

**NOMINATIONS TO THE DEPARTMENT OF
TRANSPORTATION, AMTRAK REFORM BOARD,
AND THE SURFACE TRANSPORTATION BOARD**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

DECEMBER 18, 2007

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



U.S. GOVERNMENT PRINTING OFFICE

73-466 PDF

WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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TUESDAY, DECEMBER 18, 2007

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

The Committee met, pursuant to notice, at 11 a.m. in room SR-253, Russell Senate Office Building, Hon. Daniel K. Inouye, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. DANIEL K. INOUE,
U.S. SENATOR FROM HAWAII**

The CHAIRMAN. The hearing will please come to order. It is my great pleasure and honor to introduce a most honorable Member of the Senate from the State of Florida, Senator Martinez.

[The prepared statement of Senator Inouye follows:]

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

Each of the nominees before us are slated to fill important posts critical to the future of America's transportation system. From ensuring the safety of the country's pipelines to overseeing the management of the Nation's passenger railroad, the work you will perform at each of your respective agencies, should you be confirmed, will help ensure that America's transportation system remains a global leader which supports our vibrant economy and great tradition of efficient travel and mobility.

The positions each of you have been appointed to come with unique challenges:

The Administrator of the Pipeline and Hazardous Materials Safety Administration (PHMSA) must continue to chart a course for the Department of Transportation's (DOT) newest safety agency that will improve the safety and security of our pipeline and hazardous materials transportation systems.

Several recent pipeline accidents have highlighted the importance of this task, and we are looking for strong leadership at this agency, as well as a commitment to fully implementing the important safety provision enacted into law by this Committee in the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 (PIPES Act).

Amtrak Board Members must continue the progress made over the last several years toward an efficient and effective national passenger railroad, while working with the Congress to reauthorize the railroad, gain stable and adequate funding, and promote new investments that can unlock the promise of rail service in new corridors.

Members of the Surface Transportation Board must balance the growing need for new and expanded capital investment in the freight rail industry against the equally legitimate goal of ensuring reasonable and fair prices and services for railroad customers.

Add to each of these individual challenges the government-wide budget restraints brought on by historic deficits and the continual demands to improve safety and mobility, and your work is truly cut out for you.

I look forward to hearing your perspectives today as we examine your credentials and views, and I thank each of you for your commitment to public service. Should you be confirmed, I can assure you that we will be in touch regularly.

As well, I would like to note that Mr. Carper has had a family emergency this morning. We will keep him in our thoughts. We have heard nothing negative about his nomination, and unless there is an objection, it is my plan to consider his nomination at an executive session along with the other nominees on the panel.

**STATEMENT OF HON. MEL MARTINEZ,
U.S. SENATOR FROM FLORIDA**

Senator MARTINEZ. Mr. Chairman, thank you very, very much. It's a real pleasure to be before you and Members of your Committee.

And I'm here for the great pleasure and honor to introduce to the Committee a fellow Floridian, a fellow who has devoted a great deal of time to serving the people of my state. Denver Stutler is currently the President of Stutler Strategies, Incorporated, and a Founding Member of Perkins Bay, a real estate consulting firm in Tampa.

Prior to assuming these roles, Denver served as Florida Secretary of Transportation. The Florida Secretary of Transportation, as my colleague from Florida well knows, is a very important and responsible job, and Mr. Stutler did it with—of course, I should say, Secretary Stutler—did it with great distinction. I had the opportunity to work closely with him while I was a member of the cabinet. And, being from the State of Florida, I was the HUD Secretary, and we worked on a number of issues relating to our state as our responsibilities intersected.

Before that time, he was Chief of Staff to former Governor Jeb Bush, and, I know, in both of these public roles he made many positive contributions to improving Florida's transportation infrastructure and economic development.

Prior to serving Governor Bush, Mr. Stutler served as the Senior Fellow for U.S. Senator Connie Mack, where he advised the Senator on environmental and water-related appropriations and policy.

Denver earned his bachelor's degree in engineering, and master's degree in civil engineering, from the University of Central Florida, and has since demonstrated an outstanding commitment to public service.

It's because of this record of dedication that I believe Denver Stutler is fully qualified to serve on the Amtrak Reform Board, and it is my hope that he will continue to ensure the availability of safe and reliable transportation service for all Americans.

Mr. Chairman, thank you for allowing me the opportunity, and it's a real honor to present Mr. Stutler to the Committee.

Senator NELSON. Mr. Chairman?

The CHAIRMAN. Thank you.

**STATEMENT OF HON. BILL NELSON,
U.S. SENATOR FROM FLORIDA**

Senator NELSON. Mr. Chairman, as you know, Senator Martinez and I have an excellent professional relationship, as well as a personal relationship that goes back 30 years. And on most—Mr. Chairman, I think, without exception, on all of the appointments that we have a chance to recommend, Senator Martinez and I have

been joined at the hip in being unanimous about the particular nominees, particularly if they affect Florida. That includes judges, as well. And, in this particular case, of Mr. Stutler to be on the Amtrak Board, we, likewise, are unanimous in our opinion that he should be appointed to the Amtrak Board, for all of the reasons that Senator Martinez has just stated.

The CHAIRMAN. With those two endorsements, I don't think we should have a hearing.

[Laughter.]

Senator MARTINEZ. It would be OK with us, wouldn't it, Senator? It would be fine.

Thank you, sir, very much.

The CHAIRMAN. Well, I thank you very much, Senator. And thank you.

Each of the nominees before us are slated to fill important posts critical to the future of America's transportation system. From ensuring the safety of the country's pipelines to overseeing the management of the Nation's passenger railroad, the work you will perform at each of your respective agencies should be confirmed—should you be confirmed, will help ensure that America's transportation system remains a global leader which supports our vibrant economy and great tradition of efficient travel and mobility.

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there is an objection, it is my plan to consider his nomination at an executive session, along with the other nominees on the panel. Senator Stevens?

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

Senator STEVENS. Thank you, Mr. Chairman.

I'd like to take the opportunity to introduce Carl Johnson, if I may.

The CHAIRMAN. Please do.

Senator STEVENS. As many of you know, Alaska is the home of the one of the largest pipeline systems in the world, one which has transported over 15 billion barrels of oil since its inception in 1977. The Pipeline and Hazardous Materials Safety Administration plays a critical role in maintaining this pipeline and ensuring the safe transportation of oil and other hazardous goods all over the country. This morning I am pleased to see Carl Johnson here as the nominee for Administrator of this important agency.

Before retiring in April, Mr. Johnson spent 19 years serving as President of the Compressed Gas Association, where he developed an extensive understanding of the transportation of hazardous materials. During his tenure, Mr. Johnson was dedicated to decreasing the risks associated with industrial and medical gases through the development of consensus standards, and he was instrumental in a push to harmonize these and other safety standards on a global scale.

Before joining the Compressed Gas Association, Mr. Johnson worked at Corning Glass Works for 24 years, where he was the Director of Federal Government Relations. It was there that he met my good friend and colleague, former Representative Amory Houghton, who brought Mr. Johnson to the Hill in 1987, following his election to the House of Representatives. While working in the House, Mr. Johnson was responsible for leading the Congressman's work on the Government Operations Committee and had a hand in several key issues in the District.

This Committee enjoyed an excellent working relationship with Admiral Barrett, the original Administrator of PHMSA, and I look forward to continuing such a relationship with his successor. And I hope to be able to congratulate Mr. Johnson on his nomination once he's confirmed.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Carper, would you care to make an opening remark?

Senator CARPER. If I may, sir, thanks. Thank you very, very much.

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

Senator CARPER. We're joined today by two of our nominees for the Amtrak Board of Directors. Denver Stutler's been introduced by both of his Senators. Nancy Naples is here, from New York. We welcome them both, along with our other nominees. We're saddened that Thomas C. Carper is not here, former Mayor of Macomb, Illinois. His wife, Gail, with whom a number of us met

yesterday, was stricken, I think, en route to the hearing today, and has been hospitalized, I think, at GW, with a stroke of some kind, or a seizure, which is a matter of great concern. I've just called him on the phone to try to reach him, and was unable to reach him, but our thoughts and prayers are with her, and certainly with him.

I've known him for the better part of a dozen years, and sort of—together, because our names are similar. It's hard to imagine that there are two Tom Carpers, but actually there's a third, who was poet laureate of Maine at one time. I used to like to send people copies of his poetry, pretend it was mine. But I knew Mayor Carper when he became a Member of the Amtrak Board of Mayors Advisory Council, I think, in about 1991, about 15 years ago, and actually served as his Chairman from 2000 to 2001, while he was still Mayor of Macomb.

I think we're fortunate to have him as a nominee. I believe we're fortunate to have our other two nominees before us today for the Amtrak Board.

And I'll just say one last thought. We've passed, with the guidance of our leadership here on this Committee, major energy legislation that the President appears ready to sign, and that'll be a good thing for our country as we seek to reduce our reliance on foreign oil and to reduce the emission of harmful substances into the air.

I know there are some folks who believe that the heyday of passenger rail is behind us. I remember being regaled by stories by my aunts and uncles of train rides from coast to coast to be married during the middle of World War II, and just—at a time when we had troop trains going all over the country, and had no interstate railroad, and commercial aviation was still in its infancy. So, some people think those were the heydays of passenger rail. I actually think maybe some of the best days, some of the most important days for passenger rail in this country lie ahead, as we do seek to reduce our reliance on foreign oil.

A lot of other countries share that goal with us, and a lot of them fund their intercity passenger rail systems, support them more robustly than we do at both the operating and the capital level. But they do so for selfish reasons, and we should, as well; and among those selfish reasons are to, as I said earlier, reduce reliance on foreign oil; second, to reduce the kind of congestions we face on our highways today. Coming down on—I actually take the train, many days, to Washington, but I can actually look out my window of the train, as we zipped along at 125 miles an hour, and see cars and trucks barely moving on the highways alongside of us. So, we need to reduce our reliance—we need to reduce our congestions on our roads, and our airports. My wife just flew out to the Appalachian State/Delaware football game out at—in Chattanooga last weekend, and she had some great stories to tell me about trying to get there by air. And so, all—I think all of us have had a bite out of that apple, and we know what challenges it poses for us.

And the last piece is just harmful stuff into our air. Those of us on the East Coast live at the end of the tailpipe for this country. We breathe the air that is not healthy, not good for us, not good for our children, not good for our grandparents, our parents, and we need to do something about it. And passenger rail speaks to all of

those issues, speaks to all of those concerns. And it's not a silver bullet, but it's a speedier train than it used to be, and it's part of the solution to those two challenges that we face.

So, I look forward to this hearing. And thank you, Mr. Chairman, for the opportunity to say some words.

The CHAIRMAN. Thank you, Senator.
Senator Smith?

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

Senator SMITH. Thank you, Mr. Chairman, for holding this hearing.

And I welcome our nominees, as well. I'm anxious to hear their goals and the plan—and their plans for this—these very important positions.

I'm going to be focusing on their views of the abandonment process, of balancing interests between shippers and railroads. I'm very concerned about the issue of private equity firms investing in railroads. These are legitimate sources of capital, but I am concerned about short-term investor goals trumping long-term interests of our commerce in this country. And I'm very anxious to know what they believe the STB's role is in ensuring that investments are made to maintain this basic infrastructure, because I'm afraid that that is being shortchanged, and I'm very anxious to see a much more vigorous role so that people in rural areas who have raw materials and products to get to market can get them there, and that they're not held hostage, as is happening in too many places in this country.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I now would like to call upon the Administrator-designate of the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation, Mr. Carl T. Johnson. May I also call the Member-designate of Amtrak Board of Directors, Ms. Nancy Naples. And may I call upon Member-designate Amtrak Board of Directors, Mr. Denver Stutler; and Member, Surface Transportation Board, the Honorable Francis Mulvey.

May I first call on Mr. Johnson.

**STATEMENT OF CARL T. JOHNSON, NOMINEE TO BE
ADMINISTRATOR, PIPELINE AND HAZARDOUS MATERIALS
SAFETY ADMINISTRATION, DOT**

Mr. JOHNSON. Thank you, Mr. Chairman. Chairman Inouye, Senator Stevens, distinguished members of the Committee, it's a privilege to appear before you today. I welcome the opportunity to appear before you as you consider my nomination to serve as Administrator of the Pipeline and Hazardous Materials Safety Administration, PHMSA, at the Department of Transportation.

I'd like to publicly thank my wife, Joyce, my son, David, and my daughter, Karin, for supporting me through my various journeys in life and continued interest in government service.

I am honored to have been nominated by President Bush for this important position. And, if confirmed, I look forward to joining Secretary Peters and her strong leadership team at the Department.

I want you to know that I will fully dedicate myself to ensuring that PHMSA fulfills its vital safety mission, and I will work closely with you and your staff to get the job done.

PHMSA administers programs designed to protect our communities and the environment from the inherent risks resulting from the commercial transportation of hazardous materials and the operation of our Nation's pipelines. I believe that my 47-year professional career has provided me with a variety of assignments and responsibilities in management and leadership that will help me succeed in the position for which I have been nominated. My assignments have given me the opportunity to understand how organizations function, how objectives are set, and how performance is measured, and how to achieve the results the Administration, Congress, and the public expects and deserves.

As President and CEO of the Compressed Gas Association, CGA, I had overall management responsibility for an organization whose sole responsibility and purpose is safety. At the CGA, I developed an appreciation for the value of consensus standards and for working cooperatively with regulators for improved safety and enforcement. Even with these standards and codes of practice in place, unfortunate incidents still occur. It's, therefore, critical to review accidents and near-misses, as well. If confirmed, I will do all in my power to continuously improve the standards and codes of practice by which we operate so as to provide the highest-possible level of safety for our workers, transporters, those who use our products, and the public at large.

Mr. Chairman, I commit to you that, if confirmed, I will work diligently to carry out the responsibilities entrusted to me.

Thank you.

[The prepared statement and biographical information of Mr. Johnson follow:]

PREPARED STATEMENT OF CARL T. JOHNSON, NOMINEE TO BE ADMINISTRATOR,
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, DOT

Chairman Inouye, Senator Stevens, distinguished members of the Committee, it is a privilege to appear before you today.

I welcome the opportunity to appear before you as you consider my nomination to serve as Administrator of the Pipeline and Hazardous Materials Safety Administration (PHMSA) at the Department of Transportation.

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Mr. Chairman, I commit to you that, if confirmed, I will work diligently to carry out the responsibilities entrusted to me. Thank you.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Carl Thor Johnson.
 2. Position to which nominated: Administrator, Pipeline and Hazardous Materials Safety Administration.

3. Date of Nomination: November 1, 2007.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

5. Date and Place of Birth: January 27, 1938; Staten Island, NY.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Joyce A. Johnson, Retired (spouse); David C. Johnson, 43 (son); Karin L. Johnson, 40 (daughter).

7. List all college and graduate degrees. Provide year and school attended.

Bachelor of Science, Cornell University, 1960.

Master of Arts, George Washington University, 1963.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

1960–1963 U.S. Navy, LTJG, Office of Naval Intelligence, Potomac River Naval Command, Washington, D.C.

1963–1987 Corning Glass Works, Corning, NY, and Washington, D.C.

1987–1988 Special Assistant, Representative Amo Houghton (R-NY).

1988–2007 President and CEO, Compressed Gas Association (CGA), Chantilly, VA.

9. Attach a copy of your résumé. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

11. 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 within the last 5 years.

1988–2007 President and CEO, Compressed Gas Association (CGA), Chantilly, VA.

2000–2007 Director, Dangerous Goods Advisory Council (DGAC), Washington, D.C.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

1972–present Capitol Hill Club, Washington, D.C.

1981–present Emmanuel Lutheran Church, Vienna, VA.

1972–present Cornell Club of Washington, D.C., past President.

1972–2002 Severn River Yacht Club, Annapolis, MD.

2005–present Cornell Assn. of Class Officers, Ithaca, NY, Class of 1960, Vice President.

1996–present Worldgate Sport and Health Club, Herndon, VA.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. 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. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

June 2000—\$1,000—Friends of Houghton
November 2002—\$1,000—Friends of Houghton

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

March 2007—H. Emerson Thomas Lifetime Service Award from the Compressed Gas Association for 19 years of dedicated service.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Speeches

January 2001—Global Standards Harmonization—A U.S. Perspective; European Industrial Gases Association Symposium

Articles

1995—*Encyclopedia of the Future*

Between January 1989 and March 2006, I wrote an article entitled “Letter from the President” in *Compressions*, the Compressed Gas Association monthly newsletter. The focus of these articles was current legislative and regulatory initiatives as well as announcing and promoting various CGA activities.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

March 8, 1990	House Appropriations Committee Subcommittee on the Interior; Relating to the privatization of the U.S. Federal Helium Reserve.
February 27, 1991	House Appropriations Committee Subcommittee on the Interior; Relating to the privatization of the U.S. Federal Helium Reserve.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

During my professional career, I have worked closely and cooperatively with the Congress and the Federal agencies. Most of this work was in developing and perfecting the manner in which we transport hazardous materials safely. In addition, a large part of my professional life has been devoted to the development of consensus standards for industrial and medical gases to effectively manage the risk associated with these gases. While at the CGA, I also initiated a drive to harmonize standards on a global scale. At the same time, I kept costs under control and built a strong competent professional staff to fulfill the CGA safety mission. The PHMSA safety mission and programs seem to me to be a logical progression for my skill sets and background. If confirmed, I look forward to bringing my interest in personnel development and consensus building to the Department of Transportation.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

As President and CEO of the Compressed Gas Association, I have managed a budget and understand the need to control expenses and meet a payroll. I know how to develop a business plan, to set and meet objectives and to adjust those objectives as circumstances require. I understand the need to develop a competent, resourceful workforce and to review and appropriately reward performance. If confirmed, I will use my skills and experience to ensure that PHMSA has proper management and accounting controls and that the PHMSA mission is fulfilled.

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

(1) The integrity of the Nation’s pipeline system is being challenged by aging and the encroachment of commercial development.

(2) The highway and air traffic infrastructure is aging and in need of attention. At the same time, congestion is challenging the safety and efficiency of how we move all traffic including hazardous materials.

(3) International harmonization is vital to the safe and efficient flow of commerce on a global basis and will promote global economic growth and development.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

(1) Post retirement health benefits for my spouse and myself paid by the Compressed Gas Association and extended to senior executive staff upon retirement.

(2) Defined benefit pension from Corning, Inc., derived from former employment.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: None.

3. 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's opinion letter.

4. 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.

5. Describe any activity during the past 10 years in which you have been 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.

In the course of my responsibilities at the Compressed Gas Association, I have been involved in developing and responding to Federal legislative and regulatory initiatives that are intended to improve the safety of transporting hazardous materials, including industrial and medical gases.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items: Please refer to the Deputy General Counsel's opinion letter.

C. 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 of any Federal, State, county, or municipal entity, 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. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain.

In the course of my responsibility as President and CEO of the Compressed Gas Association, a discrimination claim against the Association and me was settled in 1996.

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

D. 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 whistleblowers from reprisal for their testimony and disclosures? Yes.

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.

4. 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.

RÉSUMÉ OF CARL T. JOHNSON

Professional Experience

Retired, April 2007 to present.

President, Compressed Gas Association (CGA), August 1988 to March 2007.

The CGA is the standard-setting, safety organization for the industrial gas industry. With over 120 members, the CGA produces more than 200 publications relating to the safe manufacture, distribution and use of industrial and medical gases and cryogenic liquids.

The CGA works closely with U.S. regulatory agencies, including the Department of Transportation Pipeline and Hazardous Materials Safety Administration, the Occupational Safety and Health Administration, and the Food and Drug Administration; and also with international organizations, including the International Organization for Standardization (ISO), and the U.N. Committee of Experts on the Transportation of Dangerous Goods.

Special Assistant to Representative Amory Houghton, Jr. (R-NY-31), January 1987 to August 1988.

Responsible for relationship with House GOP leadership and Government Operations Committee.

Corning Glass Works, 1963 to 1987.

Director, Federal Government Relations, Washington, D.C.

Earlier assignments in human resources, production, and industrial relations.

U.S. Navy, Washington, D.C., 1960 to 1963.

Education

M.A., Public Administration, The George Washington University, Washington, D.C.

B.S., Cornell University, Ithaca, New York.

Affiliations

Cofounder, The Thursday Group

Dangerous Goods Advisory Council

NAM Associations Council

U.S. Chamber of Commerce Committee of 100

November 19, 2007

ROSALIND A. KNAPP,
Designated Agency Ethics Official,
U.S. Department of Transportation,
Washington, DC.

Dear Ms. Knapp:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Administrator, Pipeline and Hazardous Materials Safety Administration at the Department of Transportation.

As required by 18 U.S.C. § 208(a) I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2). I understand that the interests of the following persons are imputed to me: my spouse, my minor children, or any gen-

eral partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I resigned from my position as President and CEO of the Compressed Gas Association on March 31, 2007. As a retired executive of the Compressed Gas Association, I am entitled to receive health coverage for both me and my spouse for the rest of our lives, consistent with the Association's practice for departing executives. Therefore, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of the Compressed Gas Association to provide these contractual benefits, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). For a period of 1 year after my resignation, I also will not participate personally and substantially in any particular matter involving specific parties in which the Compressed Gas Association is a party or represents a party, unless I am first authorized to participate pursuant to 5 CFR § 2635.502(d).

I resigned my position as: Director, Dangerous Goods Advisory Council on March 31, 2007. For a period of 1 year after terminating this position, I will not participate personally and substantially in any particular matter involving specific parties in which this organization is a party or represents a party, unless I am authorized to participate pursuant to 5 CFR § 2635.502(d).

I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of Corning, Inc., unless I first obtain a written waiver or qualify for a regulatory exemption.

CARL T. JOHNSON

U.S. DEPARTMENT OF TRANSPORTATION
Washington, DC, November 19, 2007

Hon. DANIEL K. INOUE,
Chairman,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Mr. Chairman:

I have examined the Financial Disclosure Report (SF-278) of Carl T. Johnson and his responses to related questions from your Committee arising from his nomination to be the Administrator of the Pipeline and Hazardous Materials Safety Administration at the Department of Transportation. I find that Mr. Johnson's financial interests will not present a conflict of interest should he be confirmed as the Administrator of the Pipeline and Hazardous Materials Safety Administration.

Mr. Johnson is a former President and CEO of the Compressed Gas Association, Chantilly, Virginia. Mr. Johnson is currently retired.

The financial interests of Mr. Johnson and his spouse include a defined benefit pension plan with Corning, Inc., checking and money market accounts, bank savings accounts, a variable annuity invested in widely held mutual funds, stock interests in CBS Corporation, General Motors Corporation, Viacom, Inc., Corning, Inc., Covance, Inc., and Quest Diagnostics, Inc., and a broad portfolio of widely held mutual funds.

Mr. Johnson resigned from his position as President and CEO of the Compressed Gas Association on March 31, 2007. As a retired executive of the Compressed Gas Association, Mr. Johnson is entitled to receive health coverage for both himself and his spouse for the rest of their lives, consistent with the Association's practice for departing executives. Therefore, Mr. Johnson has agreed not to participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of the Compressed Gas Association to provide these contractual benefits, unless he first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1). For a period of 1 year after his resignation, he has also agreed not to participate personally and substantially in any particular matter involving specific parties in which the Compressed Gas Association is a party or represents a party, unless he is first authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

Mr. Johnson resigned his position as Director, Dangerous Goods Advisory Council, on March 31, 2007. For a period of 1 year after terminating this position, Mr. Johnson has agreed not to participate personally and substantially in any particular matter involving specific parties in which this organization is a party or represents a party, unless he is authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

Mr. Johnson has agreed not to participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial in-

terests of Corning, Inc., unless he first obtains a written waiver or qualifies for a regulatory exemption.

Based upon these representations, I find that no conflict of interest will arise as a result of Carl T. Johnson being confirmed as the Administrator of the Pipeline and Hazardous Materials Safety Administration at the Department of Transportation.

Sincerely,

ROSALIND A. KNAPP,
Deputy General Counsel.

U.S. DEPARTMENT OF TRANSPORTATION
Washington, DC, November 19, 2007

Hon. ROBERT I. CUSICK,
Director,
Office of Government Ethics,
Washington, DC.

Dear Mr. Cusick:

This letter is submitted in accordance with the provisions of 5 C.F.R. § 2634.605(c) concerning the Financial Disclosure Report of Carl T. Johnson. Mr. Johnson has been nominated to be the Administrator of the Pipeline and Hazardous Materials Safety Administration at the Department of Transportation.¹ I have reviewed Mr. Johnson's Financial Disclosure Report and I find that his financial interests will not present a conflict of interest with his duties as the Administrator of the Pipeline and Hazardous Materials Safety Administration.

Mr. Johnson is a former President and CEO of the Compressed Gas Association, Chantilly, Virginia. Mr. Johnson is currently retired.

The financial interests of Mr. Johnson and his spouse include a defined benefit pension plan with Corning, Inc., checking and money market accounts, bank savings accounts, a variable annuity invested in wide held mutual funds, stock interests in CBS Corporation, General Motors Corporation, Viacom, Inc., Corning, Inc., Covance, Inc., and Quest Diagnostics, Inc., and a broad portfolio of widely held mutual funds.

Mr. Johnson resigned from his position as President and CEO of the Compressed Gas Association on March 31, 2007. As a retired executive of the Compressed Gas Association, Mr. Johnson is entitled to receive health coverage for both himself and his spouse for the rest of their lives, consistent with the Association's practice for departing executives. Therefore, Mr. Johnson has agreed not to participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of the Compressed Gas Association to provide these contractual benefits, unless he first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1). For a period of 1 year after his resignation, he has also agreed not to participate personally and substantially in any particular matter involving specific parties in which the Compressed Gas Association is a party or represents a party, unless he is first authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

Mr. Johnson resigned his position as Director, Dangerous Goods Advisory Council, on March 31, 2007. For a period of 1 year after terminating this position, Mr. Johnson has agreed not to participate personally and substantially in any particular matter involving specific parties in which this organization is a party or represents a party, unless he is authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

Mr. Johnson has agreed not to participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of Corning, Inc., unless he first obtains a written waiver or qualifies for a regulatory exemption.

Based upon these representations, I find that no conflict of interest will arise as a result of Carl T. Johnson being confirmed as the Administrator of the Pipeline and Hazardous Materials Safety Administration at the Department of Transportation.

Sincerely,

ROSALIND A. KNAPP,
Deputy General Counsel.

¹ 5 C.F.R. § 2634.605(c)(2)(i) requires that I enclose a copy of the position description with the report if one is available. There is no position description for any of the Presidential appointees in the Department of Transportation. A description of the duties and responsibilities of the Administrator of the Pipeline and Hazardous Materials Safety Administration can be found at 49 C.F.R. §§ 1.45 and 1.53.

The CHAIRMAN. I thank you very much, sir.
 May I now recognize Ms. Nancy A. Naples. Congratulations,
 ma'am.

**STATEMENT OF NANCY A. NAPLES, NOMINEE TO BE A
 MEMBER, AMTRAK REFORM BOARD**

Ms. NAPLES. Good morning. Thank you.

Thank you, Mr. Chairman and members of the Committee. It is an honor for me to appear before you today to seek your approval of my nomination to serve as a Member of the Amtrak Reform Board. I'm grateful to President Bush for honoring me with this nomination.

I also thank my husband, Thomas H. O'Neill, Jr., who has encouraged and supported me through years of public service, and my lifelong friend, Ann—Dr. Ann Radice, Director of the Institute of Museums and Library Services, who is also with me today.

My entire career, both in the private and public sectors, I have focused on operational and fiscal management. In my 12 years as New York's Erie County Comptroller, where I was known as the "taxpayers' watchdog," I was committed to improving and strengthening oversight and accountability of taxpayers' funds, and worked diligently to eliminate waste, fraud, and abuse in local government. If confirmed, I will work with fellow Board Members, Members of Congress, and the Administration, as well as employees of Amtrak, to ensure that America's national rail system is run as efficiently and cost-effectively as possible.

I believe Amtrak should be in the best financial health possible, and I take the Board's fiduciary responsibilities very seriously.

In my role as New York's Commissioner of Motor Vehicles, I made security and safety our highest priorities. It is imperative that America's rail system and Amtrak passengers are safe from terrorist attacks. If confirmed, I will work to ensure that Amtrak is an integral part of our homeland security system.

My lifelong attraction to trains has played an important role in my interest in this position. I have been a train traveler since I first took the *New York Central*, in 1965, on a high school trip from Buffalo to the New York World's Fair. Although in recent years, my use of Amtrak has been mainly on commuter trains, I have traveled by rail extensively in Europe and Canada, and I'm taking the *Empire Builder* in early 2008 to familiarize myself better with Amtrak.

If confirmed, I pledge to attend to the business of Amtrak with the same dedication and commitment which I have demonstrated throughout my career, and I will work closely with this Committee and Congress to strive for a more efficient and effective Amtrak.

Again, I appreciate the opportunity to appear before you today, and I'm happy to answer any questions you might have.

Thank you.

[The prepared statement and biographical information of Ms. Naples follow:]

PREPARED STATEMENT OF NANCY A. NAPLES, NOMINEE TO BE A MEMBER,
AMTRAK REFORM BOARD

Thank you, Mr. Chairman and members of the Committee. It is an honor for me to appear before you today to seek your approval of my nomination to serve as a member of the Amtrak Reform Board. I am grateful to President Bush for honoring me with this nomination. I also thank my husband, Thomas H. O'Neill, Jr., who is here with me today, and who has encouraged and supported me through my years of public service.

My entire career, in both the private and public sectors, I have focused on operational and fiscal management. In my twelve years as Erie County, New York's Comptroller, where I was known as the Taxpayers' Watchdog, I committed to improving and strengthening oversight and accountability of taxpayers' funds, and worked diligently to eliminate waste, fraud and abuse in local government. If confirmed, I will work with fellow Board Members, Members of Congress and the Administration, as well as employees of Amtrak to ensure that America's national rail system is run as efficiently and as cost-effectively as possible. I believe Amtrak should be in the best financial health possible, and I take the Board's fiduciary responsibilities very seriously.

In my role as New York State's Commissioner of Motor Vehicles, I made security and safety our highest priority. It is imperative that America's rail system and Amtrak passengers are safe from terrorist attacks. If confirmed, I will work to ensure that Amtrak is an integral part of our homeland security strategy.

My lifelong attraction to train travel has played an important role in my interest for this position. I have been a train traveler since I first took the *New York Central* in 1965, on a high school trip from Buffalo to the New York World's Fair. Although in recent years my use of Amtrak has been mainly on commuter trains, I have traveled by rail extensively in Europe and Canada, and I am taking the *Empire Builder* in early 2008, to familiarize myself better with Amtrak.

If confirmed, I pledge to attend to the business of Amtrak with the same dedication and commitment which I have demonstrated throughout my career, and I will work closely with this Committee and Congress to strive for a more efficient and effective Amtrak.

Again, I appreciate the opportunity to appear before you today, and I am happy to answer any questions you might have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

Nancy A. Naples
Legal Name: Nancy Naples O'Neill

2. Position to which nominated: Member, Amtrak Reform Board of Directors.

3. Date of Nomination: November 15, 2007.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

5. Date and Place of Birth: September 14, 1948; Buffalo, NY.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: Thomas H. O'Neill, Jr. Self-employed
Stepchildren: Barbara H. O'Neill (42); Laura B. O'Neill (39)

7. List all college and graduate degrees. Provide year and school attended.

B.A., Marymount College of Fordham University, 1970.
M.B.A., Pace University, 1980.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Systems Analyst, American Telephone & Telegraph (AT&T), New York, NY (1970-1974).

Assistant Vice President, Trust & Investment, Chemical Bank, New York, NY (1974-1981).

Vice President, Merrill Lynch & Co., New York, NY (1981-1986).

Vice President and Manager Information Services, USA, Hong Kong and Shanghai Banking Corporation (HSBC), New York, NY (1986–1988).

Vice President, Finance and Operations, Joseph J. Naples & Associates, Buffalo, NY (1988–1993).

Comptroller, Erie County, NY (1994–2005).

Commissioner, NYS Department of Motor Vehicles (2006).

9. Attach a copy of your résumé. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

NYS Division for Women, WNY Advisory Council (1996–2006).

Chairman, Hamburg Town Supervisor Transition Team (2005).

Transition Team for Erie County Executive-elect, Executive Committee (2007).

11. 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 within the last 5 years.

Canisius College, Buffalo, NY—Trustee.

BISON Scholarship Fund, Buffalo, NY—Director.

The 100 Club of Buffalo & WNY, Buffalo, NY—Director.

Roswell Park Alliance Foundation, Buffalo, NY—Director.

Nardin Academy, Buffalo, NY—Trustee.

Buffalo Fine Arts Academy, Buffalo, NY—*Ex-Officio* Director.

Transition Team for Erie County Executive-elect—Non-paid Consultant.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Buffalo Fine Arts Academy, 1989–present. I served as an *Ex-Officio* Member of the Board of Directors, 1994–2005.

The 100 Club of Buffalo, 1994–present. From 2001–2002, I served as President of this not-for-profit philanthropic organization which provides help to public safety officers and their families.

Government Finance Officers Association (GFOA), 1994–2005.

Business and Professional Women of Buffalo, WNY Chapter of BPW/USA, 1994–2005.

WNY Public Broadcasting Association, 1993–2000.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

Elected Comptroller of Erie County in 1993 and re-elected in 1997 and 2001. No outstanding debt from any election.

Appointed New York State Commissioner of Motor Vehicles in 2006.

14. 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. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Naples for Congress, 2004, \$200,000.

Reynolds for Congress, 04/20/98, \$1,000.

Reynolds for Congress, 10/22/98, \$1,000.

Reynolds for Congress, 10/22/02, \$1,000.

Reynolds for Congress, 3/16/06, \$2,100.

Reynolds for Congress, 3/16/06, \$1,900.

Jack Quinn (PAC), 5/3/98, \$1,000.

Rick Santorum, 4/14/06, \$2,100.

Rick Santorum, 4/14/06, \$2,100.
 Friends of John Faso (NYS Gubernatorial candidate), 2006, \$5,000.
 Helfer for Mayor (City of Buffalo Mayoral candidate), 2005, \$7,500.
 Caruso for State Supreme Court, 2005, \$500.
 Friends of Molly Musarra (Erie County Judicial candidate), 2007, \$7,000.
 Friends of Giuliani (Presidential Primary candidate), 2007, \$2,800.
 Erie County Republican Committee, 2007, \$6,000.
 Town of Hamburg Republican Committee, 2005, \$500.
 Town of Hamburg Republican Committee, 2007, \$500.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Canisius College Board of Regents Distinguished Citizen Award, 2007.
 National Conference for Community and Justice (NCCJ) Citation Award, 2003.
 Nardin Academy Hall of Fame, 2002.
 Honorary Degree of Doctor of Humane Letters, Canisius College, 2002.
 Western New York Women's Hall of Fame, March 2002.
 Lifetime Achievement Award, The 100 Club of Buffalo and WNY, 2001.
 Italian-American Achievement Award, Good Government Club of WNY, 2001.
 Outstanding Service Award, James A. Dockery Community Center, 2000.
 Abraham Lincoln Leadership Award, Erie County Republican Committee, 1999.
 Joan A. Levine Award, Womanfocus, 1998.
 Outstanding Italian American Woman Award, Association of Italian American Societies, 1994.
 Outstanding Service Award, Erie County Republican Party, 1994.
 Regents Scholarship, New York State, 1966.
 Honors Scholarship, Marymount College, 1966.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed: None.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

In order for Amtrak to carry out its mission, major programs and major operational objectives, the issues of safety, security, funding and stewardship of taxpayer dollars must be dealt with effectively. I believe my experience with operational and financial management, transportation and government will enable me, if confirmed, to provide a constructive voice and perspective in addressing Amtrak's wide range of challenges. As Comptroller of New York's Erie County for nearly twelve years, I was known as the "Taxpayers' Watchdog", committed to improving and strengthening oversight and accountability of taxpayers' funds. As the County's Chief Auditor, I worked diligently to eliminate waste, fraud and abuse in Erie County as well as in many agencies which were funded by the county. As New York State's Commissioner of Motor Vehicles, I assured that safety and security were the hallmarks of the agency. As Chairman of the Governor's Traffic Safety Committee, I reviewed grant proposals and distributed NHA funds throughout the state, funding programs from motorcycle training to MADD. On a personal note, I have had a lifelong interest in train travel, and I hope to be part of a renewed interest in travel by train in America.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization.

If confirmed, I would call upon Amtrak management to provide accurate and timely financial and management reports, implement appropriate standards and controls, and assure appropriate spending of tax dollars. As County Comptroller and

Commissioner of DMV (overseeing a staff of 3,200) I worked diligently to incorporate strong management practices, accountability and controls.

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

(1) Safety and security. The number of train accidents, including those involving highway-rail grade crossings, cannot be tolerated. This issue was one which we emphasized at DMV, from the prospective of automobiles. While rail accidents have begun to decline as a result of the National Rail Safety Action Plan, we must do more. Assuring that railroad passengers are safe is an ongoing challenge. Terrorist attacks in Madrid have highlighted the importance of rail security in the world changed by 9/11.

(2) Stewardship of taxpayer dollars. Our citizens must be assured that our priorities include oversight and accountability for Federal funds, as well as elimination of waste, fraud and abuse.

(3) Intercity passenger rail. The existing, failing system must be reformed, to provide a workable and valued passenger rail service. Recent announcements regarding reduced airline schedules and elimination of commuter flights make more accessible, effective rail transportation imperative.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I am currently receiving pension/retirement benefits from New York State & Local Retirement System.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice, with any business, association or other organization during your appointment? If so, please explain.

I plan to continue my board memberships at Canisius College, The BISON Scholarship Fund, Roswell Park Alliance Foundation, and The 100 Club of Buffalo and Western New York, only if maintaining these memberships will in no way impact my position on the Amtrak Reform Board, if confirmed.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. 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.

5. Describe any activity during the past 10 years in which you have been 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 Comptroller of Erie County, I was directly involved in the passage and defeat of several items affecting the fiscal concerns of Erie County. All activities of this nature were directly related to my position as the Chief Fiscal Officer of Erie County and were directly related to fiscal matters of the county. For example, on numerous occasions, I actively worked for defeat of increased local property and sales taxes, and I worked to defeat the imposition of a "sin tax" on alcohol and cigarettes.

As NY State Commissioner of Motor Vehicles, I was directly involved in the passage of laws which mandated more severe sentences for DUI and other traffic violations. Any activities of this nature were related to NYS Vehicle and Traffic Law.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items: Please refer to the enclosed General Counsel's Opinion letter.

C. 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 of any Federal, State, county, or municipal entity, 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.

While serving as Comptroller of Erie County, NY and as NY State Commissioner of Motor Vehicles, I and my office were defendants in many lawsuits. These cases involved allegations regarding me in my roles as County Comptroller and Commissioner of Motor Vehicles.

As a candidate for the U.S. Congress in 2004, I brought an Election Law “impounding action” against my opponent, relative to the election race. The matter was closed, by stipulation.

In 2004, I, as Comptroller of Erie County, and several elected officials brought a suit against the Erie County Executive and the Erie County Legislature challenging the process by which the County’s 2005 Budget was adopted. The case was settled.

I was divorced from John J. Addeo on 2/1/79.

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. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

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

D. 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 whistleblowers from reprisal for their testimony and disclosures? Yes.

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.

4. 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.

RÉSUMÉ OF NANCY A. NAPLES

Career Summary

Accomplished business executive with proven performance in both public and private sectors. Demonstrated strong analytical and managerial expertise in government, banking, securities, and insurance industries. Active civic leader who has guided Boards of Directors in political, healthcare, community, educational and artistic endeavors.

Professional Experience

Commissioner, New York State Department of Motor Vehicles, Albany, NY, 2006.

As a member of Governor George E. Pataki’s cabinet, oversaw issuance and regulation of drivers’ licenses, assuring the integrity and reliability of the documents; registration of vehicles; inspections of vehicles and equipment; adjudication of traffic violations; and administration of traffic safety programs. Managed a \$322 million operating budget and a staff of over 3200. The Department maintains records on more than 11 million vehicles, generating revenues in excess of \$1.2 billion.

Significant Accomplishments

- Promoted traffic safety through chairmanship of the Governor’s Traffic Safety Committee, which disbursed National Highway Traffic Safety Administration funds to municipalities, agencies and civic organizations throughout New York State, and through personal advocacy and media endorsements.
- Advanced NYS DMV’s leadership role in the Department of Homeland Security’s Real ID rulemaking advisory panel.
- Improved customer service through operational efficiencies and greater use of technology.
- Completed and implemented DMV’s strategic plan, *A Roadmap to Excellence*, establishing key objectives and measures to fulfill the agency’s mission.

Comptroller, Erie County, NY, 1994–2005.

Served as the Chief Fiscal Officer overseeing a \$1.1 billion budget. Elected in November 1993, reelected in 1997 receiving 78 percent of the vote, and elected to a third term in 2001. Retired July 2005.

Significant Accomplishments

- Proposed and implemented securitization of the County's share of the National Tobacco Settlement bringing over \$246,000,000 to the County.
- Structured a unique public-private financing plan for the County's contribution to the construction costs for HSBC Arena, which saved County taxpayers over \$20 million in interest expense.

Created a comprehensive cash management program acknowledged by investment bankers throughout New York State as a model program that generates high interest earnings, while assuring safety and full liquidity.

Returned over \$100 million to the taxpayers through prudent investments of taxpayers' dollars.

Conducted audits of County departments preventing the loss of \$4.4 million in State and Federal reimbursements.

Vice President, Finance & Operations, Joseph J. Naples & Associates, Buffalo, NY, 1988–1993.

Family-owned surety bond, worker's compensation and insurance agency serving over 2,000 corporate and individual clients, generating premiums of over \$65 million annually.

Significant Accomplishments

Managed all financial aspects of the firm. Structured, designed and implemented computer systems to automate accounting, financial reporting and customer service. Consulted corporate clients on workers compensation, OSHA compliance and safety programs through subsidiary firm, Risk & Technical Management, Inc.

Vice President and Manager Information Services, USA, Hong Kong & Shanghai Banking Corporation (HSBC), New York, NY, 1986–1988.

Significant Accomplishments

Managed over 60 technical analysts while serving as the highest-ranking woman in HSBC USA. Structured and implemented HSBC's first international banking project leading a team from U.S.A., Hong Kong and Marine Midland Bank.

Vice President, Merrill Lynch & Co., New York, NY, 1981–1986.

Significant Accomplishments

As Vice President of Corporate Systems Division, managed 50 analysts for development of quantitative forecasting models for Research Division. Designed and implemented syndication of corporate and municipal bond offerings for Investment Banking Division. Developed Information Technology Strategic Plan to meet Merrill Lynch's future systems requirements.

Assistant Vice President, Chemical Bank, New York, NY, 1974–1981.

Significant Accomplishments

As Assistant Vice President of Trust and Investment Division, developed new pension products to comply with ERISA requirements, automated corporate trust accounting, and managed New York City's tax processing.

Systems Analyst, American Telephone and Telegraph (AT&T), New York, NY, 1970–1974.

Significant Accomplishments

As a Senior Analyst at AT&T, Long Lines, specialized in development and design of mainframe systems for their long distance business.

Civic Leadership

Health Related

- *Past-President, Roswell Park Foundation Board*, The Board solicits, receives and administers funds to support scientific and clinical research at Roswell

Park Cancer Institute, Buffalo, NY 1997-2000. Nancy was invited to serve on this Board again, and her current term began in 2003.

- *Founding Member, Roswell Park Alliance*, a volunteer organization which supports cancer research treatment and education programs at Roswell Park Cancer Institute, Buffalo, NY 1990-1997.

Education Related

- *Member, Board of Trustees, Canisius College, Buffalo, NY*, a private Jesuit college, 2003-present and 1993-1999.
- *Member, Board of Trustees, Nardin Academy*, an independent, Catholic school that has a Montessori preschool, elementary and high school campus. Served as Chair of Personnel Committee. 1998-2005.
- *Honorary Chairperson, Kids Voting Bi-Partisan Bash*, served on committee since its inception in 1998. This effort raises funds for KIDS Voting WNY a non-profit, nonpartisan voter education program. 1998-2005.
- *Member, Board of Regents, Canisius College, Buffalo, NY* 1990-1993.
- *Class Chair, Marymount College Alumni Association*, 1975-1996.

Community Related

- *Ex-officio Director, Buffalo Fine Arts Academy (Albright Knox Art Gallery)*, Buffalo, NY, one of the world's leading contemporary art galleries, 1994-2005.
- *Member, Executive Committee, New York State Division for Women, WNY Advisory Council*, advocates for women's issues in New York State, acts as direct link between women of New York State and Governor Pataki. 1996-2006.
- *Member Government Finance Officers Association (GFOA)*, served on their National Standing Committee on Cash Management, 1997-2000.
- First woman *President of The One Hundred Club of Buffalo & Western New York*, an organization that assists families of public servants killed or injured in the line of duty, member since 1997, President 2000 and 2001.
- *Member, Women's Group of Buffalo*, a networking group of women business and community leaders, 1994-present.
- *Member, Business and Professional Women of Buffalo*, the Western New York Chapter of the BPW/USA which promotes the interests of business and professional women, 1994-2005.
- *Trustee, Western New York Public Broadcasting Association*, 1993-2000.

Political Leadership

- *Candidate, U.S. House of Representatives, 27th District, NY*, November 2004.
- *New York State Delegate, Republican National Convention* 1996, 2000 and 2004.
- *Seconded Nomination of Republican Senatorial Candidate, Rick Lazio*, at New York State Republican Convention, May 2000.
- *Member, Erie County Executive Joel A. Giambra's Transition Team for Tomorrow*, 1999.
- *New York State Republican Committee*, authored study entitled *The Real Gender Gap: Republican Women Holding Elected Office in New York State* (1998).
- *Member, Governor George Pataki's Transition Team*, 1995.

Education

MBA with Distinction, Pace University, New York, NY, December 1980.
B.A., *cum laude*, Marymount College, Tarrytown, NY, May 1970.

Honors/Awards

Canisius College Board of Regents Distinguished Citizen Achievement Award, May 2007.

National Conference for Community and Justice (NCCJ) Citation Award, March 2003.

Nardin Academy Hall of Fame, inducted October 2002.

Honorary Degree of Doctor of Humane Letters, Canisius College, May 2002.

Western New York Women's Hall of Fame, inducted March 2002.

Lifetime Achievement Award, The 100 Club of Buffalo and WNY, 2001.

Italian-American Achievement Award, The Good Government Club of WNY, 2001.

Outstanding Service Award, James A. Dockery Community Center, 2000.
Abraham Lincoln Leadership Award, Erie County Republican Committee, 1999.
Joan A. Levine Award, Womanfocus, 1998.
Outstanding Italian American Woman Award, Association of Italian American Societies, 1994.
Outstanding Service Award, Erie County Republican Party, 1994.
Regents Scholarship, New York State, 1966.
Honors Scholarship, Marymount College, 1966.

Personal

Married to Thomas H. O'Neill, Jr.
Chairman, Somerset Capital Partners, Buffalo, NY.
Chairman, Union Drilling Inc., Fort Worth, TX.

The CHAIRMAN. I thank you very much, Ms. Naples.
 Now may I recognize Mr. Denver Stutler.

**STATEMENT OF DENVER J. STUTLER, JR., NOMINEE TO BE A
 MEMBER, AMTRAK REFORM BOARD**

Mr. STUTLER. Thank you, Mr. Chairman, members of the Committee. I'm honored to appear before you today. It is an honor to be nominated by President Bush as a member of the Amtrak Reform Board. I appreciate greatly your consideration of my nomination.

I believe that Amtrak provides an important component of our Nation's overall transportation system through intercity passenger rail service. I think that as our Nation considers the overall future of our transportation system, intercity passenger rail should be a part of that discussion.

As a nominee from Florida, I believe there is room for improving the ridership of Amtrak, especially into and out of Florida. I have personally traveled on Amtrak several times, once for a vacation to the Northeast and other times between Washington, D.C., and New York. It has been a good experience for me. I'm always amazed, when I travel on Amtrak, that it is not used by more people. If confirmed, one of my interests is to learn more about why people are not using Amtrak.

I believe my professional experience offers, along with the other Board Members, a perspective that will provide the necessary leadership for Amtrak. If confirmed as a Board Member, I commit to work with the Committee, Congress, the Administration, and my fellow Board Members to initiate and administer Amtrak's strategic direction. I will also work to provide leadership that complements the role of the day-to-day managers and to ensure appropriate financial reporting is in place.

Additionally, I will focus on three areas I believe to be important for Amtrak's long-term success: providing on-time service, ongoing financial oversight, and safety.

Providing on-time service is important, because Amtrak is a service provider. Providing reliable service requires constant monitoring and continually seeking the best practices to achieve the best service.

Ongoing financial oversight is especially important in the stewardship of public resources.

Continued financial oversight is critical for an efficient operation and to maintain the confidence of taxpayers and Congress.

Safety requires continual attention and focus from leadership. The safety of employees, travelers, and the public are critical for the long-term viability of Amtrak.

Again, thank you, Mr. Chairman, for the opportunity to be before you here today. I would be happy to answer any questions.

[The prepared statement and biographical information of Mr. Stutler follow:]

PREPARED STATEMENT OF DENVER J. STUTLER, JR., NOMINEE TO BE A MEMBER,
AMTRAK REFORM BOARD

Chairman Inouye, members of the Committee, I am honored to appear before you today. It is an honor to be nominated by President Bush as a member of the Amtrak Reform Board. I appreciate greatly your consideration of my nomination.

I believe that Amtrak provides an important component of our Nation's overall transportation system through intercity passenger rail service. I think that as our Nation considers the overall future of our transportation system, intercity passenger rail should be a part of the discussion. As a nominee from Florida, I believe there is room for improving the ridership of Amtrak, especially into and out of Florida.

I have personally traveled on Amtrak several times, once for a vacation to the Northeast and other times between Washington, D.C. and New York City. It has been a good experience for me. I am always amazed when I travel on Amtrak that it is not used by more people. If confirmed, one of my interests is to learn more about why people are not using Amtrak.

I believe my professional experience offers, along with the other Board Members, a perspective that will provide the necessary leadership for Amtrak. If confirmed as a Board member, I will work with the Committee, Congress, the Administration and my fellow Board Members to initiate and administer Amtrak's strategic direction.

I will also work to provide leadership that compliments the role of the day-to-day managers, and to ensure appropriate financial reporting is in place. Additionally, I will focus on three areas I believe to be important for Amtrak's long-term success: (1) Providing on-time service, (2) On-going financial oversight, and (3) Safety.

Providing on-time service is important because Amtrak is a service provider. Providing reliable service requires constant monitoring and continually seeking the best practices to achieve the best service.

On-going financial oversight is especially important in the stewardship of public resources. Continued financial oversight is critical for an efficient operation and to maintain the confidence of taxpayers and Congress.

Safety requires continual attention and focus from leadership. The safety of employees, travelers and the public are critical for the long term viability of Amtrak.

Again, thank you Mr. Chairman for the opportunity to be before you here today. I would be happy to answer any questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Denver Joe Stutler, Jr.
2. Position to which nominated: Member, Amtrak Reform Board of Directors.
3. Date of Nomination: November 15, 2007.
4. Address (List current place of residence and office addresses):
Residence: Information not released to the public.
Office: 3812 West Linebaugh Avenue, Tampa, FL 33618.
5. Date and Place of Birth: July 6, 1964; Stuttgart, Germany (Father—U.S. Army).
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
Spouse: N/A
Children: Denver Joe Stutler III (DJ), 12; Chandler Scott Stutler, 11
7. List all college and graduate degrees. Provide year and school attended.
University of Central Florida, BSE, Civil Engineering, 1987.
University of Central Florida, MSE, Civil Engineering, 1989.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

07/89–12/94	<i>Project Manager</i>	Camp Dresser & McKee, Inc.
01/95–12/96	<i>Partner</i>	Ecosystems Land Mitigation.
01/97–04/99	<i>Principal</i>	Camp Dresser & McKee, Inc.
04/99–07/02	<i>Chief of Staff</i>	Florida Dept. of Environmental Protection.
07/02–10/03	<i>Deputy Chief of Staff*</i>	Office of the Governor, Florida.
10/03–07/05	<i>Chief of Staff</i>	Office of the Governor, Florida.
07/05–01/07	<i>Secretary</i>	Florida Department of Transportation.
01/07–present	<i>President</i>	Stutler Strategies, Inc.
04/07–present	<i>Founder</i>	PerkinsBay

*Non-managerial.

9. Attach a copy of your résumé. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: Various Boards as identified in Statute for position of Secretary of Transportation in Florida.

11. 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 within the last 5 years.

President, Stutler Strategies, Inc.
 Managing Partner, PerkinsBay LLC.
 Partner (not active), Lake Shipp Marina.
 Partner (not active), MIHI 500 Trust.
 Board Member, Florida Earth Foundation.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Florida Engineering Society, 1997–1999, 2007.
 American Society of Civil Engineers, 1997–1999.
 Masonic Blue Lodge #239, Winter Park, FL, 1997–present.*
 Egypt Temple Shriners, 2004–present.*
 Member, Metro Church of Christ, Oviedo, FL, 1997–1999.
 Member, First Christian, Tallahassee, FL, 1999–2001.
 AASHTO, member (as Sec. of Transportation), 2005–2007.
 Florida Earth Foundation, Board Member, 2007–present.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

Public Office Positions:

04/99–07/02, Chief of Staff, Florida Dept. of Environmental Protection.
 07/02–10/03, Deputy Chief of Staff, Office of the Governor.
 10/03–07/05, Chief of Staff, Office of the Governor.
 07/05–01/07, Secretary, Florida Department of Transportation.

These were all appointed positions. None of these positions involved any campaign and subsequently there is no outstanding campaign debt for which I would be personally liable.

14. 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. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Jeb Bush for Governor; 1998; \$500
 Bob Dole; 8/28/1995; \$1,000

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

UCF Alumni Professional Achievement Award, College of Engineering & Computer Science, *Recipient*, 2003.

J.P. McMullen Award, Jaycees Outstanding Young Floridian, *Recipient*, 2003.

United States Senator Connie Mack, 105th Congress, *Fellow*, 1997–1998.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Contributing author for the Handbook of Hydrology.

Authored various articles on wetlands mitigation banking.

Authored various articles on transportation in Florida Department of Transportation newsletter and other industry newsletters.

Numerous speeches as Secretary of Florida Department of Transportation.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

As a principal for Ecobank, I testified to the U.S. Senate Committee on Environment and Public Works in 1996 on the subject of wetlands mitigation banking.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

The Amtrak Board initiates and administers Amtrak's strategic direction while it approves an annual corporate budget, capital lease commitments, and corporate strategic plan. I believe my experience as Secretary of the Florida Department of Transportation provided me with experience in developing strategic direction as well as budgets and other governance related activities. My other experiences in my career have taught me the value of and important lessons of proper administration and management from the project-level to the overall organizational level.

It would be a privilege to serve on the Amtrak Board. I wish to serve because I believe commuter rail is an important aspect of our transportation objectives to move people and goods in this country. I believe my experience can provide a useful perspective in conjunction with the other Board Members to provide leadership for continued commuter rail service.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed, I will work to ensure good managers are in place for the day-to-day operations and that appropriate financial reporting is provided so that accounting controls are in place.

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

I believe the top three challenges for Amtrak are:

(1) Providing on-time service. A service provider must provide service. Successfully providing reliable service requires constant monitoring and continually seeking the best practices to achieve the best service.

(2) On-going financial oversight. On-going financial oversight is important in the stewardship of public resources. Continued financial oversight is critical for an efficient operation and to maintain the confidence of taxpayers and Congress.

(3) Safety. Safety requires continual attention and focus from leadership. The safety of employees, travelers and the public are critical for the long term viability of Amtrak.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

State of Florida Defined Contribution Retirement Plan (ING Managed).
 Salary from Stutler Strategies, Inc.
 Merrill Lynch 401K (Stutler Strategies, Inc.).

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: Yes, I will continue my business operations with Stutler Strategies, Inc.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. 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.

5. Describe any activity during the past 10 years in which you have been 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.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items: I will recuse myself, when necessary and as requested by the Board, on issues that may pose a conflict of interest.

C. 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 of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: Driving Under the Influence, 1989. Pled no contest to charge.

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: Driving Under the Influence, 1989. Pled no contest to charge.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

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

D. 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 whistleblowers from reprisal for their testimony and disclosures? Yes.

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.

4. 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.

RÉSUMÉ OF DENVER J. STUTLER, JR.

Profile

- Results-focused administrator with an in-depth understanding of the developing needs of Florida's transportation infrastructure based on expertise in civil engineering, experience in positions of public trust, respect for sound and ethical business practices, and knowledge of environmental issues impacting roads, bridges, and related structures.

- Awareness of the dynamic interplay between local, state, and Federal Governments and resulting influences on the evaluation, funding, design, permitting, and execution of cost-efficient projects that improve transportation resources and promote economic development while planning for the future, managing growth, and assuring public safety.
- Ability to forecast issues, fully research facts, formulate forward-thinking solutions, and communicate with diverse groups and individuals to recognize and progress toward unified goals reflective of the organizational mission.

Core Strengths

Accountability	Budget & Cost Control	Change Management	Communications
Crisis Containment	Contract Administration	Human Resources	Information Management
Negotiations	Problem Solving	Project Management	Regulatory Compliance
Rulemaking	Strategic Planning	Systems Thinking	Team Dynamics

Career Progression

Secretary, Department of Transportation, State of Florida, Tallahassee, Florida, July 2005–January 2007.

- Chief Executive of state agency responsible for transportation (airports, sea-ports, rail, roadway and transit) in Florida with an annual budget of \$9.1 billion and 8,500 employees (13,500 including direct contractors).
- Developed strategy for the investment of additional commitment of \$7.5 billion over 10 years.
- Responsible for meeting Federal, state and local regulations and policies.
- Negotiated complex negotiations to achieve transportation solutions for the mobility of people and goods.
- Encouraged partnerships with industry and consultants.
- Worked with Legislature to develop transportation policy.

Chief of Staff (August 2003–June 2005); *Deputy Chief of Staff* (June 2002–August 2003); Executive Office of Governor Jeb Bush, State of Florida, Tallahassee, Florida, June 2002–June 2005.

- Optimize the effectiveness of the state's chief executive, demonstrating flexibility in meeting non-stop demands, addressing new challenges, and anticipating needs to provide appropriate data, resources, and assistance.
- Serve as liaison to Cabinet officers, department heads, legislators, and gubernatorial appointees, adeptly managing a continuous stream of information while transitioning between a complexity of topics.
- Apply knowledge of state government, critical thinking skills, and administrative experience to advance all facets of the Governor's agenda, implement change, and embed a cohesive vision throughout all executive agencies.
- Direct the operations of the office that oversees an annual state budget of over \$64 billion and employs 250 staff.
- Work in partnership with the Communications Office to develop communications strategies and public information on materials on key issues to ensure clarity in messages that reflect the intent of the administration.
- Communicate with all of Florida's state agencies to assist in assessing staffing levels, defining needs for senior management positions, and participating in recruiting, screening, and hiring decisions.
- Educate, develop, mentor, and motivate staff to develop leadership skills, inspire enthusiasm, instill a team mindset, and promote professionalism in behavior, communication, and attitudes as public representatives.

Chief of Staff, Department of Environmental Protection (DEP), State of Florida, Tallahassee, Florida, April 1999–June 2002.

- Provided executive support to the Secretary of DEP in managing the operations of an agency with 4,000± staff, a \$2± billion annual budget, and accountability for overseeing Florida's environment and natural resources.
- Participated in preparing the legislative budget request, providing financial oversight to optimize accountability, developing policies and procedures, and assuring compliance with statutory and legislative requirements.
- Applied knowledge of the agency's mission and the state's vision to advise and assist DEP's leadership, the Governor's Office, legislators, local governments, related local and Federal agencies, and other stakeholders.

- Maintained awareness of existing and emerging issues calling for regulatory, legislative, and administrative attention regarding air, water, and waste, as well as the acquisition, management, and use of state-owned lands.
- Managed high-profile, sensitive issues with state-wide, regional, and multi-state implications, which included growth management, permitting and participating in joint negotiations with neighboring states on water supplies.
- Compiled and synthesized complex information, formulated realistic solutions, and developed written and verbal reports that utilized valid data to develop alternatives and facilitate timely decisionmaking and implementation.

Principal—Civil Engineer—Project Manager, Camp, Dresser & McKee, Maitland, Florida, January 1997–April 1999; July 1989–March 1995.

- Demonstrated technical expertise and administrative skill that earned advancement from entry-level Project Engineer to Project Manager, ultimately assuming executive leadership role as a principal of the firm.
- Had bottom-line responsibility for assuring quality and profitability of projects undertaken in Florida.
- Participated in developing new business, delivering marketing presentations, and preparing cost estimates, specifications, and bid/proposal packages to secure contracts for municipal road, sewer, and water projects.
- Gained first-hand experience in project design, permitting, and management; provided oversight and resolved obstacles to meet deadlines, maintain safety, limit risk, and achieve client satisfaction.

Partner—Civil Engineer, Eco-systems Land Mitigation Company, Winter Park, Florida, April 1995–December 1996.

- Played a role in developing the concept and creating the plan to co-found and develop a startup venture that was on the leading edge, as one of the first wetlands mitigation banking concerns in the U.S.
- Promoted the concept of wetlands mitigation banking, presenting Florida with an alternative approach to Environmental restoration that stressed regional systems as part of an ecosystem approach.
- Cultivated strategic relationships serving as a liaison to key contacts at the local, state, and Federal levels:
 - Contributed to an intensive effort that resulted in the passage of new legislation by the 1996 Florida Legislature; appeared before a U.S. Senate Committee to provide testimony on wetlands mitigation banking.
 - Managed communication with representatives of various Federal and state permitting agencies such as the, U.S. EPA, Florida Department of Environmental Protection, and the Water Management Districts.
 - Prepared and executed the sales and marketing strategy by identifying potential buyers of mitigation credits.

Education

University of Central Florida, Orlando, Florida.

Master of Science in Civil Engineering, 1989.

Bachelor of Science in Civil Engineering, 1987.

Specialized Training

School of Law, Harvard University, Cambridge, Massachusetts.

Negotiation Skills (Advanced & Basic)

Licenses & Certifications

Professional Engineer (#46713), State of Florida, 1993–present.

Affiliations

UCF College of Engineering Dean's Council, *Member*, 1997–2002.

American Water Resources Association, *Member*, 1990–1999.

Florida Engineering Society, *Member*, 1989–1999.

American Society of Civil Engineers, *Member*, 1986–1999.

Professional Honors

UCF Alumni Professional Achievement Award, College of Engineering & Computer Science, *Recipient*, 2003.

J.P. McMullen Award, Jaycees Outstanding Young Floridian, *Recipient*, 2003.
 United States Senator Connie Mack, 105th Congress, *Fellow*, 1997–1998.

Related Activities

Engineering Ministries International, *Volunteer*, 1994.
 Participated in a service mission to depressed communities in Zaire.
 North Atlantic Treaty Organization (NATO), 1994.
 Participated in the Degradation of River Basins Conference in Vienna, Austria.

The CHAIRMAN. I thank you, sir.
 And now may I recognize Dr. Francis Mulvey.

**STATEMENT OF HON. FRANCIS P. MULVEY, PH.D.,
 RENOMINATED TO BE A MEMBER,
 SURFACE TRANSPORTATION BOARD**

Dr. MULVEY. Thank you, Mr. Chairman, members of the Committee.

I also want to thank the Senate Majority Leader, Mr. Reid, of Nevada, for recommending me to the President for renomination and to President Bush for renominating me for this position.

I also want to thank my wife of 33 years, Petra, who is here today to support me, as she has over all the years, and my Chief of Staff, Jamie Rennert, and my Administrative Assistant, Judy Leader, who are also in the audience today.

I have not appeared before this Committee since my appointment to the Board in 2004, although twice last year I testified, both orally and in writing, before the House Committee on Transportation and Infrastructure concerning issues before the Surface Transportation Board. I have now been a Member of the Board since 2004. Before joining the Board, I held a variety of government positions, both on the Hill and at various Federal and State agencies. Throughout my career of nearly 40 years, I have been intimately involved in transportation economics and regulation.

As a member of the Board, I have applied my experience in economics and public policy. I have found the work there both challenging and rewarding, and I believe I have made a real contribution to a balanced regulatory approach.

I have not always been in the majority. For example, I wish the Board had gone further in addressing the competitive aspects of so-called “paper barriers.” But, I believe that, overall, the agency has, since I’ve arrived, made significant strides in fairly addressing the needs of all stakeholders in its decisions, in general, and on real competition in service matters, in particular. Having said that, I recognize we still have a ways to go.

We have held hearings on a number of specific action items, as well as on items of broader interest, such as the state of rail infrastructure. Through our open public processes, we have issued several significant decisions. And, to name just a few, we have required that the fuel surcharges levied by the railroads be tied to actual fuel usage, and not just levied on those that were already paying the highest rates because they were captive. We have streamlined the large rate case process, and revamped our procedures for small rate cases, to try to make it easier for small shippers to gain relief. We have also been aggressive in doing our part to see that entities handling municipal solid waste are not able to

inappropriately evade regulation. Although, again, dissenting from the majority, I would have preferred that our preemption decision had been more narrowly drawn in the New England Trans-Rail Case. And we have made substantial headway in redefining how we calculate the railroads' cost of capital.

I believe there are certain issues that will require our ongoing attention over the new few years. In addition to paper barriers, more generally, I am concerned about the state of competition in the railroad industry and the Board's merger review process. I am concerned about what might happen if hedge-fund investment in the railroad industry were to escalate, and such a fund attempted to buy a carrier and divest a railroad's assets, to the detriment of the shipping public.

Given the recent boom in traffic, I am concerned about the investment in infrastructure, and I think we need to look at different ways of encouraging investment in the railroad plant.

I think the Board has to be nimble in adjusting to changing times. For example, while I do not envision a return to the pre-Staggers days of heavy-handed regulation, it may be that the agency should take a look at its existing broad exemptions from regulation to see if those exemptions are still warranted. Things change, and many of these exemptions were sought and granted in the 1980s, when the transportation landscape was quite different from what it is today.

I will also be particularly focused on ensuring that the Board make full use of its investigatory and enforcement powers to prevent the abuse of our processes. And I am interested in scrutinizing our information-gathering and data-analysis systems to ensure that integrity and accuracy in our rail cases and other decisions continues.

I believe, as a member of the STB, my record with the STB demonstrated my commitment to advancing the public interest. I look forward to continuing to serve the public in that capacity. If confirmed, I look forward to continuing to work with this Committee, other Members of Congress, and all interested parties as we tackle the many important transportation issues facing our Nation.

Thank you for the opportunity to testify today, and I'll be happy to answer any questions that you have.

[The prepared statement and biographical information of Dr. Mulvey follow:]

PREPARED STATEMENT OF HON. FRANCIS P. MULVEY, RENOMINATED TO BE A
MEMBER, SURFACE TRANSPORTATION BOARD

My name is Francis P. Mulvey, and I am a Member of the Surface Transportation Board. I am appearing at the request of the Committee to discuss my renomination to the Board. I have not appeared before this Committee since my appointment to the Board in 2004, although twice last fall I testified, both orally and in writing, before the House Committee on Transportation and Infrastructure, Subcommittee on Railroads, Pipelines, and Hazardous Materials, concerning the issues before the Board.

I have been a Member of the STB since June 2004. Before I joined the Board, I held a variety of government positions, both on the Hill and at various Federal and state agencies. Throughout my career of nearly 40 years, I have been intimately involved in transportation economics and regulation.

As a Member of the STB, I have applied my experience in economics and public policy. I have found the work challenging and rewarding, and I believe I have made a real contribution to a balanced regulatory approach. I have not always been in

the majority—for example, I wish the Board had gone farther in addressing the competitive impacts of so-called “paper barriers”—but I believe that, overall, the agency since I arrived has made significant strides in fairly addressing the needs of all stakeholders in its decisions in general, and on rail competition and service matters in particular.

We have held hearings on all sorts of specific action items, as well as more general items of broad interest such as the state of the rail infrastructure. Through our open, public processes, we have issued several significant decisions. To identify just a few: we have required that fuel surcharges be pegged to actual fuel usage; we have streamlined the large rate case process and revamped the procedures for small rate cases to make it easier for small shippers to gain relief; we have been aggressive in doing our part to see that entities handling municipal solid waste are not able to inappropriately evade regulation (although I wish we had defined preemption more narrowly in the “New England Transrail” case); and we have made substantial headway in redefining how we calculate the railroad industry’s cost of capital.

I think there are certain issues that will require particular attention in the coming years. In addition to the “paper barriers issue,” more generally I am concerned about the state of competition in the railroad industry and the Board’s merger review process. I am concerned about what might happen if hedge fund investment in the railroad industry were to escalate and such a fund attempted to buy a carrier and divest its assets to the detriment of the shipping public. Given the recent boom in traffic, I am concerned about investment in infrastructure, and I think we will need to look at different ways of encouraging investment in the railroad plant.

And I think the Board has to be nimble in adjusting to changing circumstances. For example, although I do not envision a return to the days of heavy regulation, it may be that the agency should take a look at its existing broad exemptions to see if they are all still warranted. Things change; many of these exemptions were sought and granted in the 1980s when the transportation landscape was quite different from what it is today, and we ought to be sure that exemptions that were justified back then are still appropriate today. I will also be particularly focused on ensuring that the Board makes full use of its investigatory and enforcement powers to prevent abuse of our processes. And, I am interested in scrutinizing our information gathering and data analysis on the rail industry, to ensure the integrity and accuracy of our rate case and other decisions.

I believe that my record as a Member of the STB demonstrates my commitment to advancing the public interest. I look forward to continuing to serve the public in that capacity. If confirmed, I also look forward to continuing to work with the Committee, other Members of Congress, and all other interested parties as we tackle the many important transportation issues that confront us.

Thank you for the opportunity to testify today. I will be happy to answer any questions you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Francis Patrick Mulvey.
2. Position to which nominated: Commissioner, Surface Transportation Board.
3. Date of Nomination: November 30, 2007.
3. Address (List current place of residence and office addresses):
 Residence: Information not released to the public.
 Office: 395 “E” Street S.W., Suite 1290, Washington, DC 20423.
4. Date and Place of Birth: May 5, 1944; New York City (Astoria, Queens) NY.
5. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
 Petra Karolina Mulvey, currently an independent consultant for Ferris Baker Watts working out of our home (spouse); Conor Francis Mulvey (29) (child).
6. List all college and graduate degrees. Provide year and school attended.
 Bachelor of Science, New York University 1966 (attended 9/62–6/66).
 Master of Arts, University of California, Berkeley 1968 (attended 1/67–6/68).
 Doctor of Philosophy, Washington State University 1974 (attended 9/70–6/72).
7. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Commissioner, U.S. Surface Transportation Board, Washington, D.C. (June 2004–present).

Staff Director, Railroad Subcommittee, Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington D.C. (Also served as Staff Director for Hazardous Materials and Pipelines, Committee on Highways and Transit, Committee on Transportation and Infrastructure, U.S. House of Representatives) (2/00–6/04).

Deputy Assistant Inspector General for Rail, Transit and Special Programs, U.S. Department of Transportation, Washington, D.C. (3/99–2/00).

Adjunct Faculty Member, RH Smith School of Business and Public Policy, College Park, MD (9/92–12/03).

Assistant Director, U.S. General Accounting Office, Washington D.C. (10/85–3/99)

Director for Economic Research, New York State Legislative Commission on Solid Waste Management, Albany, NY (11/84–10/85).

Programs Manager, National Academy of Sciences, Transportation Research Board, Washington, D.C. (3/83–10–84).

Vice President for Research, American Bus Association, Washington, D.C. (11/82–3/83).

Assistant Professor, Department of Economics, Northeastern University, Boston, MA (9/77–1/82).

Consultant, National Transportation Policy Study Commission, Washington, D.C. (8/77–3/79, concurrent while teaching).

Driver, Yellow Cab Company, Boston, MA (7/77–8/77).

Assistant Professor, Department of Economics, Wheaton College, Norton, MA (9/75–6/77).

Consultant, Harbridge House, Boston, MA (9/75–1/77, concurrent while teaching).

Assistant Professor, Bowling Green State University, Bowling Green, OH (9/73–6/75).

Consultant, Wisconsin State Department of Transportation, Madison, WI (2/74–6/75, concurrent position while teaching).

Economist, U.S. Department of Transportation, Federal Railroad Administration (7/72–6/73).

Teaching Assistant, Washington State University, Pullman, WA (9/70–6/72).

Instructor, Golden Gate University, San Francisco, CA (1/67–9/69).

Supervisor for Claims, Continental Insurance Company, San Francisco, CA (5/70–9/70).

Driver, Yellow Cab Company, San Francisco, CA (3/70–5/70).

Management Consultant, George S. May Company, San Francisco, CA (10/69–3/70).

Economist, California Blue Cross/Blue Shield, San Francisco, CA (10/68–12/68).

Claims Adjuster Trainee, Metropolitan Life Insurance Company, San Francisco, CA (9/66–12/66).

Researcher, NASA/Oakland Budget Project, Berkeley, CA (6/669/66).

8. Attach a copy of your résumé. Not applicable.

9. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

10. 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 within the last 5 years: None.

11. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Transportation Research Forum (President, Washington Chapter (1999), Vice President Programs 1997), Council Member for National TRF (2000–2001).

Transportation Research Board (Member Committee on Aviation Economics (1995–2000), Committee on Travel and Tourism Research Needs 1996–1997), Panel on ADA Compliance for Intercity Buses (1999), FAA Scholarship Awards Panel).

12. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: Not Applicable.

13. 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. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period: None.

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

1999—Comptroller General's Team Award.

1998—Assistant Comptroller General, Award HEHS Division.

1997—Special Recognition for Outstanding Performance HEHS Division.

1997—Special Commendation Award HEHS Division.

1995—Special Commendation Award RCED Division.

1994—Special Commendation Award RCED Division.

1994—Special Recognition for Outstanding Performance RCED Division.

1994—Outstanding Team Award RCED Division.

1991—Special Recognition for Outstanding Performance RCED Division.

1989—Special Recognition for Outstanding Performance RCED Division.

1988—Outstanding Achievement Award RCED Division.

1962—New York State Regents' Scholarship and Incentive Award.

1962—New York University Full Tuition Scholarship (4 years).

1958—U.S. Post Office Holy Name Society Scholarship to St. Francis Xavier Military Academy.

15. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Publications

International Airline Alliances: A Study of Codesharing's Impact on Airlines and Consumers" (with T. Hannegan), *Journal of Air Transport Management*, London, Spring 1996.

Batteries in New York's Municipal Solid Waste Stream: A Report to the Commissioner of the New York State Department of Environmental Conservation, SS&B-Taconic Resources, Albany, NY, September 1988.

"Demand and Cost Considerations in Domestic and International Recycling Programs", *Waste Age*, Washington, D.C., 1987.

The Economics of Recycling, New York State Legislative Commission on Solid Waste Management, Albany, NY, 1986.

"New Directions in Materials Reclamation", *Journal of Natural Resources and Technology*, Vol. 14, No. 4, University of Pennsylvania, Philadelphia, PA, December 1985.

The 55 mph Speed Limit: A Decade of Experience (with D. Kulash and S. Godwin), National Academy of Sciences, National Research Council, Washington, D.C., September 1984.

The Safety Benefits and Costs of Using Citizen-Band Radios on Intercity Buses (with L. Griffith and M. Heckard), National Academy of Sciences, National Research Council, Washington, D.C., August 1984.

"Performance Trends of Small Intercity Motor Coach Firms 1972–1981", *Papers and Proceedings of the Transportation Research Forum*, New Orleans, LA, October 1982.

"Public Agencies and Private Carriers: Competition or Cooperation", *Private Sector Role in Public Transportation*, Transportation Research Board, Washington, D.C., August 1982.

“Unfair Competitive Marketing Practices in Intercity Surface Transportation”, *Papers and Proceedings of the Transportation Research Forum*, San Francisco, CA, November 1981.

Amtrak: The First Decade, University of Iowa Press, Iowa City, IA, 1981.

A Taxpayer's Perspective on Amtrak, National Taxpayers' Union, Washington, D.C. July 1981.

“Amtrak Versus Intercity Bus”, *Challenge*, Vol. 23, No. 3, July/August 1980.

“Passenger Transportation in the Year 2000”, *State Transportation Issues and Actions, Special Report No. 189*. Transportation Research Board, Washington, D.C., 1980.

“Interurban Helicopter Services: A Comment”, *Journal of the New England Business and Economics Association*, Boston, MA, 1980.

“Amtrak: A Cost-Effective Approach”, *Transportation Research*, Vol. 13, October 1979.

Intermodal Impacts of Great Lakes/St. Lawrence Seaway System Season Extension: A Report to the U.S. Army Corps of Engineers, Transportation and Economic Research Associates, Arlington, VA, 1979.

Amtrak: An Experiment in Rail Service, National Transportation Policy Study Commission, Washington, D.C., September 1979.

“Capital Formation in the Airline and Railroad Industries”, *National Transportation Policy Study Commission Special Report No. 1: Issues in Transportation*, Washington, D.C., May 1978.

“Consolidation of Transportation Regulatory Agencies”, *National Transportation Policy Study Commission Special Report No. 1: Issues in Transportation*, Washington, D.C., May 1978.

Intercity Domestic Transportation for Passengers and Freight: A Report to the U.S. Senate Committee on Commerce, Science, and Transportation (with A. LaMond), Washington, D.C., 1977.

The Northeast Corridor High Speed Rail System: Selected Impacts on Alternative Modes—a Report to the U.S. DOT Transportation, Systems Center (with D. Hayman and G. O'Donohoe), Harbridge House, Boston, MA, 1975.

The Future of Rail Passenger Services in Wisconsin, Wisconsin State Department of Transportation, Madison, WI, August 1975.

The Economic Future of Amtrak (doctoral dissertation), Washington State University, Pullman, WA, August 1974.

Speeches

As a Member of the Surface Transportation Board:

“Testimony on Preemption of State and Local Laws on Railroad Transloading of Solid Waste before the U.S. House of Representatives; Committee on Transportation and Infrastructure; Subcommittee on Railroads, Pipelines, and Hazardous Materials; Hearing, Rayburn Building, October 16, 2007.

“Testimony of Commissioner Francis P. Mulvey, Surface Transportation Board, Before the U.S. House of Representatives Committee on Transportation and Infrastructure on Railroad Competition Issues, September 20, 2007.

“Innovations in Transportation Infrastructure Financing;” Inland Northwest Regional Summit; Spokane, WA; September 20, 2007.

“Coal, Railroads & the Surface Transportation Board;” National Coal Transportation Association; Denver, CO, September 11, 2007.

“Creating Competition or Repeating History: Is Staggers Staggering?” Midwest Regional & Short Line Railroad Conference; Duluth, MN, July 16, 2007.

“The STB and the Nation's Railroads”, Transportation Research Forum, Boston, MA, March 17, 2007.

“Public Sector Role in Transportation Infrastructure Financing”, Food Shippers of America, Palm Springs, CA, March 6, 2007.

“The STB and the Nation's Railroads”, Industrial Energy Consumers of America, Washington, D.C., Oct. 11, 2006.

“The SIB, Shippers and Railroad Capacity”, Southwest Association of Rail Shippers, Scottsdale, AZ, Oct. 5, 2006.

Panelist, Transportation Investor Conference, Merrill Lynch Global Transportation Conference, New York, NY, June 15, 2006.

"The S.T.B. and the Nation's Railroads", American Forest and Paper Association, Washington, D.C., May 23, 2006.

"The Forest Products Industry and the Nation's Railroads", American Forest and Paper Association, 129th Annual Paper Week, New York, NY, April 11, 2006.

"Optimal Investment in Rail Infrastructure: The Divergence of Public and Private Interests", Electric Utility Consultants Conference, Mesa, AZ, March 28, 2006.

"Shippers Taking Charge in a Capacity Constrained Environment: The Role of the STB in Railroad Regulation", Southwest Association of Rail Shippers, San Antonio, TX, February 23, 2006.

"The STB and the Regulation of Coal Transportation in a Capacity-Constrained Environment", EUCI Coal Transportation Workshop, St. Louis, MO, November 10, 2005.

"Transportation Challenges: Financing Capacity" 92nd Annual Meeting, Treasury and Finance Division, Association of American Railroads, Phoenix, AZ, November 7, 2005.

"Update on the STB and Rail Freight Issues" Western Coal Traffic League, Fall Meeting, Washington, D.C., October 20, 2005.

"Rail Transportation Issues and the Role of the Surface Transportation Board" NASSTRAC Fall Conference, Baltimore, MD, September 27, 2005.

"Railroads and Railroad Regulation in a Capacity Constrained Environment" Transportation Research Forum, New York City, NY, September 8, 2005.

"The Transportation Capacity Problem' Approaches to Congestion Relief" NMF/TA/NCC Conference, San Francisco, CA, August 9, 2005.

"Railroads and Capacity Problem: Public/Private Approaches" Fuel Management Strategies Conference, Denver, CO, June 21, 2005.

"The STB and the Railroads in a Capacity Constrained Environment", North American Fertilizer Transportation Conference, Mont Tremblant, Quebec, June 13, 2005.

"The Outlook for Amtrak and the Role of the STB", National Association of Railroad Passengers Annual Meeting, Silver Spring, MD, April 23, 2005.

Speech to Rail Forum, National Industrial Transportation League Spring Policy Forum, Arlington, VA, April 19, 2005.

"U.S. Freight Railroads and the Capacity Problem", ODU Maritime Speakers Series at Nauticus, Norfolk, VA, April 4, 2005.

"The Surface Transportation Board and the Nation's Railroads", Pacific Northwest Association of Rail Shippers, Portland, OR, February 17, 2005.

"Issues Facing the Surface Transportation Board", Council of Supply Chain Professionals, Baltimore, MD, February 8, 2005.

"Regulatory Issues Facing the Surface Transportation Board" NGC/TEGMA, Cancun, MX, February 5, 2005.

"The Current State of the Nation's Railroads" Regional Freight Mobility Roundtable, Seattle, WA, November 5, 2004.

"Railroad Industry Competition, Structure and Investment" Roundtable on Transportation Policy, Northwestern University, Evanston, IL, October 8, 2004.

"The Changing Face of the STB", ASLRRRA Eastern Regional Meeting, Jersey City, NJ, October 1, 2004.

Speech before American Plastics Council—Logistics Committee, Arlington VA, September 23, 2004.

Keynote Address, National Coal Transportation Association Annual Meeting, Denver, CO, September 21, 2004.

Speeches Prior to Joining the STB

"Rail Safety Legislation in the 108th Congress," Association of American Railroads Annual Legislative Conference, White Sulphur Springs, WV, July 2, 2003.

"Status of High-Speed Rail Legislation in the 108th Congress," High Speed Ground Transportation Association, Anaheim, CA, May 13, 2003.

"Infrastructure Funding Sources for Our Nation's Freight Railroads," Rail Supply Institute, Jacksonville, FL, April 23, 2003.

"Amtrak: Past, Present and Prospects," Public Transportation Policy Forum, Society of Government Economists, Washington, D.C., Feb. 7, 2003.

“Status of Rail Passenger Service Legislation,” States for Passenger Rail Annual Meeting, Washington, D.C., Jan. 12, 2003.

“Rail Transportation and the Reauthorization of TEA-21,” American Public Transit Association, Commuter Rail Conference, Las Vegas, NV, Sept. 22, 2002.

“Panel on Railroad Legislation in the Current Congress,” American Association of Short Line and Regional Railroads, Cooperstown, NY, July 13, 2002.

“Panel on Railroad Reregulation,” Association of American Railroads Annual Legislative Conference, White Sulphur Springs, WV, July 2, 2002.

“Panel on Railroad Legislation in the Current Congress,” American Association of Short Line and Regional Railroads, West Point, NY, July 14, 2001.

“Amtrak and High Speed Rail,” High Speed Ground Transportation Association Annual Meetings, Milwaukee, WI, May 18, 2001.

“Passenger Rail Agenda and Prospects,” National Council of State Legislators, Meeting of the Rail Working Group, Washington, D.C., May 12, 2001.

“Prospects for Pipeline Safety Legislation, National League of Cities, Washington, D.C., March 12, 2001.

“Reauthorization of the STB and Captive Shipper Issues,” Western Coal Traffic League, Washington, D.C., Oct. 5, 2000.

“Panel on Railroad Legislation in the Current Congress,” American Association of Short Line and Regional Railroads, Hershey, PA, July 15, 2001.

“Panel on Railroad Economics and Finance,” Association of American Railroads Annual Legislative Conference, White Sulphur Springs, WV, July 6, 2000.

(I gave several speeches on Social Security and Pension Reform Issues while I was part of GAO’s Health and Human Services Division, but I have no sources on their exact subject matter or the locations and dates. However, they were all discussions about GAO’s ongoing studies.)

“Federal Perspective on High Speed Rail Investments,” Railway Age Conference on Mixed Freight and Passenger Services, Washington, D.C., Nov. 10, 1994.

“Geopolitics and Anti-trust Policy,” International Aviation Symposium, Phoenix, AZ, April 13, 1994.

“Comparing Transport Regulatory Reform in Canada and the United States,” Tenth International Logistics Congress, Toronto, ONT, Canada, June 21, 1993.

“Market for Airline Services: The Changing Competitive Framework,” Session Chair and Organizer, Annual Meetings of the Transportation Research Board, Washington, D.C., Jan. 1993.

“International Air Transportation Issues,” International Chapter of the Transportation Research Forum, Washington, D.C., July 1992.

“Airline Concentration and Competition at the Nation’s Airports,” University of Denver/Smithsonian Institute Conference on Airlines, Airports, and Aviation, Washington, D.C., May 1992.

“High Speed Ground Transportation Systems,” GAO Annual Technical Conference, Herndon, VA, April 1991.

“Airline Fares and Market Concentration in the U.S.,” Transportation Roundtable, National Press Club, Washington, D.C., March 1991.

“GAO Performance Airline Audits—Fares, Schedules, and On-time Performance,” Institute of Internal Auditors, National Press Club, Washington, D.C., March 1991.

“Railroad Competitiveness,” Session Chair and Organizer, Annual Meetings of the Transportation Research Forum, Long Beach, CA, Oct. 1990.

“Airline Competition” Session Chair and Primary Discussant, Annual Meetings of the Transportation Research Board, Washington, D.C., Jan. 1990.

“Maximum Speed Limit Compliance Formulae,” Western Association of State Highway and Transportation Officials, Phoenix, AZ, March 1988.

“Recycling Cost Impact Guidelines,” Conference on Minimizing Solid Waste Tipping Fees,” National League of Cities, San Jose, CA, Jan. 1988.

“The Economics of Hazardous and Solid Waste Management Options,” Session Chair and Principal Discussant, Conference on Solid Waste Management and Materials Policy, NY, Jan. 1988.

“Issues in the Transborder Trucking of Hazardous Waste,” National Solid Waste Management Association Hazardous Waste Haulers Conference, Detroit, MI, June 1987.

“The Intercity Bus Industry,” Session Chair and Primary Discussant, Annual Meetings of the Transportation Research Forum, Amelia Island, FL, Nov. 1985.

“New York City’s Recycling Plan,” Session Moderator, Conference on Materials Recycling and Composting, Albany, NY, Oct. 1985.

“Comparative Economics of Alternative Methods of Solid Waste Management,” testimony before the California Commission on Natural Resources, Sacramento, CA, Oct. 1985.

“Preliminary Findings on the Safety Benefits and Costs of the 55 mph Speed Limit,” Annual Meetings of the Transportation Research Forum, Washington, D.C., Oct. 1983.

“Research and Data Needs of the Intercity Bus Industry,” Annual Meetings of the Transportation Research Board, Washington, D.C., Jan. 1983.

“The Intercity Bus Industry Under Deregulation,” Center for Transportation Studies of the Massachusetts Institute of Technology, Cambridge, MA, Nov. 1982.

“The Intercity Bus Industry and Tourism,” Session Chair and Primary Discussant, Annual Meetings of the Transportation Research Forum, New Orleans, LA, Oct. 1982.

“Intermodal Considerations in Determining Rail Passenger Subsidies,” testimony before the Senate Committee on Commerce, Science, and Transportation Hearings on Amtrak Reauthorization, Washington, D.C., March 1981.

“Predatory Pricing in Intercity Surface Passenger Transport,” testimony prepared for Greyhound Lines, Inc. in Interstate Commerce Commission Docket No. 37825-F, Washington, D.C., February 1980.

“The Role of Intercity Rail Transport in the Modern Travel Environment,” testimony before the Senate Committee on Commerce, Science, and Transportation, Washington, D.C., March 1979.

“Transportation Economics,” Primary Discussant, Annual Meetings of the Western Economics Association, Anaheim, CA, June 1977.

“Planning Intercity Transportation Services,” Annual Meetings of the Western Economics Association, San Francisco, CA, June 1976.

“Environmental Considerations in the Pricing of Interurban Transport,” Annual Meetings of the Ohio Association of Economists and Social Scientists, Columbus, OH, April 1975.

“The Demand for Intercity Transportation Services,” Annual Meetings of the Southwestern Economics Association, San Antonio, TX, March 1975.

“The Role of Demand Modeling in Forecasting Modal Market Shares,” testimony before the Interstate Commerce Commission in *Ex Parte 277—The Adequacy of Intercity Rail Passenger Service*, Washington, D.C., March 1975.

16. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

“Testimony on Preemption of State and Local Laws on Railroad Transloading of Solid Waste before the U.S. House of Representatives; Committee on Transportation and Infrastructure; Subcommittee on Railroads, Pipelines, and Hazardous Materials; Hearing, Rayburn Building, October 16, 2007.

“Testimony of Commissioner Francis P. Mulvey, Surface Transportation Board, Before the U.S. House of Representatives Committee on Transportation and Infrastructure on Railroad Competition Issues, September 20, 2007.

“Intermodal Considerations in Determining Rail Passenger Subsidies,” testimony before the Senate Committee on Commerce, Science, and Transportation Hearings on Amtrak Reauthorization, Washington, D.C., March 1981.

“The Role of Intercity Rail Transport in the Modern Travel Environment,” testimony before the Senate Committee on Commerce, Science, and Transportation, Washington, D.C., March 1979.

17. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have been serving in this position for the past 3½ years and I believe that I have made an important contribution to the STB’s mission to promote a financially

healthy railroad industry and rates for rail movements that are reasonable. I have spent most of my professional life in the transportation area. I believe that I have brought to the agency an economist's perspective on the role and importance of railroads in the national economy. I have more than 30 years of experience in the transportation field. I have worked on transportation and regulatory issues for virtually every mode of transportation. I directed numerous GAO studies on the aviation, rail, and highway sectors. I am considered a national expert on Amtrak and High Speed Rail transport.

18. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

I believe that as a Member of the Board, I am fully responsible for ensuring that proper management and accounting controls are in place. As an Assistant Director at the U.S. General Accounting Office (now Government Accountability Office) and as a Deputy Assistant Inspector General at the U.S. Department of Transportation, I am familiar with requirements of the Chief Financial Officer's Act and I have striven to uphold the highest standards of financial integrity. At the STB I have taken the lead in having the agency update and complete its manual on administrative procedures.

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

The top three challenges facing the STB are: (1) ensuring that the rates that captive shippers pay are reasonable and do not undermine their global competitiveness, (2) ensuring that railroads earn sufficient revenues so that they can reinvest in the rail infrastructure to meet the expected growth in demand for rail transportation, and (3) ensuring that the quality of rail service received by shippers is the best possible commensurate with the rates they are paying. At present, rail rates have been increasing for many movements following many years of decline. The rail sector has also, for the first time in decades, been operating at or near capacity. As a result, rates are high and the railroads are often unwilling or unable to take on new traffic. However, this runs counter to the national goal of shifting more freight traffic from highway to rail. The STB must make certain that the railroads are positioned to carry out their common carrier obligation to the Nation's shippers.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts: None.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. 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.

5. Describe any activity during the past 10 years in which you have been 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 a Congressional staff member for the House Transportation and Infrastructure Committee before joining the STB it was my job to draft legislation and work to secure its passage or to work to defeat legislation that the then Ranking Minority Member opposed. Legislation under consideration while I was there that affected the STB was a proposal to reauthorize the agency.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items: I have no conflicts that require resolution.

C. 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.

I have never been disciplined, cited, or subject to a complaint for a breach of ethics.

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

When I was 19 years old I was cited for climbing a monument in Washington Square Park in Manhattan following a party. As I recall, the judge dismissed the charges on learning that it was not part of a political demonstration.

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.

I was sued following a minor traffic accident (no damage to either vehicle) after the other party alleged back injuries. Because the other party had just had back surgery, he successfully collected (I believe around \$20,000) from my insurer.

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, never.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No, never.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: I have no additional information to offer.

D. RELATIONSHIP WITH COMMITTEE

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

Since joining the STB and while I was a Congressional staff member a Deputy Assistant Inspector General and an Assistant Director with the GAO, I have always been very sensitive to the need for timely compliance with deadlines for Congressionally requested information and I will continue to do so in the future.

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

I have always supported protection of whistleblowers from retaliation and will continue to do so.

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?

I will cooperate fully with the Committee in providing witnesses, technical experts, and other career employees with knowledge of interest to the Congress.

4. 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?

I am very willing to appear before Congressional committees and I have done so on numerous occasions in the past.

The CHAIRMAN. I thank you very much, Dr. Mulvey.

This Committee is very cognizant of the important roles played by our spouses, and you have mentioned your spouses here. Mr. Johnson, would you like to introduce your wife?

Mr. JOHNSON. Be glad to. My wife, Joyce, is seated right here.

The CHAIRMAN. Welcome, ma'am.

Ms. Naples, your husband?

Ms. NAPLES. Yes, my husband, Tom O'Neill, is right here.

The CHAIRMAN. Welcome, sir.

Mr. Stutler?

Mr. STUTLER. Family's not here. Thank you.

The CHAIRMAN. Dr. Mulvey?

Dr. MULVEY. My wife, Petra, is sitting right here.

The CHAIRMAN. Welcome.

Dr. Mulvey, the Surface Transportation Board is usually limited to addressing issues or topics brought up in proceedings. Do you believe that the Board should have broader investigative powers?

Dr. MULVEY. I do. Powers were somewhat limited in the Interstate Commerce Commission Termination Act of 1995. We were

more limited in initiating our own investigations. Clearly, there are cases where it would be helpful, where we hear about problems, where we could initiate our own investigations and then take actions, as appropriate, to be more proactive and less reactive. And, while there are some cases—some areas where we have been able to launch our own investigations, we are limited in what we can do. We did, for example, in the fuel surcharge case, initiate that on our own authority. But, again, the relief that we can give, then, is more limited than we could if we were granted more investigative authority.

The CHAIRMAN. Do you have any idea how much we would need? Because there's obviously a lack of funds.

Dr. MULVEY. It would depend upon what we had to do. We've already pointed out that some of the things that have been proposed in legislation—for example, a greater role for us in Amtrak—would require that we increase our staff somewhat. But I think that the staff that we have now, with maybe only a slight increase, could handle significant—more, in terms of launching some of these investigations and taking appropriate actions than we have, without a significant increase in our budget. Our budget's been fairly flat for the last 10 years or so, at about \$25 million a year.

The CHAIRMAN. Thank you.

Mr. Johnson, your agency is a relatively new one, and—what are your missions now? What are your goals?

Mr. JOHNSON. Thank you for the question, Mr. Chairman.

If confirmed, I have, sort of, three priorities that I am looking at. Most of them have been mentioned earlier here today. The aging pipeline is of concern, the aging infrastructure and the growth—the encroachment and growth, that is challenging some of that, needs to be investigated. And I think the implementation of PIPES—the PIPES Act—is certainly a very high priority.

Another priority is the aging highway, rail, and air infrastructure through which all of our transportation, including hazardous materials, goes. And I think that that is an area that I will spend some time working on.

And, as mentioned earlier, I have had some experience in international harmonization. I understand the role and the benefit of harmonization that will improve safety through harmonized regulations and standards worldwide, so that the standard—we can learn from some of the standards that may be applied here from other parts of the world, where they may have—may be safer, or we can use ours to raise the bar elsewhere, and provide uniformity and a greater assurance of safety throughout the world.

The CHAIRMAN. I thank you very much. Do you have any numbers as to how much it might cost to improve the railbeds?

Mr. JOHNSON. I—at this point, Mr. Chairman, I do not. I will certainly look into that when I get to the—get into the position, if confirmed.

The CHAIRMAN. The question I have in mind for the Amtrak Board Members was asked by Senator Smith. I'm just curious about the problem you brought up, so I'm going to leave it up to you to do the questioning on that.

Senator Stevens?

Senator STEVENS. Mr. Chairman, I welcome Mr. Johnson, because I think we probably have an example of aging pipelines in our state. We are very conscious of the safety factors, and we will look to him for guidance, and I hope that he will be able to suggest to Congress if there are any changes in existing law that should be considered in order to assure the safety and survival of these pipeline systems.

I note that Senator Lautenberg's here. I don't have a real relationship to the Amtrak Board, so I would yield to him.

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

Senator LAUTENBERG. I appreciate that, Senator Stevens. Thank you very much.

I just want to run through a couple of comments that I had prepared and—just to highlight the need that we have for infrastructure investment.

No matter where we look, we see crowding, we see delays, we see congestion, we see pollution. And we're not looking at this in what I will call—in a holistic manner. Very frankly, I'm depending on the Amtrak Board nominees to not just talk about the betterment of their financial condition, but the betterment of their operation. What do we want from Amtrak, in terms of its—it being the third leg—or passenger rail service—the third leg in our transportation system? The others are bursting at the seams. When you look at highways, and if you look at the skyways, they are unable, with their present conditioning, to be able to accommodate America's needs.

And I'd point out—and I learned, just recently—or I looked, just recently—at the population growth in this country. In 1970, we were 200 million people. Now, 37 years later, we're 300 million. The systems were not built to accommodate the needs that we have. And when we look at, for instance, our bridge deficiencies, they're so obvious. And we saw the worst of it in Minneapolis last summer. Airport runways, for instance, do not have the best technology on the runways to keep our passengers and flight crews safe. Dr. Mulvey, you'll be—you've got to look at that as part of your—the information that your department gathers. And so, as we struggle to meet travelers' demands—and I use Amtrak frequently, because I found out that a 45-minute flight from here to New York or Newark Airport—I live midway between the two, in New Jersey—and I find that the 45-minute flight from here to New York region airports can take 2 or 3 hours—45-minute flight.

So, we're fooling ourselves. We have not invested in Amtrak the way it should have been. And, oddly enough, my two colleagues who sit at the front of the desk, the Chairman and the Vice Chairman, are the furthest from Amtrak that you could be and still be in the United States. Senator Smith knows differently. He knows the value of Amtrak, and he's seen it directly.

Senator STEVENS. I could make, my friend, a suggestion.

Senator LAUTENBERG. Do you want a railroad?

I promised Senator Inouye we'd get him a railroad.

Senator STEVENS. Well there is no link from Fairbanks to Canada; otherwise, we could put rail cars through the Alaska railroad, the Canadian system, and down into Amtrak. Just 100 miles.

Senator LAUTENBERG. I'd like to discuss that with the Chairman of OMB and see what he thinks of that.

[Laughter.]

Senator LAUTENBERG. I've been trying to figure out the way to get the railroad to Honolulu. Now, that is a—

[Laughter.]

Senator LAUTENBERG. But, on the serious side of things—

The CHAIRMAN. We're happy with what we have.

[Laughter.]

Senator LAUTENBERG. Yes. The distance from the mainland to—

In any event, Mr. Chairman, I want to ask that my statement be—full statement be included—

The CHAIRMAN. Without objection—

Senator LAUTENBERG.—in the record.

The CHAIRMAN.—so ordered.

[The prepared statement of Senator Lautenberg follows:]

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

Mr. Chairman, America's transportation infrastructure is in need of repair. Many of our highway bridges—like we saw in Minneapolis last summer—are deficient. Airport runways do not have the best technology to keep our passengers and flight crews safe. And our passenger rail systems have simply been neglected.

We can no longer ignore our infrastructure needs. We are already struggling to meet travelers' demands. And in the future, demands will increase—with more cars and trucks, more planes and more people riding the rails. We need to invest in our infrastructure and ensure its safety and capacity for our country's needs.

That is the kind of leadership I am looking for from today's nominees. Several of these individuals have been nominated to serve on Amtrak's Board of Directors. As they know, I am concerned that there is no existing law to guide Amtrak and our Nation's passenger rail policy. That is why I hope the House will begin working on the Lautenberg-Lott Amtrak bill very soon.

Our bill will lay the tracks for a strong passenger rail network—one that will bring more balance to our national transportation system. It will create a new inter-city rail grant program to connect more of our towns and cities by rail. And it will provide direction and reform to the Amtrak Board. This Committee unanimously supported our bill. I look forward to the House's action.

Now let me talk about two other nominees. First, Commissioner Mulvey has been re-nominated to the Surface Transportation Board. I welcome this nomination and I hope his service on the Board will continue. His is often the lone voice of reason on many important issues.

Second, Mr. Johnson has been named to serve as Administrator of the Pipeline and Hazardous Materials Safety Administration. This agency needs strong leadership to complete the work outlined in the pipeline safety bill we passed last year. I'm disappointed that no action has been taken on one provision I wrote regarding new rules protecting Americans from hazardous gas leaks in their homes. I am anxious to learn of Mr. Johnson's plans for getting that work done.

I look forward to hearing from our witnesses.

Senator LAUTENBERG. And I would ask Mr. Stutler, Ms. Naples, Mr. Carper—Mr. Carper, I understand, couldn't be here, regrettably; I learned that—the reason for his not being here—but each of you, as those who are Amtrak nominees, have each of you ridden recently on Amtrak?

Ms. NAPLES. I rode on it yesterday. I came—

Senator LAUTENBERG. Yesterday.

Ms. NAPLES.—from BWI to Washington.

Senator LAUTENBERG. What did you think of the ride?

Ms. NAPLES. It was perfect. It was on time, it was—the car was—

Senator LAUTENBERG. We were on—

Ms. NAPLES.—extremely clean.

Senator LAUTENBERG.—a different railroad, I can tell.

[Laughter.]

Ms. NAPLES. I had no problems yesterday, and I have taken this route frequently and have—

Senator LAUTENBERG. Yes.

Ms. NAPLES.—only once had a small problem.

Senator LAUTENBERG. I came down on the railroad yesterday from Newark to Washington, and I was on the bumpy trains. I guess your train was—might have been a different one. But it just—even as it makes progress, it's obvious that it hasn't kept up with the current need. And the one thing I would caution those of you who are nominees, is, when you look at the reform, I have—you have to think deeply about what you mean by "reform." A reform doesn't simply mean getting—looking just at the work rules or things of that nature, to—but what role the railroad should play in America's near future—not far-away; near future. And I think that you have an obligation to try and make sure that, whatever funding we can get for Amtrak, we must get.

And, Mr. Chairman, all of us here are now aware of the fact that we are having a particular funding mechanism go into play, omnibus funding for our needs, and we've already been notified that this year's Amtrak expectation, not the new Amtrak reauthorization bill, but just the appropriations required, has been cut by \$100 million. And these things play a terrible role in making sure that Amtrak, that has never been sufficiently funded—if we'd look at what's happened in Europe, Germany spent \$7 billion a year, I think, for 10 years to get their system up to snuff. And, since this has been a public corporation since the early 1970s, I don't think we've spent \$30 million—\$30 billion. So, it's a—something that you have to look at.

And I would caution you about making certain that you stand up for more funding and don't simply defend an administration position on what they want to do. Find the needs, understand what you've got.

I didn't see you making any—either of you making comments in the—in your statements about what the problems might be. Is it equipment? Is it trackage? Is it signage? Is it—what kind of speeds do we want to see on Amtrak? If we could get Amtrak to accelerate its ride between here and New York, I think that we could relieve the skyways of some of the pressure that we have, the shuttles that go back and forth.

But I want to just ask Mr. Stutler a question. You had a fairly high post in Florida, with Governor Bush, and we had—you had, there, one of the most ambitious rail projects in the country in front of you. Now, what experience did you learn in that Administration that—because that project was killed. Am I correct about that?

Mr. STUTLER. Are you referring to the Florida—the high-speed rail project—

Senator LAUTENBERG. Right.

Mr. STUTLER.—or the commuter rail—

Senator LAUTENBERG. No, the high-speed rail project.

Mr. STUTLER. If I may, Senator, Mr. Chairman. Senator, the high-speed rail, back in—I guess that—I wasn't in the role that I was when I—as Secretary at the time, but that project was thought, by the Governor at the time, to be a—not the—he didn't believe the ridership numbers.

Senator LAUTENBERG. Well, how did you feel about it?

Mr. STUTLER. To be honest with you, I haven't look at them. I wasn't in a role to advise him on those sort of matters at the time, but I could—be happy to look at them—

Senator LAUTENBERG. What was your position at the time, then?

Mr. STUTLER. I was working at the Department of Environmental Protection, doing environmental work, but I had mostly read—that was done—my—primarily, in the transition, in 1999.

Senator LAUTENBERG. Do you think that experience will help you, as a Member of the Board of Amtrak, when you see projects that demand a bold approach in the—something that may be painful in developing, but on the—in the final analysis, will make our rail system a lot more efficient and better for us?

Mr. STUTLER. I think that that experience—you know, it wasn't hands-on. The one—I agree that a lot of the decisions to move forward with a—you know, a bold decision, are going to be painful at first. I definitely agree with that. And one of the ones that I would speak to, that I was very familiar with, is the development of commuter rail in central Florida through the area known mostly—you know, Orlando area, 61 miles. And one of the things that I learned there, Senator, was that—that was really a corridor-type approach—when you were looking at the Interstate 4 expansion, in order to get the same capacity on the rail—commuter rail, it was really about a \$7 billion capital investment in order to get the same capacity that we were able to negotiate by using the line, do some double-tracking, and 30 years of O&M, for \$1.8 billion. And when you can move that number of people in the same general direction, I think that—as you referred to earlier, looking at the highway—I think we have to step back and look at an overall investment strategy in the corridors of this country, and I think Amtrak can play an important role in that.

Senator LAUTENBERG. Speak up for—Mr. Chairman, thanks very much. I'm sorry if I ran a few minutes over. But I'd like the record to be kept open so we can submit written questions to our friends at the witness table.

Thank you.

The CHAIRMAN. It will be.

Senator Carper?

Senator CARPER. If I could, I'd like to yield to Senator Smith, then I'll, maybe, succeed him, if I could.

Thanks.

Senator SMITH. Thank you, Mr. Chairman, Senator Carper.

Dr. Mulvey, in my opening statement you probably noted some of my concerns. The issue of private equity investing in railroads—

I mean, I'm not opposed to it; I think it's an important source of capital, but I'm also mindful that they have very short-term investment goals. And I'm aware of some private capital investments in Oregon railroads that are going begging right now. And I wonder if you have a thought on that, or what the obligation ought to be of private equity firms who want to invest in railroads. Aren't there some obligations that you ought to be enforcing, or the STB, that can help protect the people who depend upon railroad for their commercial lives?

Dr. MULVEY. I absolutely agree that people who invest in railroads ought to have a longer-term perspective than hedge funds generally do have. Now, when these hedge funds plan on investing in railroads, they very often stop by our offices and talk to us about their plans before they're going ahead and telling us that—they tell us, "Well, they have a long-term perspective," that they're in here for 5 or 10 years, et cetera, and that's their plan. However, these assurances are not enough. We need—

Senator SMITH. Do you have any enforcement tools to hold them to their assurances?

Dr. MULVEY. At this point, we don't. We can, however, if they begin to act in a way that is detrimental to the public interest and the service of the shippers, we can step in. I mean, if their complaint is filed, we can come in, examine, look at, see if the service is adequate, et cetera; and, if it's not, then we could tell them that they would have to divest the line and sell it off to somebody who wants to give the service.

Senator SMITH. Do you need some legislative authority, that we ought to be getting to you, to have the enforcement—

Dr. MULVEY. I think what we need is our ability to investigate on our own initiative as—instead of waiting for someone to act and say, "There's a problem developing up here." We're aware that those problems exist, not only in your state, but around the country. There are places where railroads are cutting back on their investment, saying, "Well, maybe the traffic isn't there." And we need to be able to look at that and make sure that the public's—is being served and that shippers are getting good service and that they're not being just exploited as assets without any understanding of the common-carrier obligation. Railroads do have a common-carrier obligation, and the STB does have a mission, a role, a charge to enforce that common-carrier obligation.

Senator SMITH. Well, I hope that if you find, as you proceed after your confirmation—reconfirmation—that you need more authority than you have, that you will come to this Committee, and we will write you authority to make sure you have the tools necessary to serve the public.

Dr. MULVEY. We certainly will, sir.

Senator SMITH. Do you believe that the abandonment process effectively balances the interests of shippers and railroads?

Dr. MULVEY. The abandonment process, right now, to some extent, it—there are ways to make sure that the interests of the railroads and shippers are balanced. When a railroad wants to abandon a line of—a branch line, or what have you, it has to protect labor, it has to give labor protection if there are workers involved; it has to notify shippers that it's going to be abandoning the line;

and then, those who are being served on the line do have the option of putting up an offer of financial assistance so that that rail line can be kept operating. And that's important. And very often we do get these offers of financial assistance; shippers or other groups will find somebody else to operate the line, and the line can continue.

We are very concerned about keeping the amount of rail service—rail lines that are in operation stay in operation. Our Nation's rail system has shrunk dramatically since Staggers, and it's—we have, now, less than 100,000 miles—route miles of rail line today. We don't want to see that get any smaller. We want to make certain that when lines are no longer capable of being served by the large Class I railroads, that there are either Class II railroads or Class III railroads or others who can come in there and offer the service.

Senator SMITH. I just want to register my concern—my question, really—that perhaps the abandonment process does not adequately balance the interests of involved shippers and railroads. And I think that that's something that really deserves our attention.

Dr. MULVEY. We certainly are looking at—willing to look at the abandonment process, as well as the other processes we have, to make sure that money does come in to the railroads. We've had a lot of discussion in this hearing about the need for infrastructure investment. And people often focus on high-speed rail or airports or highways, et cetera, but that goes all the way down to the small short-line railroads, as well.

Now, there was legislation that was passed a while back, when I was working on the Hill, and I was proud to have worked on that, which committed monies to invest in short-line railroads, about \$1 billion over a 3-year period, so those lines could be upgraded so they could handle more traffic and stay in business, and replace the worn-out bridges and other parts of the railroad infrastructure. And that particular piece of legislation, I believe, is up for renewal. And I think it's important that monies be made available for these short lines so that they can get capital at reasonable rates, and can make the investment to continue to operate.

Senator SMITH. Well, to that very issue, Commissioner, earlier this fall the short-line railroad that provided service along a 136-mile stretch in southwest Oregon announced it would suspend service, due to safety concerns involving the line's tunnels. The Federal Railroad Administration engineers have toured the line and confirmed that it is a safety hazard. According to FRA's inspection report—and I am quoting—"predominant problems observed were decay of untreated cinder timbers, lagging and footing blocks." The FRA's inspectors noted that "some of the timbers sound hollow and decayed when struck with a hammer."

Now, clearly this situation did not happen overnight, this has been going on, apparently, for a long, long time. And what I really want to know is what Surface Transportation Board's role is in ensuring that investments are made to provide proper maintenance so that we don't get into these situations and literally strand—leave stranded hundreds of family-supporting, good wage jobs that work in mills, that work in fish processing, that work in places that really have no other transportation alternative, because the wind-

ing roads to get to I-5 are simply already congested. What is the role of the STB?

Dr. MULVEY. Well, I can't speak directly to the situation you have, because that case may come before us, but I can speak more generally to the needs, to make sure that we invest in the railroads and keep them safe and sound. You point out that the deterioration of this line is not something that happened overnight. There is some—

Senator SMITH. Who's responsible, and who do we look to for an answer to—when we go back home and we are confronted with hundreds of people who are saying, "Well, wait a minute, they didn't make the investment, and my job is coming to a close because we can't ship what we produce here"?

Dr. MULVEY. —part of it, of course, is a safety issue. These tunnels were declared unsafe by the FRA and their inspectors. If you have ties that are sounding hollow, it means they haven't been replaced when they should have been replaced. There are FRA—and, for that matter, AAR—rules and regulations regarding maintenance, and if those have not been observed, then there should be enforcement of those safety rules. And that is an FRA—an FRA matter, rather than a Surface Transportation Board matter.

Senator SMITH. Well, I'm taking—

Dr. MULVEY. Our role—

Senator SMITH.—I'm taking it up after them. And please don't regard this as a criticism of you, Commissioner, that is not intended so—but somebody's failed on the job, candidly. Something has gone wrong. So, if it isn't STB, it's FRA. And somebody needs to answer to all these people.

Dr. MULVEY. I agree. We shouldn't be pointing fingers, and I don't mean to be pointing fingers—pointing fingers. What I am suggesting is that we need to continue to be vigilant—

Senator SMITH. Yes.

Dr. MULVEY.—and see what is happening around the country. And, again, as I said, if we had more investigatory powers and able to look and—when we hear that investments aren't being made, go out and find out why—we have an Office of Consumer Affairs, we have an Office of Government Affairs, both of whom are actively working on your particular issue in Oregon. But, basically, they can just offer their good services and try to negotiate a solution. It would be good if we could do more than that, we could say, "Look, you are not being a good operator here. If you are not going to do what's necessary to serve the people, then we may need to"—

Senator SMITH. They're the wrong owner, then.

Dr. MULVEY.—"get a new owner."

Senator SMITH. But, you know, whether it's FRA or STB, we need somebody that has some authority and some accountability, and this is an issue that really does impact, adversely, rural places.

Dr. MULVEY. That's why—I understand that. It certainly does, sir.

Senator SMITH. Well, thank you, Commissioner.

And, Mr. Chairman, just a general question to our other nominees.

Oregon and Washington are one of just a handful of states who meet their Amtrak copayment obligation. I was very pleased to

help participate in passing the Amtrak reform bill that moves into a more fair allocation of cost-sharing with states fulfilling their responsibilities, too. We have the *Cascade* line that is very important to the Pacific Northwest. Passengers use it all the time. The trains are full and appreciated. And the State legislatures are meeting their responsibility. But when it comes to cost allocation and capital match, I want to really highlight to you, the key is—ensuring long-term viability and growth in ridership—is that states participate. The bill—the reform bill we passed makes that requirement. And so, I wonder if any of you have a comment about the role you see for States in expanding passenger rail and ensuring that the whole system remains viable. To any of you.

Ms. NAPLES. Mr. Chairman, Senator Smith, I certainly believe—and I applaud Senator Lautenberg for his words, saying that we need to take a holistic approach to this, we have to look at the entire picture in order to see Amtrak survive and thrive in the future. And, certainly, the states' participation is extremely necessary.

I don't have any further data on it. I'm new to this. But I certainly believe that that is the approach we should take. And if the States need to take a role, then they must take a role, because train travel in this country is vital to our future.

One point that I don't think was made about the necessity of train travel in the future is that it leaves a smaller carbon footprint, as well. So, besides the fact that our airways are congested and it's very difficult to get around, I have great familiarity with highway safety, because I was the Commissioner of Motor Vehicles in New York State, and I know how crowded our roads are; and it's worse than ever. So, I think that there is a tremendous need for rail transportation in this country. We certainly need to look at that whole picture and figure out funding and participants' roles, such as the States.

Senator SMITH. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Carper?

Senator CARPER. Thanks, Mr. Chairman.

Again, thanks to our witnesses for your presence and for your willingness to serve our country.

A couple of questions, if I could, for Ms. Naples and for Secretary Stutler.

First, Secretary Stutler, when you left my office yesterday, you were having real problems with your back, and I could tell you were in a lot of pain. I don't know if you're in pain right now, but if it gets to be too painful, I'd stand up, if I were you, and we'll try not to make the pain any more painful than it needs to be. But thank you for sticking through this.

The question I—one of the questions I asked our Amtrak nominees yesterday—and I just wanted to come back to it again today, to ask each of you just to share with us your vision for passenger rail service in the 21st century.

Ms. Naples, would you start off, and then, Secretary Stutler, I'll ask you, to just lay it out in some detail, if you would, your vision for passenger rail service in this country in the 21st century.

Ms. NAPLES. More than ever, I think we need to have an excellent system that is reliable and flexible, that people can travel, not

only for short distances, but long distances. I think that, again, using Senator Lautenberg's words, we need to look at this from a holistic perspective, look at the whole picture. And, when I say that—and I think I said this to you yesterday, when you were gracious enough to meet with us, Senator Carper—that we need to make this whole idea of rail transportation—and every American needs to understand—it is a national priority. With the world changing as rapidly as it is—and one thing that I think I mentioned yesterday was, the use of electronics by everyone constantly, whether it's their BlackBerrys or their cell phones or their DVD players, we see people, we see people who are so reliant on these things, and you can't drive a car—hopefully, you don't drive a car as you're sending an e-mail message—people really require a way of getting around, where they can use the tools that they use every day. And I think if we had a national commitment, part of our—part of our national motivation, I guess, that people—that rail is very, very important to America's—Americans, and it can solve a lot of problem, I think that we then can see this emphasis, and, with the Congressional support, as well as administrative support, we can build these railroads into providing much better service than we have today, and bring the rails into the lives of many, many people.

I'm personally committed to this. I personally want to see passenger rail service thrive in this country. I love the railroads. And I'm taking on this responsibility—I have requested your confirmation for this position—so that I can do everything in my power to bring rail travel to the attention of Americans and to see that we solve the problems. I'm not here just to look at the financial aspect of it, but to look at the whole picture and to improve rail travel for every American and make it a viable system of transportation in this country.

Senator CARPER. Secretary Stutler?

Mr. STUTLER. Mr. Chairman, Senator Carper, thank you for your concerns, as well as your question.

I guess I—when I look at the—you asked this question yesterday, and I—thinking about it, a couple of thoughts come to mind.

Number one is, I think intercity passenger rail in this country represents some simplicity that I think that—is beneficial, at least my own experience in—and many times I've traveled from this city up to New York City on Amtrak, and it's just easy. It's just easy, and it's simple. You get on the train, you pop up your laptop or your papers, and you're there in—and it's simple. And I think that we've not made it as clear to people how easy it is to use and how friendly it is and capable of serving—you know, being a service provided—or Amtrak as a service provider.

I also think that—when I think about the vision for the 21st century of intercity passenger rail, I think of looking at a corridor approach of investment choices of all of our transportation dollars. And I think that, when—you know, we have existing infrastructure, we have existing rights-of-way. Those are—the cost increases associated with rights-of-way and infrastructure have been double-digit increases for the last 2 to 3 years. It's very costly to build new rights-of-way, whether it's for roads or for rail. And I think we have to—when I look at a I-95 corridor, I think about, you know,

there are rail alternatives, there are state road alternatives, and there are, you know, U.S. 1 and other alternatives, if you sort of took a cross-section. I always look at them as pipes, you know, filled with water, and each pipe is capable of holding a little bit more water. And, I think, when it comes to passengers, our rail system is capable of taking on more capacity. And, as we make choices between lane-miling our way out of congestion and alternatives in passenger rail, I think it has to be looked at, but it's going to take, you know, a—it's going to take a different approach to how we fund transportation and how we, you know, make investment choices.

I think that it can provide, in those congested corridors, with the right incentives, transit or interdevelopment that is—you know, when I go into—I guess, it's Penn Station, in New York City, and—I mean, dry cleaners right there, shoe—you know, have your shoes—food, everything you need is right there, because it's—the critical mass is there to create the emphasis for business.

So, I guess, to answer your question, I see it as a viable option that creates, you know, simplicity for a lot of us who are going a million miles a minute. I think it creates a real, legitimate choice to be made as our transportation investments are made. And I think that—I might be naively optimistic, but, you know, I haven't presumed anything, so I haven't been—I haven't been consumed by all the facts yet.

Senator CARPER. Thank you.

Let me ask—and this would be a question for you, Secretary Stutler, and then for Ms. Naples, as well. Let me start—ask you to start off.

When—putting on your old hat as the Secretary of Transportation for your state, how can we create a better partnership between the Federal Government—federally funded Amtrak, working in concert with the states and working in concert with the private freight railroads who own the track over which Amtrak needs to travel outside of the corridor?

We were talking, yesterday, about—and you mentioned again today in your testimony—that the ridership—you, sort of, wondered aloud yesterday, and again today, why the ridership on Amtrak is as low as it is. Actually, in the Northeast Corridor you can't buy a train ticket for the next week or two, and it was that way around Thanksgiving. The Amtrak, *Acela Express*, is run probably—oh, more than 80 percent full. During the course of the day, they generate a fair amount of money. Their on-time performance is about 90 percent. When—the regionals do well, but not that well—but when you get outside the corridor and Amtrak doesn't own the track, as you know, they've got to get out of the way of the freights. And the priority of the freight railroads, for the most part, is to move freight, not people.

But, just—my question is, how do we make it—if you—I think of it like—almost like three legs of a stool—Federal Government, through Amtrak, the State governments, and the for-profit freight railroads—how do we get them, better, to work together to provide the underpinning for passenger rail service that works outside of the corridor? And we've seen some examples out of Chicago, in the

Midwest and certainly on the West Coast, that might provide some examples. But, go ahead.

Mr. STUTLER. Mr. Chairman and Senator Carper, thank you.

Let me begin, just, really by way of example, and that is, what the state of Florida was doing in the commuter rail in central Florida was trying to achieve a full-funding agreement with the Federal Government. The opportunity to have a—you know, reach an agreement with CSX was as much about timing as it was anything in that Federal process. We had to demonstrate that we either had the ownership of the line or a perpetual easement for use of the line, which required negotiations with CSX.

You know, first of all, I think, without question, you know, requiring States to fund a portion of the investment is critical, because I think that shows a commitment, and I think that prioritization of funding and making choices, and making the choice to make it a priority, is important. So, I think, just in basic principle, State funding is important, and participation.

As it relates to the for-profits, I think that, you know, it gets—you know, the—my own experience—not based on empirical data, but just my own observations—is that for some—you know, with the—there's been a long period of time where passenger rail wasn't used as widely as I think it has the chance of becoming more widely used again. And so, freight had the benefit of, you know, using the lines when they needed to. What I learned in the central Florida example was, there are enormous modeling techniques, and, frankly, it's a nominal incremental cost to add double tracking in existing right-of-way, compared to acquiring new right-of-way to build new lanes of road. And so, when we were able to, and a willingness to, cost-share double-tracking to allow for the movement of trains as needed by all parties, it was—you know, it was an investment, I'm going to say, that's less than—less than \$100 million—I don't recall the numbers, but certainly could follow up, if I need to—but, you know, it was modest investment for achieving everyone's interest in an existing corridor, and, really, at the end of the day, was, through negotiations—and I think that that's going to be—first of all, there needs to be, you know, a framework established that allows for flexibility, and then—and then, from the partnerships with the private—the for-profit railroads, I think if there's a genuine interest in achieving both goals, I think the technology and the modeling is there to allow that to happen, and I think there has to be a shared interest in realizing the benefits of it, and we just can't lane-mile our way out.

So, with that, turn it over to Ms. Naples.

Senator CARPER. I know my time is expired, Mr. Chairman. Do we have time for, maybe, a minute for Ms. Naples on this question?

The CHAIRMAN. Without objection.

Senator CARPER. Thanks very much.

Ms. Naples?

Ms. NAPLES. Thank you, Mr. Chairman. Thank you, Senator.

My business experience has taught me some lessons in how to get things done, and certainly, without having details about how this operates—I'm sorry that I don't have any details about it—but, just from a business perspective, I think that the first approach that I would suggest taking would be communicating with all the

interested parties, and let's not only try to give one viewpoint, but bring all viewpoints to the table and come to some agreements.

I also believe that the fact that there is a financial responsibility is extremely important, because that brings ownership and a vested interest for all the parties, as well.

So, from that perspective, I think that's how I would suggest we would approach something like this.

If I'm confirmed by this Committee and by the Senate, I certainly will do more to learn about the details of exactly what's involved.

Thank you.

Senator CARPER. Thank you.

And thank you, Mr. Chairman.

The CHAIRMAN. Mrs. Naples and gentlemen, on behalf of the Committee, I'm pleased to congratulate you on your nominations and to thank you for your public service.

We will be submitting questions for your consideration, and I hope you can respond to them.

This afternoon, in mid-afternoon, we will have an executive session, at which time Mr. Johnson, Ms. Naples, Mr. Stutler, Dr. Mulvey, and Mr. Carper will be confirmed. And so, congratulations.

Thank you.

The hearing is adjourned.

[Whereupon, at 12:21 p.m., the hearing was adjourned.]

