen was apprehended in Tucson, Arizona. A week or so ago, a backpack was found along the border with papers written in Arabic. I do not think we are ever going to have enough people to police the border, but we had better get going on some science and technology in order to ensure the security of our border. I hope you will take that as the highest priority. I hope you will come and visit the border. The reason why I point out Arizona is because any expert will tell you that they have squeezed California and Texas, and now a disproportionately large number of illegal immigrants are coming across the Arizona-Mexico border. Unfortunately, 320 of those people died in the desert last year trying to come up, and so there is a human tragedy element associated with this issue, but more importantly, I cannot tell citizens of this country that our borders are secure when about 200 miles of it is, the barrier is seven strands of barbed wire, so I hope you will understand that we have to use high technology, including unmanned drones, I believe, in order to police our border effectively for the security of the country.

Dr. MCQUEARY. I do, sir, and I share your point of view on that, because I believe if there is a solution to this problem, it has to come from science and technology, because we cannot put enough people on the borders, as you said.

The CHAIRMAN. And again, it seems to me one of our fundamental requirements in homeland security is the security of our borders.

Dr. MCQUEARY. Yes.

The CHAIRMAN. Mr. Shane and Mr. Frankel, how do you feel about—I guess we will begin with you, Mr. Shane. How do you feel about the issue of this highway formula of how much money States get in relation to the amount of money they send to Washington in the form of their taxes that they pay?

Mr. SHANE. We have always strived to return more money to the States of the moneys they contribute, some, of course, more—

The CHAIRMAN. How about those States that do not get as much as they send? Should you not get a dollar back for a dollar sent? Doesn't that make sense?

Mr. SHANE. If you examine the demographics of the country, I think you could make a case that it does not entirely make sense. There would be States that would go wanting for highway infrastructure in a very serious way simply because—

The CHAIRMAN. Oh, you mean like high-growth States?

Mr. SHANE. High-growth States would, indeed, if they were growing from a very small base, yes, indeed.

The CHAIRMAN. Small base or big base, it seems to me, if you have large influxes of citizens who might need more infrastructure, whatever it is—well, it has become a politicized issue. I hope that the Department of Transportation might come up with something that would be more fair than what we have seen in the past, and would perhaps hold the line on that.

Have you ever looked at the Big Dig, Mr. Shane?

Mr. SHANE. I have not seen it with my own eyes, no, Senator.

The CHAIRMAN. You ought to go up and take a look at it. It is the largest public works project in the history of this country, originally estimated to be a relatively small amount of money. I think the latest is \$14 billion, and I think the original estimate was \$2 billion. Somebody should write a history of that as an object lesson of a public works system run amok, and I am glad to see that new Governor Romney is ordering an investigation. I hope that you would take part in that as well. It is a disgrace and should never happen again.

Mr. Frankel.

Mr. FRANKEL. I might say, Senator, that I did and have often seen the Big Dig, the central artery project. As a matter of fact, as you may know from my resume, in the time I was doing consulting and legal work I was involved in a study of—this was in the late 1990's, about where the money was going to come from to pay for the project.

I think actually there is a history that has been written and is being written and is about to be published, as a matter of fact, which is something I know you will take great interest in and, as a matter of fact, there has been a lot of interest, as I think you know, in the Department led, obviously, by our Inspector General, but by starting right at the top with the Secretary and looking generally at the issue of megaprojects and accountability, and we are hopeful, although as you know the bill, the Administration's bill to reauthorize TEA-21 is currently in interagency review, we expect it will be introduced in the Congress very soon, and we imagine that there are going to be provisions in the Administration's bill that look at issues of accountability with regard to major projects.

The CHAIRMAN. And again, Mr. Shane, Texas is a high-growth State. They get 84 cents back per dollar. New Mexico is not a high-growth State. They get \$1.13 back. Arizona is a high-growth State. They get 87 cents back. California, the fastest-growing State in America, gets 93 cents back. Idaho gets \$1.48.

It does not make any sense, and I do not know what the Administration will do, but I guarantee you there are some of us who will be a coalition of the willing to block any legislation that does not give us our fair share of the tax dollars that we send to Washington, and I hope that the Administration will stand on the side of fairness. There may be some need for some variations, but there is no excuse for the present formula, and there is no reason for us to pay that kind of penalty at the altar of political power.

When can we expect, Mr. Shane and Mr. Frankel, some legislative proposal on Amtrak? That is another very high-priority, hot-button issue that this Committee is going to have to move on as soon as possible.

Mr. SHANE. We are working on that proposal as we speak. I know our Deputy Secretary is scheduled to appear before this Committee I believe later this month, and I think we will have a lot more to report at that time. It is an active project, and I would expect we will have something to you very shortly.

The CHAIRMAN. Mr. Sturgell, are you familiar with the STARS, standard terminal automation replacement system?

Mr. STURGELL. Yes, sir, I am.

The CHAIRMAN. Are you aware that it has gone from original cost of \$940 million, 4 years behind schedule, now rising to \$1.7 billion, and instead of 172 terminal facilities it is now going to be installed in 74 facilities?

Mr. STURGELL. Senator, I am aware of the past problems with the project, as well as its history on cost overruns, and we recently have had a program review of the STARS system, and one of the things that is one of our priorities coming into the FAA is to take a look at all of our large programs and try and get a better handle on both the management as well as the cost aspects to ensure that the taxpayers are, in fact, getting good returns on their investments.

Right now, the STARS project, it is undergoing IOC in Philadelphia. There are still a few issues remaining to be resolved before a national in-service decision is made. Also, during this time we have been looking at the programs in terms of future deployments and how we can better deploy that both in terms of cost and location.

The CHAIRMAN. Well, you mentioned Philadelphia. It was supposed to start on November 17, and the following day was shut down for 18 hours. This is not a good program. I want you to look at it. We want the cost overruns to stop, and the taxpayers deserve one heck of a lot better than they are getting out of this program, and unfortunately it is not the only program, nor the only time that we have tried to install some kind of modernization of the air traffic control system. There is a long litany of failures that amounts to billions of dollars. I hope you will address it as one of your priorities, Mr. Sturgell.

Senator LOTT. Mr. Chairman, before you go on to the next Senator, would you allow me just to insert my statement in the record?

The CHAIRMAN. Without objection.

[The prepared statement of Senator Lott follows:]

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

Thank you Chairman McCain for holding this hearing today on the President's nominees to the Federal Aviation Administration, Department of Transportation, and the Department of Homeland Security. I have only had the opportunity to meet personally with Mr. Sturgell in his current role as Senior Counsel to the Administrator of the FAA. It is my impression from our conversations that he is extremely qualified to be Deputy Administrator and will continue to greatly benefit the FAA.

I did have the opportunity to hear the testimony of Mr. Shane at our first full committee hearing on the state of the airline industry. His testimony was both informative and timely. I look forward to working with both you and Mr. Frankel as we move forward with FAA Reauthorization.

The 108th Congress will prove to be critical for our nation's aviation industry and air passengers. As Chairman of the aviation subcommittee, my top aviation policy provision remains a full FAA reauthorization—not just a quick extension of the important agency. A full reauthorization—money plus policies.

The subcommittee has already held hearings on the state of the airline industry, FAA reauthorization, and airline security. I plan to hold additional hearings on reauthorization and introduce a bill as soon as possible.

It is my hope that the Administration will quickly provide us with their proposal, so Congress can move forward in step with their recommendations. Regardless, the Senate will move quickly on this issue. As was proven during negotiations on the last reauthorization bill, this legislation takes some time and dedication for completion. Therefore, it is imperative that we begin the process now.

The FAA Reauthorization bill will include numerous provisions that will help sustain and enhance safety, security, efficiency, and competition in the national avia-

tion system. I am particularly interested in the air traffic control system and the use of Airport Improvement Program (AIP) funds.

Like everyone else, Members of Congress experience the delays and inconveniences associated with congested skies and airports. Congress should look into ways to improve the air traffic control system. I applaud the FAA for its recent efforts to manage the problem, but this situation requires more than tweaking. Billions of dollars have been spent on modernizing the system, yet problems remain.

In my home state of Mississippi, the Jackson International Airport reports that the TSA's security regulations are costing the airport \$45,000 monthly. In order to reconfigure the terminal to meet new security requirements, the airport is having to dip into AIP funds. If this continues, airport improvement will be deferred and economic development will be hampered. This issue needs to be addressed.

I plan to work hard this year to enact FAA Reauthorization legislation, because I believe that aviation is a bipartisan, good government matter.

I look forward to a quick confirmation for each of the nominees and working with each of you this Congress.

Senator LOTT. And I will just add that I either know or have met with all the nominees, and am familiar with their backgrounds. I think this is an excellent group of nominees. I am particularly anxious to see the transportation officials be confirmed and get on the job. We have a lot of work to do, and a crisis in many areas, and I look forward to voting in their favor and helping them get started in their new capacities.

Thank you very much, Senator Dorgan, for allowing me to do that.

The CHAIRMAN. Thank you very much, Senator Lott.

Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much. I did not mean to grin when you talked about the donee versus donor States, but I thought you were probably going to get to North Dakota there, and you withheld, so I appreciate that.

The CHAIRMAN. \$2.16.

[Laughter.]

Senator DORGAN. Most of my constituents are in Arizona at the moment.

[Laughter.]

Senator DORGAN. I assume spending money and contributing to your economy, I might add, but they will be back home soon.

[Laughter.]

Senator DORGAN. As soon as the first birds of spring come back, they will vacate Arizona, but let me say, Mr. Chairman, we will reserve for another day the debate about donee versus donor States. It is a very serious and important debate, especially for States like mine.

This is a panel of candidates for public service, a couple of whom, several of whom have been involved in long public service, who are very well-qualified. I am pleased to support your nominations. The background of all of the candidates I think fit well with the needs of the positions for which they have been nominated, so I will be happy to cast an affirmative vote, Mr. Chairman, and I am pleased that people with your backgrounds come to public service and are willing to serve our country at a difficult time.

Let me ask a couple of questions. One, Mr. Shane, tell me how you feel about Amtrak. There are some, perhaps in Congress and maybe some in the Administration that say we ought not subsidize rail travel. If it cannot make it on its own, it ought not make it. How do you feel, for example, about the long-haul service at Am-

trak? Do you think it is meritorious, and we ought to try to find a way to continue it?

Mr. SHANE. I would like very much to find a way to continue it. I think we have passed the point where any of us can think that intercity rail, passenger rail service can be entirely self-sustaining.

What Secretary Mineta has said, and what we hope to enshrine in proposed legislation, that I hope you will see very soon, is that our intercity passenger rail system should look a lot like other Federal transportation programs. It should be predicated on a contribution of the Federal Government in partnership with States. It should factor in the possibility of competition. It should be based on sound economic principles.

We think that intercity passenger rail service is an essential component of our transportation system. The Secretary has said that. The Administration believes that. What we need is a model which has some prospect of sustaining that service for the benefit of travelers.

Senator DORGAN. But you generally believe Amtrak is an important contribution to our transportation system?

Mr. SHANE. Absolutely.

Senator DORGAN. Let me ask Mr. Sturgell, I know that the FAA Administrator Blakey is with us today, and you and I have had a chance to visit. I think you will make a significant contribution to the FAA. I want to ask you about essential air service, and perhaps also, Mr. Shane and Mr. Frankel, make a comment there.

The Administration's new budget on essential air service cuts it by nearly 50 percent, 57 percent versus current year funding, and includes a provision that there are no minimum service requirements for eligible places. In fact, service may consist, among other things, of ground transportation. As I saw that, it just struck me as odd, essential air service including ground transportation.

You know, the essential air service program has been around a while, and it was part of a promise from deregulation that at least some areas of the country and rural areas would be able to continue to receive essential air service. Tell me how you feel about the EAS program.

Mr. STURGELL. Senator Dorgan, I think for the first time, the EAS program now provides significant opportunities and options for smaller communities under the new proposal that has come from the Department.

Senator DORGAN. I know DOT has a significant policy role here. Mr. Shane, tell me about using ground transportation for satisfaction of essential air service for small communities.

Mr. SHANE. We have been treating the essential air services program in a sort of a static way ever since it was created 25 years ago. It has been an entitlement. Communities have had no particular stake in it, vote in it, have had nothing to say about it. The communities that were getting service on, I think it was October 24, 1978, were entitled to two flights per day forever, according to the authorization, and what we are trying to do for the first time is suggest that there may well be more cost-effective and, in fact, more convenient ways of providing the essential linkages that these communities need to the air transportation system of the country, so what we are offering is a way of leveraging Federal money more

effectively, of engaging our communities more effectively, of giving them the opportunity to have far more convenient connections, not all of which have to be by air, not all of which have to be via small airplane, could be a more frequent ground service, an attractive bus service to the nearest hub airport.

If you have more frequent service, you are going to get more access to the system generally, and these are things that we think should be explored. They were explored, I think quite effectively, and continue to be explored through the small cities pilot program that was funded last year.

Senator DORGAN. But that also is defunded in the Administration's budget, is it not?

Mr. SHANE. It is defunded for this year, that is right. In fact, I think the authorization for funding did not extend beyond the last year in which it was funded.

Senator DORGAN. But if you describe that as a bright promise, why would it be defunded for this year?

Mr. SHANE. Because we are evaluating the results of it. It was a pilot program. The idea was to see what the communities would do if, in fact, they could get some money from the Federal Government and, interestingly, contribute themselves, and they contributed very substantially to the possibility of developing new air service to their communities, all of which I think are used well for the approach we are taking in this budget to the essential air services program as well.

Senator DORGAN. But you know what the result of the stop-and-start approach is. Cities and others take a look at that and say, well, we do not have any guarantee the Federal Government has an interest in that. Yes, you did it one year, and you funded it one year, and the next year the President's budget zeroes it out, and then you come to the Committee here and say that it was something that holds promise. I just think that is contradictory.

Mr. SHANE. Well, we proposed funding, I think in three separate years. The Congress actually gave us funding only in the last year, and again the idea that was embraced in the legislation itself was that it be a pilot program, that we would actually see what it generated, and until we have evaluated the results of it—I do not foreclose the possibility of doing it again, but I think we should take a hard look at the program as it is played out.

Senator DORGAN. I want to have in the future a discussion with you about the essential air service program. I think it is very important, and I am not suggesting there should not be some changes, but I am concerned about cutting nearly in half the amount of resources. You just cannot do the program if you do not have the resources.

I have two other questions, Mr. Chairman. Dr. McQueary, I was interested in the question that was posed by my colleague, Senator McCain. On the northern border—he talked about the southern border. The northern border is well over 4,000 miles, with Canada. Frankly, no one is going to be taking a look at every square foot of ground on the northern border to make sure terrorists do not find the weakest link and come in, and as a result of that we need to, I think, find technology, new technologies, new approaches to try to deal with these issues, especially with respect to vehicle traf-

fic, truck traffic, 18-wheel truck traffic, train traffic, the railroad cars that are coming in. The question is, what are they hauling? Do they contain weapons of mass destruction? Is that the way a terrorist would introduce a weapon into our country?

Can you tell us, do you think there is promise that we will find the kinds of technologies that will allow us to have much better inspection at our ports, on all borders, but particularly at our northern border?

Dr. MCQUEARY. I think it would be premature for me to make a gross generalization about what is possible, but certainly from the short time that I have been associated with this activity, I have seen work that is going on in sensor technology. Networking of sensors, those kinds of things will be very important.

My experience, having come out of looking for Russian submarines, suggests that creating opportunities for multiple detections is a way of being able to increase the probability of being able to detect whatever it is one is interested in, so I think we need to look at all possibilities. I certainly would welcome any inputs that you or others might have in helping us make sure that we are looking at the opportunities to be able to solve the problem that you have described.

Senator DORGAN. Well, I share the Chairman's view that we simply could not hire enough people to cover every square foot of the border, north and south, and if you do not secure your borders, you do not have the capability of making sure that someone is not going to introduce a weapon of mass destruction into our country.

Mr. Sturgell, the second week that Administrator Blakey was on the job, I met with her and others in the FAA. I am very interested, there is a lot of discussion about contracting out, and in some areas contracting out proposals I think is inappropriate, and I have indicated that. In other areas I think they are perfectly appropriate.

One area that I have been concerned about and interested in for some long while, both through this Administration and the previous two or three administrations, is the training of air traffic controllers and using the skills that are developed now at some of our perhaps four or five top schools in the country for augmenting the training at the FAA of air traffic controllers.

We, for example, have one of the finest in the Nation. It is called the Harvard of the Skies, Grand Forks, North Dakota, judged around the world to be one of the finest aviation schools in the world. It now is training Norwegian air traffic controllers. I have been there, and I have seen Chinese speak to Russians on either side of the board in multiple training exercises that they have done over many, many years. Is there the opportunity, do you think, for the FAA to take a look at those circumstances to be able to augment the training that exists at the FAA?

We have run into pretty much a brick wall, not completely a brick wall, but you know, the notion that, well, we train them all ourselves, and we have a specific curriculum and so on, but I think in many ways, we can demonstrate that we can add to your capability at a lower price. Is the FAA interested in considering that?

Mr. STURGELL. Senator, you and I discussed this also, and I recently did go up to North Dakota and toured the UNDR Space Col-

lege and saw the capabilities there, and they are quite impressive, and the work they are doing is very good, and we have used them to hire some of our air traffic controllers.

I think there are a number of groups. The Inspector General of GAO, the FAA, we have all identified that we are going to need to increase our air traffic controller hiring over the next few years to—

Senator DORGAN. You have very large retirements, is that not right?

Mr. STURGELL. —[continuing] to meet anticipated retirements beginning in the year 2007, so we are currently looking at options to conduct that training, whether they be at facilities such as you describe, or at our own facility in Oklahoma City, but that is being considered and discussed.

Senator DORGAN. All right. Well, it is a very important topic, and one that I think could be very helpful to the FAA. I think all of the candidates for Federal service here with respect to homeland security, transportation policy, and the FAA, these are very important, critical areas. It is important we do them right and get it right, and I look forward to working with you.

And I compliment you on your North Dakota connections, and my hope is that every distant relative in North Dakota will agree with me on the issue of donor versus donee States at some point in the future.

[Laughter.]

The CHAIRMAN. Thank you, Senator Dorgan. We welcome all of the citizens of North Dakota who come and spend the winter with us. They also use the highways a fair amount as well.

[Laughter.]

The CHAIRMAN. Senator Lautenberg.

Senator LAUTENBERG. Thank you, Mr. Chairman. To all of you at the witness table, my compliments. All of you apparently are well-qualified to take on these important assignments. It looks like approval is a foregone conclusion.

I come here as a donor. My State makes it possible for other States to get into all kinds of programs, because we get 65 cents on the dollar, and we would be happy to take back, not a dollar for dollar—

The CHAIRMAN. 87 cents, according to our figures.

Senator LAUTENBERG. Well, our—but this paper says 65, and it just was researched by—

The CHAIRMAN. That paper is a piece of pink paper. This is from the Department of Transportation.

[Laughter.]

The CHAIRMAN. You know, when you are Chairman, you have lots of latitude.

[Laughter.]

Senator LAUTENBERG. I was once a Chairman, and I liked it.

[Laughter.]

The CHAIRMAN. You may be again.

[Laughter.]

Senator LAUTENBERG. Anyway, with Senator McCain's help, anything can happen.

[Laughter.]

Senator LAUTENBERG. That is the earliest endorsement I have had for my next campaign.

[Laughter.]

Senator LAUTENBERG. It is always a pleasure to work with Senator McCain, because one cannot say that he does not provoke thought as well as discussion, and when we looked at the problem of donor-donee, New Jersey is 49th on the list of return on the tax dollar, so we feel like we are making a contribution, and we understand when States have particular problems.

The Chairman discussed problems on the Arizona border. I just know that however they get there, New Jersey has a huge number of people, estimated to be over a million, illegals in our State, and whether they get there by ship, or even outrageous risks to get there in an airplane, in the undercarriage somehow or other, things that you would never believe possible, but people who are desperate for survival in this world will take all kinds of chances, and we would like to see as much devoted to keeping those out who should not come in except through a process.

And one of the things that, Dr. McQueary, I ask of you, because you are going to have a huge responsibility of coordinating all of the activities in the Homeland Security Act, and particularly focused on technology, is it within your view a good idea to try to develop some policies with INS and see if you can help, based on the experience that you are going to be developing, exposure to the problem that—for changes in immigration policy for this country?

Dr. MCQUEARY. Sir, I believe that the Science and Technology Directorate is really a supplier of technology to the other operational directorates within Homeland Security, and so the answer to your question is an emphatic yes. I have already had generalized discussion, since I am not officially in the position yet, with Under Secretary Hutchinson and also Mike Brown, who is Acting Under Secretary at the present time. Both of those will be important customers for what we do, what I hope we can do—I hope I am a part of it—within the Science and Technology Directorate, so yes, sir.

Senator LAUTENBERG. Your comment and your work is going to be essential, because I come out of the corporate world, and know how difficult it is to make major changes in one fell swoop, and here this is the biggest swoop that has ever hit our country, 170,000 people, \$37 billion worth of budget, 22 Departments affected, and we have not really gotten into some of the jurisdictional concerns that other Departments of Government legitimately have.

In the area of the essential air service—I am sorry Senator Dorgan is not here—I have supported, even though New Jersey has an abundance of air service for the size of our State. We get an awful lot of traffic, truck traffic coming from the south and the west. We are a pipeline for vehicles going through our State to connect with the New York marketplace or New England, so we are overburdened in many ways with the use of our highways for non-New Jersey traffic, and we pay a terrific price for it, and one of the things that we desperately need is a continuation of Amtrak.

I remember 9/11 only too clearly, when 700 people from New Jersey gave their lives in pursuit of their careers and their interests, 700 people in one day from New Jersey were lost, and thank goodness Amtrak was able to function that day, because no one could

have ever dreamed that the entire aviation system in this country could be shut down, as it was.

And when we look at Amtrak and consider its value, it is not simply a fiscal consideration, just like essential air service is not just a fiscal consideration. It is what kind of policy, how do we ensure that remote communities are able to communicate in an effective way with the rest of the country, with the rest of the world?

Well, I support essential air service. It is costly in some places. The cost per seat is far in excess of what Amtrak subsidy might be, and we have never, never spent the money necessary to bring the Amtrak system up to the current State of technology, and it would make one huge difference if we could travel city-to-city, Washington, New York, Boston in this Northeast corridor, and other corridors around the country, Chicago, St. Louis, and many places, the West Coast, and we have to look at Amtrak in the same way that we do things that affect the well-being and the functioning of communities, of States around the country, whether it is drought, whether it is natural disasters of other types, and to make sure that we are there to help out when it is necessary.

And in the case of Amtrak I would plead that case, and I sense, Mr. Shane, that you understand the value that Amtrak plays in our transportation system, and would encourage you to treat that with an open mind and let us meet and discuss what we think the needs are. I was a Commissioner of the Port Authority of New York and New Jersey before I came to the Senate, and am keenly aware of what the value of that intercity rail means.

And last, Mr. Sturgell, we met in my office a week ago, and what we saw in terms of the projects, the STARS projects and the others, I made a comment at that time, because we have tried with the best companies in this country to make technology changes to the aviation system and seen failure after failure after failure, and it is not that the companies were not efficient. It is that the program was not defined in an appropriate dimension or steps, and that is that you cannot make major changes overnight, and we have tried it with healthcare, we have tried it with other things. It took us years to get social security organized enough so that the records were randomly available, as it should be.

But the one thing that is not going to help us is to privatize the air traffic controller system. We have just gone through a major conversion in this country. We took some 25,000 people and made them public employees virtually overnight, and I think the program is working pretty well, and here, having just converted the baggage handlers to Government positions, we are talking about taking the controllers, and an errant bag is a serious problem, but an errant airplane is an unforgivable situation that we can do something about, and I would say this, and I am going to be working very hard to make sure that for any privatization, as the programs go into effect with the FAA, that we are going to be examining that proposition truly thoroughly.

I was just looking at a chart, and I for a long time have been interested in the controller workforce, and the expectation for retirees, looking out just 10 years from now, we are looking at the possibility of retiring 10,000 controllers, 10,000. We have not kept up to our retirement needs, our natural attrition needs, and here we

are talking about a conversion to the private side, where we can buy security on the cheap, and I do not see that as something that ought to be considered now as we go through the other problems of organizing our homeland security function that is so essential to get right the first time we do it.

So, Mr. Chairman, thanks for holding this hearing. These are, I think, a group of excellent candidates, and I hope that we will move rapidly to approve their confirmation. Thank you.

The CHAIRMAN. Thank you very much, Senator Lautenberg, and I look forward to working with you on this equalization of funding issue. We may joke a little bit about it, but this is a very serious issue, and I thank you for your involvement.

Briefly, Mr. Shane, Mr. Frankel, TSA, give it a grade, A, B, C, D, F. How has it done since we passed the law, and it was a massive reorganization, as well as a significant increase in Federal employees. Mr. Frankel.

Mr. FRANKEL. Mr. Chairman, let me say that this has not been an area of particular responsibility of mine, but I must say that I think I share in a sense of pride that the Department of Transportation has had over the last year-plus in setting up the Transportation Security Administration from nothing, creating an agency which I am sure we would all acknowledge, I mean, just as travelers, as users of the transportation system, the aviation system in particular, that it is imperfect, but there will be continued improvement now under the direction of the Department of Homeland Security, but every deadline was met. It has been an incredible achievement, and one in which I think the President and Secretary Mineta, and Deputy Secretary Jackson, Admiral Loy, all of them I think deserve a lot of credit, and I am very proud to have been associated and been at the Department while this process was going forward.

The CHAIRMAN. Mr. Shane.

Mr. SHANE. I second all of that. I think the whole TSA episode is suffused with heroism, starting with the Congress. The Congress responded with unbelievable swiftness after 9/11, and I have to say, confess as a long time in-and-out member of the Executive Branch, you know, we did not start with a notice of proposed rule-making. We started with a set of defined requirements, thanks to the Congress.

Secretary Mineta then assembled a team which began to put the flesh on the bones, and notwithstanding the growing pains, and some bad press, and a whole variety of things that—we had a lot of whining in the beginning. What was done in the space of a year I think was remarkable, a small miracle, and the net result is a far greater level of security in our aviation system than we have ever had in our history.

The CHAIRMAN. Thank you, which brings us to you, Dr. McQueary. I still think that there is some technology that needs to be developed in order to ease the burden that average passengers go through as they try to get on their airplanes on time. There are still airports where from time to time, there are inordinate delays, and unfortunate ones, that cause people to miss their flights, stand in line for long periods of time.

I share Mr. Franklin and Mr. Shane's assessment of the result of the legislation, but I think we are going to have to really work hard to develop more technology to make it easier for people to get through an airport and on an airplane, but at the same time preserve the security that is absolutely necessary. Do you agree?

Dr. MCQUEARY. Yes, sir, I do agree.

The CHAIRMAN. And Mr. Sturgell, I think you will provide a lot of experience to the FAA. I continue to be worried about the modernization of the air traffic control system. When I first came on this Committee, IBM had a contract for several billion dollars that, basically they abandoned. The whole project was a failure, and we continue to lag very far behind. We still have a few air traffic control centers which are using very antiquated technology, as you know, and so I would place that on your priority list of efforts that need to be accomplished.

It seems to me it should not be that hard, but it certainly has been over the last 20 years. Do you agree?

Mr. STURGELL. I do agree. I think there has been some history of problems with major systems, and I can assure you it is going to be major focus should I be confirmed as the Deputy.

The CHAIRMAN. Well, I want to not only congratulate but thank all of you for your willingness to serve. This is a proud time for you and your families. Thank you for your willingness to serve this country in very difficult and challenging times on our behalf. We will try and mark up and move your nominations to the floor of the Senate as rapidly as possible. I know of no opposition, and we hope we can get it done, since you are very vitally needed in the positions for which you have been nominated by the President.

Thank you. This hearing is adjourned.

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

## A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO  
DR. CHARLES E. MCQUEARY

*Question 1.* One major issue of controversy during the consideration of the Homeland Security Act concerned the creation of university-based centers for homeland security. What steps are you willing to take to guarantee that university-based research centers are established based on a merit-review process?

Answer. The Act, and the subsequent amendments to the Act, provide a set of criteria for the selection of one or more university-based centers of excellence. A merit-based review process requires clearly stated requirements for each center, transparent source selection procedures and criteria approved by the Departments Source Selection Authority, and a source selection panel free from bias or the perception of bias. If confirmed, I will assure that each of these steps are taken.

*Question 2.* One of the responsibilities for the Under Secretary for Science and Technology in the Department of Homeland Security is the establishment of a system for transferring homeland security technologies to Federal, state, and local governments, and private sector entities. Deployment of these technologies and the speed they are adopted are key elements to a successful Science and Technology Directorate. Based on your years of bringing commercial research to market, what ideas do you have to improve the technology transfer process from government sponsored research to the marketplace?

Answer. There are several steps that can be taken. First, if confirmed I will involve the end user at the outset of a program in establishing requirements and operational concepts, thus facilitating acceptance and seamless integration into the field. Second, I would take full advantage of available procurement flexibilities to speed commercialization of technology, and hence the development of markets, manufacturing efficiencies, and steady improvements.

*Question 3.* The Homeland Security Institute, if established, will provide some key engineering capabilities such as system analysis, risk analysis, and modeling to determine vulnerabilities of the nation's critical infrastructure. According to the Homeland Security Act of 2002, the Institute would terminate in 2005 or 3 years after enactment of the Homeland Security Act of 2002. Do you believe that this is sufficient time for the Institute to satisfy its requirements as originally envisioned by the Act?

Answer. Sec 312 of the Act provides for the formation of the Homeland Security Institute, with the capability for systems analysis, risk analysis and modeling and simulation, policy analysis, support for exercises and simulations, and other activities that are traditionally performed by an FFRDC. These capabilities require specialized and dedicated staff focused on the broad range of issues confronting homeland security and the Department. The three year sunset clause may serve to discourage the acquisition of permanent staff and the investment in resources necessary for an organization to compete for and conduct such an enterprise. It is also worth noting that Sec 305 of the Act provides for the establishment of FFRDCs, without the three year sunset clause. If confirmed, I would like to work with Congress to examine this issue.

*Question 4.* The Under Secretary for Science and Technology is responsible for recruiting new science and technology staff. Given the overall difficulties that the Federal government has in recruiting technical personnel, what new innovative ideas do you have to improve the government's ability to recruit in this area?

Answer. Congress wisely provided the Department tools that will be valuable in addressing this issue. For example, Sec 307(b)(6) provides HSARPA with 1101 authority, which DARPA has used to great effect to recruit highly competent technical staff from industry. I believe it will also be possible to induce companies and universities to provide people for the S&T Directorate while on sabbatical from their respective organizations. Additionally, my experience shows that highly capable engineers and scientists are effective in recruiting similarly skilled people by assembling an "A" team from the beginning, I expect the best and brightest will want to join

the Directorate. Thus, we must maintain high technical standards for those that we recruit into the organization to maintain its quality and assure that it is seen as a place where the very best come to work with the very best.

*Question 5.* If confirmed, one of your first tasks will be to merge divisions of the Departments of Energy and Defense, and combine them around the nucleus of a new department. Based on your past experience as the head of large organizations, what strategies do you intend to employ to reassure the employees from the former agencies, while also establishing a new identity for your organization?

Answer. First, it is important to show respect for the organizations from which they are moving. Secondly, if confirmed, I will have the responsibility for conveying the enthusiasm and excitement for the major challenges facing Homeland Security. Lastly, we must have an atmosphere that challenges people and provides opportunities for professional growth.

*Question 6.* If confirmed, the new Director of the Homeland Security Advanced Research Projects Agency would report to you. What fields of research should be a priority focus for this new agency?

Answer. The HSARPA will focus on the points articulated by the President in his National Strategy for Homeland Security as well as direction from Secretary Ridge. Among our priorities are the development of advanced radiation detection systems and environmental samplers for biological and chemical threats. HSARPA will study the problems faced by state and local officials, and develop innovative solutions for interoperable communications, personal protection, and detection of hazards. HSARPA will work to identify effective methods for protecting our infrastructure, detecting explosives in luggage, and rapidly scanning containers for threats. Finally, it is important not to overlook the conventional missions of the Department; the border agencies have a need for innovative detection of contraband such as drugs, the Coast Guard in missions such as maritime safety, and the Secret Service in protecting the banking system from fraud, and protecting our nation's leadership.

*Question 7.* One of the lessons learned from Sept. 11 was that many of the emergency services could not communicate with each other. Do you anticipate any research concerning interoperability standards for public safety communications equipment and the use of spectrum?

Answer. Yes. Enhancing communications capabilities for emergency services is an important issue, and a variety of technical solutions will deliver shorter term improvements. For example, SAFECOM has a plan that calls for the immediate integration of existing network infrastructure at all levels of Government utilizing existing interoperability solutions as a starting point. SAFECOM is responsible for addressing a very complex set of issues that go well beyond technology. We are all experiencing a learning curve as we determine what it takes to get over fifty thousand public safety agencies at federal, state and local levels talking and working together. We have the need now, more than ever before, for a common framework to facilitate cross jurisdictional, cross-disciplinary communications. With over 90% of the Nation's public safety communications infrastructure owned and managed at the local and state levels, SAFECOM must partner with local and state agencies to develop common processes and standards that allow each to communicate with neighboring jurisdictions and to coordinate operations across disciplines. SAFECOM can help facilitate this process, but those who own and operate their own networks need to effect change at every level of government.

Today we must focus on the integration of existing networks based on existing standards. Tomorrow we will focus on migration to next generation solutions based on new standards.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO ROBERT A. STURGELL

*FAA/NATCA MOUs*

*Question 1.* Recently, in a hearing before this Committee, the DOT Inspector General noted that there were numerous Memoranda of Understanding (MOU) between the FAA and the National Air Traffic Controllers (NATCA), suggesting that these side agreements were a problem. This was the first time I had heard that MOUs were a problem. Do you think that agreements voluntarily entered into between the FAA and NATCA, these MOUs, are problems? If so, how would you intend to resolve the issue?

Answer: I believe that we need to understand the full impact of these agreements and we are working closely with the FAA's Air Traffic leadership and the Inspector

General to review all of the agreements that we have with NATCA. Once the review is complete, we will work with NATCA to address any agreements that require modification. For prospective agreements with our unions, the Administrator has established an integrated review process that will ensure that the full impact is understood and weighed before any agreements are signed.

*STARS (Standard Terminal Automation Replacement System)*

*Question 2.* A recent FAA report on the new air traffic controller work stations (STARS), suggested that it was not ready to be fully deployed beyond the initial sites, such as Philadelphia. Are there technical problems with STARS? Will there be a delay in installing the new equipment at other sites because of these “glitches?”

*Answer:* Because Philadelphia is the first large site to use STARS, FAA expected some “glitches” to be revealed in the first few months of use. However, the prognosis is that none of these are serious problems that will prevent STARS from being deployed nationwide. The issues identified have been resolved and fixes are currently being tested at the FAA Technical Center. Based on this testing, FAA expects to approve STARS for national deployment later this spring. The next site to receive STARS is Portland, Oregon. Even though testing is currently ongoing, at this time we do not expect a delay at Portland.

*Air Traffic Subcommittee*

*Question 3.* Jane Garvey, before she left, testified that the Air Traffic Subcommittee needed to be restructured. This is the Subcommittee that was previously headed by John Snow. Right now, we have a 15 member Management Advisory Committee (MAC), headed by Ed Bolen of the General Aviation Manufacturers Association, and the 5 member subcommittee is now without a leader. Do you support eliminating the Subcommittee and letting the MAC provide the Administrator with guidance on air traffic issues?

*Answer:* I do not support eliminating the Subcommittee. However, I do support restructuring the Subcommittee as a separate group. Both groups serve a purpose, the MAC to provide aviation community advice and counsel, and the Subcommittee to provide business expertise to Air Traffic Services (ATS). The expertise that the Subcommittee brings will enable the ATS to become more performance based, more operationally sound, and more customer focused. The Subcommittee has begun to concentrate on specific performance metrics that will provide ATS with meaningful measurements for success. I would like to point out that Edmund “Kip” Hawley, named to the Subcommittee in July, is the current chairman, having been voted into the position upon Mr. Snow’s resignation.

*FAA Standardization*

*Question 4.* Administrator Blakey, in her testimony before this Committee, stated that one of her top priorities would be to ensure standardization among FAA regions and field offices across the country. Why isn’t there standardization now? What changes will you implement to ensure standardization?

*Answer:* With an agency as large as the FAA, and as diverse as our customer base is, it is essential that the FAA speak with a single voice, and both the Administrator and I are committed to ensuring that we serve our customers in a more consistent, standard way throughout the FAA.

Last month, the Administrator announced a new customer-service initiative that provides written guidance and training to all managers and supervisors in our regulation and certification offices throughout the country on applying FAA rules and policies in a consistent manner. We want to know from our customers if we’re not being consistent. We’re going to let them know that they have the right to ask for review of any inspector’s decision on any call that’s made in the certification process; that they can “buck it up” to first-line supervisors, field office managers, regional division managers, or even to Washington if necessary—with no fear of retribution. Information on how to do this, names, titles, and phone numbers, will be prominently displayed on the FAA website as well as in all our regional and field offices.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ERNEST F. HOLLINGS  
TO ROBERT A. STURGELL

*Question 1.* We are aware that the FAA has a long standing interpretation that would allow the issuance of an Airworthiness Certificate to an aircraft even though the producer of this vehicle does not hold a Production Certificate, a Type Certificate, or even the data that would support the Type Certificate and its underlying

Type Design. We also have heard that the Airworthiness organization is very concerned that in the absence of a Type or Production Certificate, the FAA cannot hold a certificated organization responsible for on-going airworthiness problems. Without the ability to compel technical support for ongoing airworthiness, the FAA has reduced capabilities to design corrective actions and to expeditiously draft Airworthiness Directives.

We are told that the FAA is considering a process involving both an ANPRM and NPRM to close this "interpretative" loophole, a process known to take many years. We are very concerned with the on-going safety exposure under these processes and are prepared to draft an amendment to the statute that would clarify Congress' intent.

Pardon the long premise to my question, but obviously the predicate was critical to my question. Would the FAA support an effort by this Subcommittee to close this loophole by amending the statute in the Reauthorization Bill, to eliminate this unnecessary safety exposure and to minimize the burdens that the ANPRM/NPRM process would impose on your staff?

Answer: In my judgment, the existing regulations do not pose a threat to safety. The aircraft are inspected by the FAA to assure conformity to the approved design and airworthiness requirements. As with all other aircraft with Standard Airworthiness certificates, the FAA has the option to issue airworthiness directives, or amend, suspend or revoke the airworthiness certificates of these aircraft. In addition, the FAA will not accept new proposals for production of new aircraft from spare parts.

However, in an ongoing effort to improve safety oversight, the FAA has recently issued the ANPRM proposing that all new aircraft manufactured in the U.S. receive a Standard Airworthiness Certificate only if they have been manufactured by the holder, or licensee, of a type certificate and a FAA production approval. This would prevent a manufacturer that does not hold a type and production approval from receiving airworthiness certificates for aircraft assembled from parts.

I acknowledge that the rulemaking process often takes longer than desirable to make needed changes. Therefore, I am, committed to work with Congress on needed changes in this area. However, a change in direction often requires the subsequent initiation of a rulemaking process. Consequently, I think the FAA's issuance of the ANPRM is not inconsistent with any modification Congress might consider.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK LAUTENBERG  
TO ROBERT A. STURGELL

*Question 1.* I am extremely concerned about the Administration's plan to privatize the air traffic control system. As you know, in the aftermath of September 11th, the American people demanded one thing in particular of their government; they wanted government personnel—not private contract firms—to perform security screening of baggage at our nation's airports. That is why I was so surprised to find out that the Administration has stripped air traffic control of its "inherently governmental" status last year, setting the stage for privatization. To me, that makes no sense, especially after September 11th, when the public felt safer with government staff in control rather than private contractors. Do you approve of privatizing the air traffic control system?

Australia, Canada and Great Britain all have privatized systems that are now in crisis. Costs have gone up and safety has gone down. Since Great Britain adopted privatization—near misses have increased by 50 percent and delays have increased by 20 percent. The British government has already had to bail out the privatized air traffic control company twice. Given this information on experiments abroad, does the Administration believe that privatization will save money?

Answer: I want to assure you that the Department of Transportation is not considering privatizing the air traffic control system. I understand that you and many of your colleagues are concerned that last year air traffic control was determined not to be an inherently governmental function. Let me explain how that determination was made and why I do not believe it is a precursor to privatization. Under the Federal Activities Inventory Reform (FAIR) Act of 1998, every agency must develop an annual inventory of its commercial activities versus those that are inherently governmental. In accordance with the FAIR Act, functions that are inherently governmental involve a sovereign act on behalf of the Government or bind the Government to a particular course of action. The separation of air traffic, though a critically important function, was not deemed to meet that rigorous definition. However, although not considered to be an inherently governmental function, the vital role

air traffic control plays with respect to the safety and security of the national air-space system requires that it be considered a core function. As such, it is not subject to competition and will not be contracted out. I am not aware of any studies conducted to determine whether the privatization of air traffic control would save the Government money.

