

**Questions for the Record for Mr. Finch Fulton**  
**U.S. Senate Committee on Commerce, Science, and Transportation**  
*“Nominations Hearing,”*  
March 11, 2020

**Questions for the Record from Hon. Maria Cantwell to Mr. Finch Fulton**

***Freight Policy.*** I am concerned that the Department is not prepared to address significant freight infrastructure challenges when the Department is just now seeking input to guide the development of a National Freight Strategic Plan – a plan that was supposed to be finalized by the end of 2017 pursuant to the FAST Act.

The Department was also required to establish a National Multimodal Freight Network to assist in the prioritization of federal freight investment by December 2016. Although this Administration reopened the comment period for a couple of months in October 2017, no further action has been taken since then.

***Question 1.*** How is the Department able to ensure federal dollars are being spent on those high impact projects that the INFRA and BUILD grant programs are supposed to support when it has failed to put together this vital freight prioritization guidance? When can we expect the Department to finalize these items?

*The Department recognizes the importance of federal freight investment to the safe and efficient movement of freight throughout the United States. Through discretionary programs, the Department has included evaluation criteria that allow the Department to identify priority freight projects. For example, in the most recent INFRA notice of funding opportunity, the Department has included whether a project primarily serves freight and goods movement as a factor in the economic vitality criterion evaluation.*

*The Department is working to complete the National Freight Strategic Plan by later this year. In December 2019, the Department requested information from States, local governments, and other stakeholders to inform the development of the national freight strategy. The completion of the National Freight Strategic Plan will directly lead into the identification of the updated National Multimodal Freight Network.*

***Question 2.*** At your hearing I asked you a question regarding lifting the multimodal cap for the INFRA program. Do you agree that, in conjunction with the National Multimodal Freight Network and National Freight Strategic Plan, lifting the multimodal cap in the INFRA would ensure that projects which can provide the greatest national benefit are prioritized?

*As the Department has been developing the National Freight Strategic Plan, it is clear that freight depends on a safe and efficient multimodal transportation system. The Department has heard from many stakeholders advocating for an increase in multimodal funding eligibility under the INFRA program. The Department, through the interagency review of the proposed surface transportation reauthorization, is considering how to*

*ensure flexibility in attracting and selecting the freight projects with the most benefits, regardless of mode.*

**Automation.** As we incorporate more automation into our lives, we must be thoughtful on how we develop and regulate these technologies, and consider how people interact with and respond to automation. Operators must know how to use and respond to these technologies, otherwise we will not see the benefits of automation. With autonomous vehicle systems already in the market and being tested on public roads, we need to ensure manufacturers and regulators are properly managing the risks posed by automated technologies.

**Question 3.** What steps has the Department taken to ensure that manufacturers and regulators are adequately considering and preparing for the human-machine interface between operators – whether that be drivers, pilots, or locomotive engineers – and the increasingly complex automated systems they are operating?

*The Department has taken many steps to ensure industry and the public sector are adequately considering and preparing for a future where human-machine interfaces are a possibility. The Department has released multiple voluntary guidance documents in recent years to prepare for this future.*

*In September 2017, DOT released *A Vision for Safety: Automated Driving Systems 2.0 (ADS 2.0)*. In October 2018, DOT released *Preparing for the Future of Transportation: Automated Vehicles 3.0 (AV 3.0)*. In January 2020, DOT and the White House Office of Science and Technology Policy released *Ensuring American Leadership in Automated Vehicle Technologies: Automated Vehicles 4.0 (AV 4.0)*. Guidance on human-machine interface was introduced in ADS 2.0, expanded in AV 3.0 and included in AV 4.0.*

*Additionally, DOT has conducted multiple national public stakeholder engagements and published public notices to obtain input from the DOT stakeholder community on automation. A list of these engagements can be seen at these links (<https://www.transportation.gov/av/publicnotices>, <https://www.transportation.gov/av/events>).*

*Informed by these engagements, research continues on this subject and will be critical to the success of advanced vehicle technologies going forward. Human factors research is a part of NHTSA's 2020 Advanced Safety Technologies program and will help develop the safety community's understanding of the safety impacts of human-machine interface approaches, as well as potential longer-term behavioral changes related to ADAS uses and how they might impact safety outcomes. These lessons learned provide a basis for manufacturers to make incremental improvements in their next generation systems and would improve the societal safety benefits achieved with deployed technology. These efforts are included in DOT's Annual Modal Research Plan (AMRP). The AMRPs can be found at this link: <https://www.transportation.gov/administrations/assistant-secretary-research-and-technology/rdt-annual-modal-research-plans>.*

**Question 4.** Section 105 of the Department of Transportation Appropriations Act, 2020, requires the Secretary to establish a Highly Automated Systems Safety Center of Excellence within the Department of Transportation. Please describe how the Department is planning to utilize that Center of Excellence, including which modes and/or types of automation will be addressed, how the Center plans to review, assess, and validate highly automated systems, and what role the Office of Policy will play in these activities.

*The Department aims to make the Highly Automated Safety Systems Center of Excellence (HASS COE) a significant resource for answers in this highly dynamic area of innovation. The Safety Systems Center will play a leading role in analyzing and developing guidance on safety improvements for advancing automation, especially of surface transportation. Automation is advancing swiftly, and the Center will focus on gathering information from various sources, and analyzing and synthesizing the information in service to governmental and external stakeholders.*

*The Center will have a full-time director and a Technical Review Board to provide guidance and oversight. We seek to recruit an individual with extensive experience in automated systems to lead the Center and the Review Board will be comprised of DOT's leading experts in the field. We will build on the close coordination with the Operating Administrations that is already the practice at DOT for advancing intelligent transportation systems, including through the work of the Non-traditional and Emerging Transportation Technology (NETT) Council, which includes all of the Operating Administrations at USDOT. The Operating Administrations will be involved in project selection and staffing. The Office of the Assistant Secretary for Transportation Policy will contribute to setting priorities and ensuring that the Center fulfills its mission.*

**Question 5.** As the Center of Excellence referenced above is directed to have a workforce composed of Department of Transportation employees, does DOT have the expertise necessary to carry out the activities of the Center of Excellence and to keep up with increasing innovation and automation across the transportation industry? What are you doing to ensure that the Department can retain and a recruit this expertise? How will the Center of Excellence impact the existing expertise in the various modal administrations?

*The Center's office will be at DOT headquarters within the Office of the Assistant Secretary for Research and Technology (OST-R). DOT intends to recruit a full-time director of the Center for a term appointment. The Center will employ technical experts on detail from the Operating Administrations, from DOT's Volpe Center through intra-agency agreement, and from other Federal agencies subject to interagency agreements, as needed, to review, assess, and validate highly automated systems.*

*Extensive expertise on automation resides within the Operating Administrations and the Volpe Center. The Safety Systems Center will thoroughly coordinate its projects with the Operating Administrations and rely on their experts. In addition, the Center will seek to engage experts as needed from academia, DOT's University Transportation Centers (UTCs) in particular. OST-R intends to have the HASS COE staffed up quickly. A*

*flexible baseline staffing plan will be submitted to Congress that allows for staff deployment as priorities shift and new issues emerge. This approach also comports with the current total FY20 appropriation of \$5 million.*

**Blocked Railroad Crossings.** Trains continue to get longer in the United States. This has resulted in many blocked railroad crossings for several hours each day, impacting freight movement, commuter congestion, and emergency response services.

**Question 6.** What is the DOT doing to engage with communities and railroads to ease the burden of blocked crossings for local communities?

*Safety is the top priority for the Department. We work closely with the Federal Railroad Administration (FRA) and believe that safety at grade crossings is a critical issue that continues to impact and concern communities. This belief was highlighted by Karl Alexy, FRA Associate Administrator for Railroad Safety and Chief Safety Officer in testimony given to House Transportation and Infrastructure Committee Subcommittee on Railroads Pipelines, and Hazardous Materials for the February 5, 2020 hearing “Tracking Toward Zero: Improving Grade Crossing Safety and Addressing Community Concerns.” The Department is pleased with FRA’s efforts to use data, local engagement, and research to address safety issues at grade crossings, including blocked crossing events. Mr. Alexy highlighted many of these efforts in his testimony, more of which can be found here:*

[https://transportation.house.gov/imo/media/doc/Alexy%20\(FRA\)%20Testimony.pdf](https://transportation.house.gov/imo/media/doc/Alexy%20(FRA)%20Testimony.pdf)

*On December 20, 2019, FRA launched an online portal to collect data from the general public and public safety officials on where individual communities experience blocked crossings. When submitting a report, information requested includes the location of the blocked crossing, time, duration, and impacts of the blocked crossing. The collected information will provide FRA with more standardized data on instances of blocked crossings throughout the United States.*

*While FRA has received information on many blocked crossing incidents, the data FRA has collected is only a sample. FRA intends to maintain, analyze, and share these data with all affected stakeholders to help inform the development of local solutions to reduce and prevent incidents of trains blocking crossings.*

*In addition to the blocked crossing portal, FRA continues to facilitate meetings between stakeholders and share expertise on potential solutions to the issues, as it has historically done. FRA is also hosting an ongoing series of technical symposiums and listening sessions on grade crossing and trespassing issues. More information on the portal can be found here: <https://www.fra.dot.gov/blockedcrossings>*

**Question 7.** These blocked crossings can pose unique challenges to rural communities. Sometimes an entire town can be split in two, making it difficult or even impossible for first responders to get across town. As a part of the Department’s ROUTES initiative, what are you doing to address this problem?

*The Department is committed to working with all impacted stakeholders to help inform the development of local solutions to reduce and prevent incidents of trains blocking crossings. One of the main objectives of the ROUTES initiative is to provide user-friendly information to rural communities to assist them in understanding and applying for DOT discretionary grants, as well as the resources listed in the previous response.*

*Through stakeholder engagement, we will work through the ROUTES initiative and relevant communities to target grant programs that can help address issues and challenges that they face. In addition to formula funding such as the Railway-Highway Crossings (Section 130) Program, one discretionary grant program that is particularly valuable to communities facing highway-rail grade crossing safety issues is the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program. The CRISI Program funds a wide range of projects that improve the safety, efficiency and reliability of intercity passenger and freight rail systems.*

**Management.** As the head of the Office of Policy within the Department of Transportation, it is important that you have a grasp on all the policies and regulations coming from the various agencies. Additionally, you will be responsible for supervising the employees of the Office of Policy.

**Question 8.** What do you anticipate your top priorities for each modal administration to be should you be confirmed?

*Secretary Chao has made it a priority to bring on a high-caliber team of leaders for the operational modes in the Department. I have enjoyed working with my colleagues over the past few years, and agree with their top priorities, which are in line with Secretary Chao's vision and Strategic Plan for the Department. All of these priorities will continue to focus first on the safety of the traveling public, and will also be shaped by the Department's continuing response to the impacts of COVID-19.*

*The top priorities of the Federal Aviation Administration (FAA) include:*

- *Continuing the mission to provide the safest, most efficient aerospace system in the world.*
- *Re-certification of the Boeing 737 MAX, and restoring faith in the FAA's certification of aircraft.*
- *Enabling innovation in commercial space through a final rule that will streamline launch and reentry requirements.*
- *Providing for safe and secure operations of UAS through a final rule on remote ID that will also move us forward on automated traffic management concepts for greater commercial operations of UAS tomorrow.*
- *Enabling more commercial operations of UAS today through a final amendment to Part 107 that will enable operations over people and traffic.*

*The top priorities of the Federal Highway Administration (FHWA) include:*

- *Reducing transportation-related fatalities and serious injuries across the transportation system, particularly addressing recent increases in pedestrian and bicyclist fatalities and also tackling the high fatality rates in rural areas, where fatality rates are more than twice as high as for urban roadways.*
- *Investing in infrastructure, in both rural and urban areas, to ensure mobility and accessibility and to stimulate economic growth, productivity, and competitiveness for American workers and businesses.*
- *Leading in the development and deployment of innovative practices and technologies to improve the safety and performance of the Nation's transportation system.*
- *Reducing the regulatory burden on our state and local partners wherever it can be done without compromising safety and effectiveness, and increasing the efficiency of the environmental review and permitting process.*

*The top priorities of the Federal Transit Administration (FTA) include:*

- *Administer and oversee \$25 billion in economic relief under the CARES Act to support public transportation systems affected by the COVID-19 crisis.*
- *Reduce transportation-related fatalities and serious injuries across the transportation system by implementing Safety Management Systems in the public transportation industry.*
- *Invest in infrastructure to ensure mobility and accessibility and to stimulate economic growth, productivity and competitiveness for American workers and businesses.*
- *Lead in the development and deployment of innovative practices and technologies that improve the safety and performance of the nation's transportation system through initiatives such as FTA's Accelerating Innovative Mobility Initiative.*
- *Serve the nation with reduced regulatory burden and greater efficiency, effectiveness and accountability.*

*The top priorities of the Federal Motor Carrier Safety Administration (FMCSA) include:*

- *Reducing truck and bus-related fatalities and serious injuries, particularly to address recent increases in light and medium sized truck-related fatalities, work zone fatalities and injuries, low seat belt usage by truckers, and truck and bus-related fatalities involving pedestrians and bicyclists.*
- *Enhancing the Safety Measurement System (SMS) used to identify high-risk motor carrier operations.*
- *Implementing an IT modernization plan to improve the systems the Agency uses to interact with state partners and motor carriers.*
- *Conducting research on truck crash factors, including potentially initiating a new Large Truck Crash Causal Factors Study (LTCCFS).*
- *Reducing the regulatory burden on small businesses whenever it can be done without compromising safety.*

*The top priorities of the Federal Railroad Administration (FRA) include:*

- *Ensuring railroads meet the December 31, 2020 PTC implementation deadline and working with partner agencies, local governments, industry, and*

*the public to improve safety around grade crossings—such as finalizing the FAST-Act required rule for all 50 states to complete grade crossing action plans.*

- *Administering the Consolidate Rail Infrastructure and Safety Improvement (CRISI) grants and other programs that improve rail infrastructure and services nationwide.*
- *Re-establishing metrics and standards for better passenger rail performance because American's deserve their passenger rail services to operate reliably.*
- *Working with Congress on a comprehensive surface transportation reauthorization proposal that improves rail safety, addresses the changing needs of the travelling public, and streamlines project delivery.*

*The top priorities of the Maritime Administration (MARAD) include:*

- *Promoting a strong U.S. maritime transportation system and sustained strategic sealift capabilities vital to national defense and economic security.*
- *Overseeing over \$500 million in projects funded through the FY2019 and FY2020 Port Infrastructure Development Grants.*
- *Bolstering the robust mariner base needed for the U.S. maritime economy and sealift readiness by enhancing the U.S. Merchant Marine Academy and providing new training ships for state maritime academies. .*

*The top priorities of the National Highway Traffic Safety Administration (NHTSA) include:*

- *Continuing the mission to save lives, prevent injuries and reduce vehicle-related crashes.*
- *Removing unnecessary barriers to advance safety technologies.*
- *Developing a framework for the safe development and deployment of vehicles equipped with Automated Driving Systems (ADS) technology.*
- *Investigating safety defects and exercising enforcement authorities when there are unreasonable risks to safety.*
- *Providing national leadership across State and local Emergency Medical Services (EMS) providers and 9-1-1 response systems to improve safety outcomes.*
- *Reducing pedestrian fatalities and injuries through partnerships, increased awareness, effective countermeasures and enforcement.*
- *Combating impaired driving.*
- *Preventing pediatric vehicle hyperthermia deaths.*
- *Upgrading the New Car Assessment Program (NCAP) to better inform consumers of newer safety technologies.*

*The top priorities of the Pipeline and Hazardous Materials Safety Administration (PHMSA) include:*

- *Ensuring that safety is the top priority for our nation's 2.7 million miles of pipelines.*

- *Prioritizing the safety of 1.2 million hazardous materials shipments across the U.S. each day.*

*The top priorities of the Saint Lawrence Seaway Development Corporation (SLSDC) include:*

- *Continuing the safe operation of the Seaway*
- *Working with the International Joint Commission (IJC) to ensure maritime navigation rights are addressed*
- *Addressing COVID19-related revenue shortfalls at the Seaway International Bridge for operations, maintenance, and capital*
- *Ensuring U.S. Seaway infrastructure needs are funded*

**Question 9.** Please describe previous management positions held, including your primary responsibilities and the number of people managed in each position, including direct reports.

*In my current role as Deputy Assistant Secretary for Transportation Policy, I oversee an office of forty people and a requested budget of \$2 billion in grants and \$26 million in program and administrative costs. In this role, I lead an organization that includes three other non-career leaders, and four offices: the Office of Policy Development, Strategic Planning and Performance, including the Infrastructure Permitting and Improvement Center; the Office of Infrastructure Finance and Innovation, which manages key discretionary grant programs such as the BUILD and INFRA transportation grant programs; and the Office of the Chief Economist. I have nine direct reports who are either career or non-career members of OST-Policy: three non-career executives, four Senior Executive Services (SES) office managers, an additional SES and a detailee from the Department of Labor who focuses on accessibility and employment issues relevant to transportation.*

*The Office of Transportation Policy is responsible for recommending overall transportation policy initiatives for the Secretary, and coordinating multi-modal initiatives and processes. In this role, I have managed large, multi-modal teams of hundreds to take an intermodal approach to innovative technologies and infrastructure investments. Two recent examples include teams of more than 200 employees each for both the Automated Vehicles 3.0: Preparing for the Future of Transportation guidance document, and for the process of making recommendations for the 2018 \$1.5 billion BUILD Transportation grant program.*

*In previous roles, I served as a contractor with one direct report, but organized and managed nation-wide advocacy campaigns that included offices in each state and the District of Columbia. This work consisted of organizing cross-functional teams to reach employees, retirees, customers, media and other external stakeholders worldwide as part of advocacy campaigns to influence narratives around complex issues, including connectivity, cybersecurity, data governance, privacy and workforce impacts.*



## Questions for the Record from Hon. Amy Klobuchar to Mr. Finch Fulton

**Grant Programs.** Grant programs administered by DOT provide critical funding for transportation projects in my state. While DOT awarded \$900 million in Better Utilizing Investments to Leverage Development (BUILD) funding in fiscal year 2019, Minnesota was one of fifteen states that did not receive any BUILD funding that year—although other states received up to three grants. I led a letter with members of the Minnesota delegation asking Secretary Chao to provide clarity to the competitive applicants from Minnesota that did not receive any funding this year.

**Question 1.** Can you provide an update on any actions that DOT has taken in response to this request?

*In the BUILD 2019 round, the Department received 666 eligible grant applications requesting more than \$9.6 billion in funding. With less than ten percent of the requested funding available for award, the Department was only able to award 55 projects in 35 states. As a result, the Department is faced with many more unsuccessful applicants than award winners. The Department strives to select the best projects based on merit, while also meeting all statutory requirements established by Congress including considering geographic diversity among recipients, modal distribution, and balancing the needs of urban and rural areas. The Department anticipates upholding this same Congressional direction for the upcoming BUILD 2020 competition.*

*The Department has already provided hundreds of application debriefs for BUILD 2019, including to every project sponsor who requested a debrief from Minnesota. Both the DOT and project sponsors find great value in the dialogues that are a part of these debriefs. We look forward to working with your stakeholders, and all relevant stakeholders, to further strengthen their grant applications going forward.*

**Bridges.** Reports have found that four out of five bridges that are “structurally deficient” and in urgent need of repair are in rural areas, yet without increased direct federal investment, it will take over 80 years to make the repairs needed.

**Question 2.** In your view, what should be done to provide for needed repairs for critical transportation infrastructure in rural areas?

*Safety is the Department’s top priority. The Department works closely with States to ensure the safety of the Nation’s bridges, including bridges in rural areas. The Federal Highway Administration’s formula programs (including the Highway Safety Improvement Program, the Surface Transportation Block Grant Program, and the National Highway Performance Program) make funding available to States for projects and activities, including those related to bridges, in both rural and urban areas. The Surface Transportation Block Grant Program includes a specific set-aside for “off-system bridges.” Many of these off-system bridges provide vital connections to rural communities.*

*The Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94) provided \$1.15 billion for a Bridge Replacement and Rehabilitation Program. This funding was distributed to States via formula and can be used for highway bridge replacement and rehabilitation projects on public roads in any area of the State. The fiscal year 2020 appropriations act also provided \$70 million for the Nationally Significant Federal Lands and Tribal Projects Program described in section 1123 of the FAST Act. This program provides funding to construct, reconstruct, or rehabilitate nationally-significant Federal lands and tribal transportation projects.*

*The fiscal year 2021 President's Budget, recognizing the critical importance of rebuilding and modernizing America's infrastructure, requests \$1 trillion in direct Federal investment, including \$35 billion for a new Bridge Rebuilding Program. This program will make targeted investments in critical bridge infrastructure, including \$12 billion for "off-system" bridges allocated via formula. The Budget also requests \$25 billion for a new Revitalizing Rural America Program for rural communities to deliver broadband, transportation, water and other infrastructure projects.*

*The President's Budget also requests significant resources for several competitive grant programs, including \$1 billion for the Infrastructure for Rebuilding America (or INFRA) grant program and \$1 billion for the Better Utilizing Investments to Leverage Development (or BUILD) grant program. These programs provide Federal assistance for critical projects that will spur progress in both rural and urban communities across all modes of surface transportation infrastructure, including highways, transit, rail, and ports.*

*In addition, DOT is providing additional support to rural communities through the Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative to help them in understanding and applying for DOT discretionary grants. These discretionary grant awards may be used repair critical infrastructure, including bridges. DOT is committed to assessing the needs and benefits of rural transportation infrastructure projects and continues to make improvements to our data-driven approaches to better make these assessments.*

## Questions for the Record from Hon. Richard Blumenthal to Mr. Finch Fulton

***The Trump Administration's continued delay of the Gateway Program.*** You have worked for the current administration on transportation policy since November 2016. I want to discuss an issue that I have raised in the past and which we all know well. The Gateway Program.

Some call it one project. Some call it several. No matter how you dice it, it is absolutely critical for the country that this program move forward.

As you know, we are still awaiting a final Environmental Impact Statement (EIS) and Record of Decision for one component of the Gateway Program, the Hudson Tunnel Project. Further delays risk the shutdown of one or both of the existing 110-year-old tunnels – which would be devastating to my constituents and threaten public safety.

Separately, and once the environmental review is complete, federal investment in the Hudson Tunnel Project is an absolute necessity. We are talking about one of the most critical infrastructure projects in all of the United States.

Last month, the FTA upgraded one component of the Gateway Program – the Portal Bridge Project – to medium-high, which makes it eligible for federal funding. Separately, I am curious to hear from you what the U.S. Department of Transportation is doing to proactively prepare for the inevitable needs that the Hudson Tunnel Project will require.

***Question 1.*** To what extent have you been involved with DOT's work on the Hudson Tunnel Project?

*I have had very little involvement in the Gateway suite of projects or in the management of the Federal Transit Administration's (FTA) or Federal Railroad Administration's (FRA) programs related to these projects. When appropriate, I have reached out to the FTA and FRA to inform my responses to your inquiries.*

***Question 2:*** Would you consider cuts to infrastructure projects in an attempt to reduce spending? If so, please identify at least one project that could be delayed or canceled.

*The Department has placed a priority on improving our nation's transportation infrastructure. As a result, the Department foresees a continued need for increased surface transportation infrastructure investments to support improved safety, state of good repair, economic competitiveness, quality of life, and environmental outcomes for our country.*

*However, bringing spending in line with revenue can also mean finding ways to use funding more efficiently. DOT continues to be a source of collaboration and innovation with our States and local partners. Through the Every Day Counts initiative, Federal Highways (FHWA) works with State transportation departments, local governments, tribes, private industry and other stakeholders to identify new innovations*

*to champion through regional summits. These innovations can facilitate greater efficiency at the State and local levels, saving time, money and resources that can be used to deliver more projects.*

**Question 3.** Do you agree that the Capital Investment Grant funding and the EIS are not dependent on one another?

*As part of a streamlining effort at the Department, the FRA has assumed the lead role in processing the project's EIS, while the FTA is conducting the statutory review requirements necessary under the Capital Investments Grant (CIG) program, mainly the evaluation and rating of financial commitment to the project, including evidence of stable and dependable financing sources. While the assessment of a financing plan and the development of an EIS are two distinct processes at the Department, as noted by Secretary Chao in her recent testimony before the Senate Committee on Appropriations, the funding plan for any project is outlined in the project's EIS document.*

**Question 3.** What steps is DOT taking to proactively secure funding for the construction of a new tunnel and to rebuild the existing tunnel between New Jersey and New York?

*The Hudson Tunnel Project is a complicated, multi-jurisdictional project that requires coordination with the public and numerous stakeholders. The Department is currently working with Amtrak to advance critical rehabilitation and repair work in the existing North River Tunnel. Given the complexity of the project, the Department is working with third-party experts to identify innovative and efficient delivery options for the project. Leveraging existing capital resources and recruiting new expertise will help the Department understand the full requirement for this project. While funding is important, the experts should have an opportunity to review and understand whether all delivery options—technical and logistics—have been considered. The Department believes that a more accurate cost projection will result from this type of thorough review.*

**Question 4.** Can you please explain the “Canarsie” method recently mentioned by Secretary Chao during a hearing before the Senate Committee on Appropriations?

*The “Canarsie Method” refers to a program of rehabilitation work being conducted on the New York Metropolitan Transportation Authority's (MTA) Canarsie L Train Tunnel connecting Brooklyn to Lower Manhattan. In coordination with a group of civil engineering experts from Columbia and Cornell Universities, the MTA developed means and methods for a rehabilitation program that both remediates damage caused by Superstorm Sandy and resolves deficiencies caused by the tunnel's age. This program is notable for its employment of innovative techniques and materials that only require limited track-outage to be deployed. Consequently, critical rehabilitation work can occur on nights and weekends, without causing significant disruption to transit service, and commuter experience.*

**Question 5.** Do you believe that the “Canarsie” method is truly applicable to the North River Tunnel given the unique differences between the two projects?

*The Department is currently working with Amtrak to assemble a team of outside experts and further explore this question. The Department believes – in conjunction with Amtrak – that the “Canarsie method” as developed by the State of New York is applicable to the North River Tunnel, at least in part. Given the similarities between the North River and Canarsie Tunnels, the Department expects many lessons from the “Canarsie Method” to be either directly or indirectly transferable to the North River Tunnel rehabilitation program. The extent of the transferability will be further investigated and vetted by the expert panel in conjunction with Amtrak and New Jersey Transit engineers. The Department believes that there are opportunities to deliver safety- and operationally critical repairs in the near-term and will work with Amtrak to deliver those repairs as efficiently as possible.*

**Question 7.** If confirmed, will you work to move this critical infrastructure project forward?

*Our mission at the U.S. Department of Transportation is to ensure America has the safest, most efficient, and modern transportation system in the world, which improves the quality of life for all American people and communities, from rural to urban, and increases the productivity and competitiveness of American workers and businesses.*

*As Secretary Chao noted in her testimony, the Federal Transit Administration recently assigned a new rating of “medium-high” to New Jersey Transit’s application to the Capital Investment Grant (CIG) program for the Portal North Bridge project. The new funding-eligible rating allows the Portal North Bridge project to advance to the Engineering phase of the CIG program. Credit is due to New Jersey Transit (NJT) for submitting a stronger application with a robust local funding commitment. In addition, the Secretary announced the publication of the Environmental Assessment document for another Northeast Corridor project in early March—the Sawtooth Bridge replacement project. This project is another key component of the Gateway Program.*

*Going forward, I look forward to working with the experts in the Department on these projects in my current role, or if confirmed as the Assistant Secretary.*

## Questions for the Record from Hon. Edward Markey to Mr. Finch Fulton

**The Gateway Program.** The Department of Transportation is responsible for issuing a Record of Decision on the Gateway Program's Environmental Impact Study (EIS), one of the key hurdles to the development of the projects. The final materials for the EIS were submitted in February 2018. It has been reported that the DOT did not begin the review process until nearly 6 months later.

Two projects in the Gateway Program, the Hudson Tunnel and the Portal North Bridge, are in the "project development" phase of the New Starts pipeline. In order for construction to begin, the projects must move to the "engineering phase" and then to Full-Funding Grant Agreements. The projects cannot enter these next phases until FTA issues a favorable rating. In 2018, the Department lowered the projects' medium ratings and has, until recently, maintained a lower-than-medium rating for both projects.

**Question 1.** Please describe any involvement you had in the consideration of the Gateway Program's EIS

*I have had very little involvement in the Gateway suite of projects or in the management of the Federal Transit Administration's (FTA) or Federal Railroad Administration's (FRA) programs related to these projects. When appropriate, I have reached out to the FTA and FRA to inform my responses to your inquiries.*

**Question 2.** Please describe any involvement you had in the downgrade of the Portal North Bridge and Hudson Tunnel projects.

*It is my understanding that the ratings of these projects are conducted by career staff. I was not involved.*

**Question 3.** In June 2017, you and other staff from the Office of the Secretary of Transportation held a senior staff brown bag lunch to discuss the Gateway Program. Please describe what was discussed at this June 2017 meeting.

*After searching my calendars and emails, I believe the purpose of the meeting was to receive a primer on the components of Gateway and definitions and terms.*

**Question 4.** In August 2017, you were included with various staff in the Office of the Secretary of Transportation on emails that discussed the Gateway Program with the subject line "NYNJ memo." Included on that email was a document titled "nynj ransom – 1 pager – v2." Please describe any involvement you had in the drafting of these documents. What does "ransom" in these documents refer to?

*It is my understanding that you are referring to an email from a work colleague of mine, to his supervisor, where I was included in the distribution. While I did receive this email, I have had very little involvement in the Gateway suite of projects or in the management of the FTA and FRA programs related to these projects.*

*It is also my understanding that my colleague named the file this way in response to ongoing and public holds on USDOT nominees due to continued pressure from the NY / NJ delegation to commit to a certain cost sharing structure for the suite of Gateway projects. I did not have any involvement in the naming of this document.*

**Question 5.** On August 30, 2017, a White House National Economic Council staffer, DJ Gribbin, emailed Jeff Rosen at the Office of the Secretary of Transportation, requesting background information for a memo to the President that included information regarding the Gateway Program. Replying to an email from White House staffer Allison Rusnak, you say “Got it. We’re on it.” Later that day, Office of the Secretary of Transportation staffer Derek Kan sent a memo, with you CC’ed, titled “nynj – NEC memo.docx.” What information was in this document and what recommendations did it include?

5. What information was in this document and what recommendations did it include?

*The Department has identified and reviewed the attachment in question. The Department can confirm the email accurately describes the document, which provides background information on potential Department grants.*

**Question 6.** What specifically was your involvement in the drafting of this document?

*As noted above, I received the email from Allison Rusnak, and responded to her and included a colleague of mine on the email who was working on the background memo. As you note, another colleague of mine provided an update. Otherwise, I have had very little involvement in the Gateway suite of projects or in the management of the FTA or FRA programs related to these projects.*

**Question 7.** Did you have any other discussions with staff from the White House about the Gateway Program? If so, please describe those discussions.

*I have had very little involvement in the Gateway suite of projects or in the management of the FTA or FRA programs related to these projects. Any such additional discussion would have likely taken place among other colleagues.*

**The Infrastructure for Rebuilding America Program.** You were a member of the senior review team for the Infrastructure for Rebuilding America (INFRA) program, which the Government Accountability Office (GAO) found to be lacking “consistency and transparency.” GAO found that the INFRA program did not sufficiently document why some program applicants were followed up with and why some were not. GAO also found that it was not clear whether the grants given out were awarded on the basis of merit principles.

In August 2017, you were included on emails with a document titled “INFRA\_DRAFT\_08917.docx.”

**Question 8.** Why did the Department choose to follow-up with some grant applicants to ensure they provided additional information to qualify for the program but not follow-up with and afford other applicants the same opportunity?

*During the FY 2017-2018 round, the Department's Senior Review Team for the INFRA discretionary grant program identified projects where additional information would assist our consideration of those projects. The Department made those requests based on the evaluation ratings and information in front of us at that time.*

**Question 9.** Why did the Department choose not to document the decisions they made related to the INFRA program?

*The Department documented the decisions to follow-up with applicants in accordance with the evaluation guidelines for the FY2017-2018 round. Following the GAO's review and recommendation on the subject, the Department implemented changes to the process for the FY 2019 round to ensure that the basis for seeking additional information was better documented and that all similarly situated applicants were afforded the same opportunity to supply additional information.*



## Questions for the Record from Hon. Jon Tester to Mr. Finch Fulton

**Question 1.** Highway Trust Fund spending far exceeds revenue, and will be exhausted by 2022. As you stated in your testimony, the Department of Transportation is considering many policy options to bring spending more in line with streams of revenue. Of those options, in your opinion which specific policy has the most merit?

*The Department of Transportation is looking forward to continuing to work, through the White House's interagency process, with Congress on any options to address this important issue.*

*The Federal Highway Administration (FHWA) has provided funding to States to conduct research in this field via the Surface Transportation System Funding Alternatives Program (STSFA). The STSFA program provides grants to States or groups of States to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund. Through the multiple rounds of STSFA awards, FHWA has seen States and partners research various Road User Charges (RUC) mechanisms such as paying at the pump/charging station, on-board mileage counters, and registration-fee schedules as well as research in establishing requirements for implementation, interoperability, public acceptance, and other potential hurdles. The FAST Act funded the STSFA program for fiscal years 2016 through 2020. The results of this program are valuable as we look to work with Congress on various possibilities to address the long-term solvency of the Highway Trust Fund. My opinion is that the STSFA identified several options that have merit.*

*In addition, FHWA established the Center for Innovative Finance Support (formerly Innovative Program Delivery) in October 2008 to provide a comprehensive set of tools and resources to assist the transportation community in exploring and implementing innovative strategies to deliver programs and projects. One of the Center's research focuses includes refining and developing new innovative strategies for project finance, revenue generation, and procurement. The Center is able to provide interested stakeholders with technical assistance and training in various Innovative Finance options including State Implementation Banks, Tolling, Value Capture, and Public Private Partnerships.*

*The Department is aware that Congressional transportation committees and States are exploring various revenue mechanisms to fund infrastructure investment. At this point, all options are still on the table and none have been specifically endorsed by the White House or interagency partners in the Executive Branch, including DOT. We look forward to continue working closely with Congress to explore pay-for options.*

**Question 2:** Would you consider cuts to infrastructure projects in an attempt to reduce spending? If so, please identify at least one project that could be delayed or canceled.

*The Department has placed a priority on improving our nation's transportation infrastructure. As a result, the Department foresees a continued need for increased*

*surface transportation infrastructure investments to support improved safety, state of good repair, economic competitiveness, quality of life, and environmental outcomes for our country.*

*However, bringing spending in line with revenue can also mean finding ways to use funding more efficiently. DOT continues to be a source of collaboration and innovation with our States and local partners. Through the Every Day Counts initiative, Federal Highways (FHWA) works with State transportation departments, local governments, tribes, private industry and other stakeholders to identify new innovations to champion through regional summits. These innovations can facilitate greater efficiency at the State and local levels, saving time, money and resources that can be used to deliver more projects.*

**Question 3:** Would you support an increase to the gas tax in an aim to increase revenue?

*All options are on the table and none have been specifically endorsed by the White House or interagency partners in the Executive Branch. As stated above, the Department of Transportation is looking forward to continuing to work with Congress on any options to address this important issue.*