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BUILDING A 21ST-CENTURY INFRASTRUCTURE FOR AMERICA: FEDERAL AVIATION ADMINISTRATION AUTHORIZATION

(115–18)

HEARING

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

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June 2, 2017

SUMMARY OF SUBJECT MATTER

TO: Members, Committee on Transportation and Infrastructure
FROM: Staff, Committee on Transportation and Infrastructure
RE: Full Committee Hearing on "Building a 21st Century Infrastructure for America: Federal Aviation Administration Authorization"

PURPOSE

The Committee on Transportation and Infrastructure will meet on Thursday, June 8, 2017, at 9:30 a.m. in 2167 Rayburn House Office Building to hold a hearing on "Building a 21st Century Infrastructure for America: Federal Aviation Administration Authorization". The purpose of this hearing is to hear testimony from the Secretary of Transportation, Elaine Chao, on issues related to the Federal Aviation Administration (FAA), the programs it administers, and FAA authorization and reform.

BACKGROUND

The last multi-year FAA authorization, the *FAA Modernization and Reform Act* (P.L. 112-95; *FMRA*) was signed into law in 2012. The *FMRA* provided nearly $16 billion annually for fiscal years 2012-2015 for FAA programs and operations. Since October 2015, the FAA has been authorized by a series of extensions, the latest being the *FAA Extension, Safety, and Security Act of 2016* (P.L. 114-190; *2016 FAA Extension*) which extends the authorities and taxes included in *FMRA* through September 30, 2017.[1] It also authorizes certain critical, time-sensitive reforms.

In light of the significant contributions of commercial and general aviation to the Nation's economy, it is important that Congress enact a multi-year, transformational authorization bill. The bill must update and streamline FAA policies and programs. It must also resolve the systemic problems of bureaucratic red tape, government dysfunction, conflicts-of-interest, and funding volatility that have plagued air traffic control (ATC) modernization despite the expenditure of billions of dollars. The establishment of an ATC service provider separate

[1] Prior to the 2016 FAA Extension, the FAA's authorities and taxes authorized in FMRA were extended through March 31, 2016, in P.L. 114-55, and again through July 15, 2016, in P.L. 114-141.

from the safety regulator has proven to be an effective solution to such problems in a number of international instances over the last three decades.

This memorandum outlines some of the policies, programs, processes, and issues likely to be discussed in the context of a comprehensive, multi-year FAA authorization bill.

FAA Safety Oversight and Certification Responsibilities

The primary mission of the FAA is ensuring aviation safety. The FAA has the responsibility to certify, monitor, and regulate the safety and operation of the civil aviation industry, including airlines, general aviation, unmanned aircraft systems (UAS), airports, commercial space transportation, repair stations, and aircraft manufacturers. The FAA is also responsible for establishing licensing and training requirements for pilots, flight attendants, maintenance workers, controllers, inspectors, and other aviation professionals. Aviation safety is dependent upon, among other things, rigorous training, the sharing of safety critical information, and strong oversight.

The FAA is responsible for developing certification standards that ensure the safety of design and production of aircraft, aircraft components, and other avionics. To this end, the FAA has an extensive system of oversight and certification to confirm that the design and production of aircraft and aircraft components meet specific safety standards. These processes can often be time-consuming and costly for aviation manufacturers.[2] FMRA directed the FAA to find ways to improve and streamline certification processes, reduce delays, and harmonize regulatory standards both domestically and internationally.[3] In response, stakeholder-working groups recommended ways to streamline aircraft certifications and address inconsistent regulatory interpretations. The FAA authorization bill will address these important recommendations.

Airport Infrastructure

Airports are key economic drivers in communities throughout around the United States. To finance capital needs, airports use a combination of federal grants, federally authorized local airport charges, state and local grants, and airport operating revenues.[4] The primary federal grant program for funding airport development and planning is the Airport Improvement Program (AIP). The AIP is funded entirely by the Airport and Airway Trust Fund (Trust Fund), which is supported entirely by taxes on aviation users. The AIP is primarily used for improvements related to enhancing safety, capacity, security, and environmental concerns. Airport sponsors can also use AIP funds, in most cases, on airfield capital improvements or repairs and, in some specific situations, for terminals and hangars. The AIP is currently authorized at $3.35 billion.

Because the AIP does not cover all airport capital needs, Congress has authorized airports to collect a fee on passengers called the passenger facility charge (PFC). A PFC is approved by the federal government, collected by the airlines, and paid directly to the airport without passing through the federal Treasury. The PFC is intended to supplement, not replace, AIP funds.

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[2] 14 C.F.R Parts 21, 23, and 25.
[3] Sections 312 and 313 of the *FAA Modernization and Reform Act of 2012.* (P.L. 112-95.)
[4] Tang, Rachel Y., Congressional Research Service, "Financing Airports Improvements" (May 10, 2017).

Airports can use PFCs to build critical infrastructure projects at their facilities. However, unlike AIP funds, airports can use PFC revenue for gates, airline ticket areas, and debt service payments on bonds that airports issue to finance infrastructure projects. In 2016, the FAA estimated that airports collected approximately $3.2 billion from PFCs.[5]

General Aviation

General aviation (GA) consists of flight activity for personal and business use including most flight training. GA aircraft range from helicopters and piston-engine aircraft to large transport aircraft capable of intercontinental flight. According to the FAA, "...the long term outlook for general aviation is favorable, led by gains in turbine aircraft activity." However, the FAA predicts that the largest segment of the fleet, fixed-wing piston aircraft, will continue to shrink.[6] In addition, according to FAA forecasts, "...the number of active general aviation pilots (excluding [Air Transport Pilots]) is projected to decrease about 5,000..." between 2016 - 2036.[7]

Over the past decade, Congress has taken steps to revitalize the GA industry and reverse its decline. In 2013, Congress passed the *Small Airplane Revitalization Act* (P.L. 113-53; *SARA*), which requires the FAA to update regulations relating to GA aircraft with performance-based standards. The *2016 FAA Extension* requires the FAA to reform third-class medical certification for GA pilots in order to lessen a significant cost barrier to recreational flying. Last year's FAA authorization bill contained a number of provisions designed to reduce the cost of GA flying and improve safety.[8] Revitalizing GA, attracting young people to aviation professions, and ensuring the continuity of ATC services to small, rural, and remote communities, that both support and rely upon GA, are continuing goals of FAA authorization legislation, and will be addressed in the bill.

Commercial Air Service

Commercial air service is made up of a number of types of passenger and freight service. In 2015, approximately two million passengers flew on domestic and international flights operated by U.S. airlines each day.[9] Major U.S. passenger airlines often partner with regional airlines operating smaller aircraft to fly routes or during certain times of the day that cannot be economically served otherwise. Internationally, major U.S. passenger airlines form alliances with foreign airlines to mutually expand their global networks. In recent years, a group of "ultra" low-cost carriers has also emerged to compete for passenger services. Additionally, the transportation of freight by air is also substantial: in 2014, over 64 billion ton-miles of freight

[5] FAA Key Passenger Facility Charge Statistics, https://www.faa.gov/airports/pfc/monthly_reports/media/stats.pdf.
[6] FAA Aerospace Forecast, 2016-2036, p. 2.
[7] *Id.* at 25.
[8] The GA-related provisions included certification and regulatory interpretation reform, an increase in the length of aircraft registration periods, reforms to the FAA Contract Tower Program, and provisions to address the need for adequate FAA safety staffing.
[9] Bureau of Transportation Statistics, "2015 U.S.-Based Airline Traffic Data" https://www.rita.dot.gov/bts/press_releases/bts018_16

passed through U.S. airports.[10] Finally, charters operate over 10,000 aircraft, serving the largest cities and rural communities lacking scheduled service.[11]

Commercial air service issues of interest:

- *Commercial regulation of airlines*: In 1978, the *Airline Deregulation Act of 1978* (P.L. 95-504; *ADA*) eliminated most economic regulation of the industry in favor of allowing market forces to determine domestic airfares, routes, and levels of service. The elimination of government regulation of fares and routes has resulted in lower fares and a wide variety of price and service options.[12]

- *Essential Air Service (EAS) program*: The *ADA* included the EAS Program to ensure that small communities that were served by certificated air carriers before deregulation maintain a minimal level of scheduled air service. EAS has been reformed many times since 1978, most recently in *FMRA*, to improve service and control costs. The EAS program is important to ensuring air service to small and rural communities with limited alternative transportation options.

- *Open Skies*: In 1992, the United States entered into its first "Open Skies" agreement which eliminated most governmental limits on international services. Since that time, the United States has entered into Open Skies agreements with 100 countries.[13]

Airline Consumer Issues

In the decades since airline deregulation, Congress has passed a number of laws to improve airline consumer protections, most recently in the *2016 FAA Extension*.[14] Consumer issues addressed include the treatment of passengers with disabilities, excessive tarmac delays, compensation for delayed baggage, and the establishment of the Advisory Committee for Aviation Consumer Protection.[15]

Recent, high-profile incidents involving the poor treatment of airline passengers have resulted in renewed focus on airline customer service. Of particular interest are airline policies related to overbooking, voluntary and involuntary bumping of passengers, and compensation for passenger inconvenience. Additionally, as airlines now offer different levels of service and seat choice, and "unbundled" amenities, there is interest in the information available to consumers. Finally, there is also interest in updating policies related to passengers with disabilities.

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[10] Federal Aviation Administration, "The Economic Impact of Civil Aviation on the U.S. Economy" p. 4. https://www.faa.gov/air_traffic/publications/media/2016-economic-impact-report_FINAL.pdf

[11] Study of Operators Regulated Under Part 135, April 2016. Available at: http://nata.aero/data/files/gia/4656_001.pdf (p. ES-2)

[12] U.S. DOT, https://www.transportation.gov/airconsumer/fly-rights

[13] U.S. Department of State, "Open Skies Agreements" https://www.state.gov/e/eb/tra/ata/

[14] See *Air Carrier Access Act* (P.L. 99-435); *Vision 100—Century of Aviation Reauthorization Act* (P.L. 108-176); *FAA Modernization and Reform Act of 2012*. (P.L. 112-95.); and *FAA Extension, Safety, and Security Act of 2016* (P.L. 114-190).

[15] https://www.transportation.gov/airconsumer/ACACP

Unmanned Aircraft Systems

Since the early 1990's, UAS, or drones, have operated in the national airspace, mostly in support of governmental operations related to national defense and homeland security.[16] In recent years, the private sector has developed a range of civil applications for UAS, including aerial photography, surveying, agriculture, communications, environmental monitoring, and infrastructure inspection.[17] Some companies have even announced plans for small package delivery using UAS.

The emergence of UAS offers substantial opportunities and raises important policy issues, such as airspace rules, privacy concerns, and aviation safety. Both *FMRA* and the *2016 FAA Extension* include a number of provisions facilitating the safe integration and oversight of UAS. The increasing demand for UAS operations in the National Airspace (NAS), as well as safety, security, and local privacy and policing interests will be topics of continued interest in the FAA authorization.

Other authorization issues

In addition to the issues discussed above, the hearing may also touch on the following:

- *FAA Contract Tower Program*: Federal contractors provide air traffic control services at visual flight rule airports. FAA oversees the safe operation of these towers. As of February 2017, there are 253 contract towers in the NAS.

- *Commercial Space Transportation:* Under the *Commercial Space Launch Act of 1984* and subsequent legislation, the Secretary of Transportation has the responsibility to facilitate, regulate, and promote the commercial space transportation industry. This function has been assigned to the FAA's Office of Commercial Space Transportation (AST), which issues launch and reentry licenses, permits for experimental launches, and launch site licenses for spaceports. As the pace and complexity of commercial space transportation operations increases, AST's role in regulating the industry will evolve.

- *Cybersecurity:* As aviation has evolved and newer technologies have been adopted and integrated, cybersecurity concerns have arisen. The *2016 FAA Extension* directed the FAA to implement a comprehensive strategic framework for aviation cybersecurity.

FAA and ATC Reform

On May 17, 2017, the Committee held a hearing entitled, "The Need to Reform FAA and Air Traffic Control to Build a 21st Century Aviation System for America." The Summary of

[16] Federal Aviation Administration, "Integration of Civil Unmanned Aircraft Systems (UAS) in the National Airspace System (NAS) Roadmap", p. 4 https://www.faa.gov/uas/media/UAS_Roadmap_2013.pdf
[17] *Id.* at 6

Subject Matter and witnesses' testimony for the hearing addressed the current state of ATC, ATC modernization efforts, and the need for transformational reform of the FAA.

Status Quo is Unacceptable

While the FAA's day-to-day operation of the ATC system is safe, the Agency has struggled to keep up with increasing demand and technological advances. To ostensibly prepare for forecasted growth, the FAA has been working for decades to modernize the ATC system, which is predominantly based on outdated technologies and procedures that are inadequate to support a modern aviation industry. Without modernization, controllers and aircraft operators have been forced to use the airspace in very inefficient ways. These inefficiencies manifest themselves in a number of ways including increased flight times, fuel consumption, and emissions. The long-term success of American aviation requires, among other things, ATC services capable of meeting the dynamic needs of diverse airspace users and the timely and cost-effective deployment of innovative technologies.

Decades of Department of Transportation Inspector General (DOT IG) audits, Government Accountability Office (GAO) reports, and third party reviews have documented the extraordinary waste of tax dollars and poor management of a string of FAA "modernization" programs dating back to the early 1980s. The FAA began its latest ATC modernization initiative, the Next Generation Air Transportation System (NextGen), in 2003.[18] From the beginning, the FAA marketed NextGen as fundamentally transforming how air traffic would be managed.[19]

However, according to government watchdog reports, the FAA's 20-year, $40 billion "NextGen" initiative has been plagued by cost and schedule overruns and has produced only incremental improvements in capacity and safety. For instance, in 2012, the GAO found that "...FAA's organization...has been slow to embrace NextGen's transformational vision... [and] [g]aps in leadership have further undermined the Agency's efforts to advance NextGen."[20] A 2014 GAO report found that aviation stakeholders lack confidence in FAA's ability to implement ATC modernization.[21] Regarding FAA's NextGen effort, in 2014 the DOT IG testified that "[w]e are probably looking years beyond 2025, perhaps another 10 even, and we are probably also looking at the total expenditures in an order of magnitude two to three times that of the initial $40 billion estimate to achieve the original plan."[22] The DOT IG recently reaffirmed

[18] https://www.faa.gov/nextgen/

[19] Various descriptions of NextGen over the years have included: in 2004, a "Transformation of America's air transportation network"; in 2006, an "Aviation Revolution"; in 2009, "...will forever redefine how we manage our national airspace system"; in 2011, "...a comprehensive overhaul of our national airspace system...."; in 2013, "...an evolution from a ground-based system of air traffic control to a satellite-based system of air traffic management"; in 2014, "a widespread, transformative change in the management and operation of the way we fly"; in 2015, "...a new era of aviation"; and in 2016, "NextGen is now."

[20] U.S. Government Accountability Office, *Air Traffic Control Modernization: Management Challenges Associated with Program Costs and Schedules Could Hinder NextGen Implementation*, February 2012, GAO-12-223, p. 3.

[21] U.S. Government Accountability Office, *Air Traffic Control System: Selected Stakeholders' Perspectives on Operations, Modernization, and Structure*, GAO-14-770, p. 11 (Sept. 2014).

[22] Testimony of Calvin Scovel, Inspector General, U.S. Department of Transportation, Subcommittee on Aviation, Committee on Transportation and Infrastructure, hearing on FAA Reauthorization: Issues in Modernizing and Operating the Nation's Airspace" (November 18, 2014); see also Testimony of Calvin Scovel, Inspector General,

his assessment that risks and uncertainties surrounding NextGen could result in delayed implementation through 2035 and a doubling or tripling of the initial $40 billion cost figure.[23]

It is not even clear to the independent watchdogs exactly what NextGen entails, how much it costs, and what benefits will ever be delivered. Both the National Research Council and the DOT IG have pointed out that instead of fundamentally changing how air traffic is managed, as initially promised, the FAA's NextGen effort has shifted to replacing and updating decades-old equipment and systems.[24] In other words, NextGen has largely become the ordinary business of replacing old equipment. While that is a basic necessity for any enterprise, the transformational benefits FAA promised are unlikely to be realized from NextGen programs as they exist today. The limited NextGen benefits that passengers and aircraft operators have seen are certainly not in line with taxpayer dollars invested, which is approximately $7.5 billion to date.[25]

Targeted FAA Reforms

Some are proposing that additional, targeted reforms to the FAA's personnel and procurement processes, and changing its budgetary treatment is all that is required to address the FAA's chronic problems with the ATC system and modernization efforts. But, these targeted reforms have been tried before. Since 1995, Congress has granted the FAA unique authorities through personnel, procurement, and structural reforms to allow the FAA to run "more like a business". However, previous reform efforts have been widely unsuccessful.

The DOT IG assessed the impact of FAA reforms since 1995 and concluded, "...these efforts have not achieved anticipated cost savings and operational efficiencies."[26] Regarding personnel reform, the DOT IG found that "...while Congress exempted FAA from most Title 5 laws and regulations, FAA has not leveraged these personnel reform flexibilities.... According to a senior FAA Human Resources official, the only difference between FAA's personnel system and the rest of the Federal Government's is compensation."[27] The DOT IG did find that the FAA had implemented systems to operate more like a business, however the DOT IG concluded, "... [FAA] does not regularly analyze the operational and cost data generated by these systems to

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U.S. Department of Transportation, Committee on Transportation and Infrastructure, hearing on "The Need to Reform FAA and Air Traffic Control to Build a 21st Century Aviation System for America" (May 17, 2017).

[23] Testimony of Calvin Scovel, Inspector General, U.S. Department of Transportation, Committee on Transportation and Infrastructure, hearing on "The Need to Reform FAA and Air Traffic Control to Build a 21st Century Aviation System for America" (May 17, 2017).

[24] National Research Council, *A Review of the Next Generation Air Transportation System: Implications and Importance of System Architecture*, p. 3, The National Academies Press (2015); and Department of Transportation Office of the Inspector General, *Total Costs, Schedules, and Benefits of FAA's NextGen Transformational Programs Remain Uncertain*, AV-2017-009, p. 17 (Nov. 2016).

[25] U.S. Government Accountability Office, *Next Generation Air Transportation System: Information on Expenditures, Schedule, and Cost Estimates, Fiscal Years 2004 – 2030*, GAO-17-241R, p.2 (Nov. 2016).

[26] Testimony of Calvin Scovel, Inspector General, U.S. Department of Transportation, Committee on Transportation and Infrastructure, hearing on "The Need to Reform FAA and Air Traffic Control to Build a 21st Century Aviation System for America" (May 17, 2017).

[27] Department of Transportation Office of the Inspector General, *FAA Reforms Have Not Achieved Expected Cost, Efficiency, and Modernization Outcomes*, AV-2016-015, p. 9 (Jan. 2016).

determine if it could reduce costs or improve productivity."[28] Finally, according to the DOT IG, the FAA's acquisition reform has not accelerated delivery of new technologies nor reduced costs or schedules, as was anticipated with the transition to the current acquisition management system (AMS).[29]

Suggestions that the FAA should be given greater budgetary and procurement flexibilities would require Congress to cede any meaningful oversight and management of NextGen programs to the very agency that has repeatedly failed to deliver on NextGen and other modernization programs' promises since the early 1980s. Moreover, any new budgetary flexibilities and authorities would remain tethered to the annual appropriations cycle, making them subject to the same volatilities inherent in the current cycle of political dysfunction.

ATC Reform

The FAA-operated ATC services is adequately functional and safe on a day-to-day basis, but is plagued by inherent conflicts-of-interest, wastefulness, inefficiency, and long-term financing difficulties. The FAA has been continuously "modernizing" since 1981, yet there is no evidence that the current modernization program differs from the preceding decades of programs that overpromised and under-delivered at great cost. Today, over 60 countries have successfully separated their ATC service provider from their government safety regulator. The United States is one of a handful of industrialized countries that has yet to do so. The results of separating ATC have been quite positive according to multiple audits and studies over the years.[30]

Last Congress, the Committee on Transportation and Infrastructure proposed separating the provision of air traffic services from the safety regulator. The Committee is considering similar reforms to the FAA this year.

President's Budget and ATC Reform

The President's fiscal year 2018 budget includes reforms that would shift the FAA's air traffic control function to an independent, non-governmental organization beginning in 2021. The budget states that despite its excellent safety record, the FAA "...is challenged increasingly to address the quickly evolving needs of the Nation's airspace users."[31] The Administration states, "[t]his transformative undertaking will create an innovative corporation that can more nimbly respond to the demand for air traffic services, all while reducing taxes and Government spending.

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[28] Id. at 10.
[29] Testimony of Calvin Scovel, Inspector General, U.S. Department of Transportation, Committee on Transportation and Infrastructure, hearing on "The Need to Reform FAA and Air Traffic Control to Build a 21st Century Aviation System for America" (May 17, 2017).
[30] See U.S. Government Accountability Office, "Air Traffic Control: Characteristics and Performance of Selected International Air Navigation Service Providers and Lessons Learned from Their Commercialization," GAO-05-769, p. 4, (Jul. 2005); Glen McDougall and Alasdair Roberts, "Commercializing Air Traffic Control: Have the reforms worked?" *Canadian Public Administration*, Vol. 51, No. 1, pgs. 45-69, (Mar. 2008); and Dan Brown, Tom Berry, Steve Welman, and E.J. Spear, "CAA International Structures", MITRE Product, MP140527, (Oct. 2014).
[31] *Budget of the United States Government, Fiscal Year 2018: A New Foundation For American Greatness*, p. 19 (May 2017), https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/budget.pdf

The parts of FAA that will remain with the Government will retain important aviation safety regulatory activities as well as maintain AIP grant program."[32]

The proposal in the President's budget calls for reducing aviation passenger taxes and allowing the new entity to set and collect user fees based on their use of the Nation's airspace. It is not clear which taxes would be eliminated, but the budget does note that there would be "...a cap reduction in discretionary spending of $72.8 billion, and reduction in aviation excise taxes of $115.6 billion."[33]

WITNESS LIST

The Honorable Elaine Chao
Secretary of Transportation
U.S. Department of Transportation

[32] Id.
[33] Id.

BUILDING A 21ST-CENTURY INFRASTRUCTURE FOR AMERICA: FEDERAL AVIATION ADMINISTRATION AUTHORIZATION

THURSDAY, JUNE 8, 2017

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
WASHINGTON, DC.

The committee met, pursuant to notice, at 9:35 a.m. in room 2167, Rayburn House Office Building, Hon. Bill Shuster (Chairman of the committee) presiding.

Mr. SHUSTER. The committee will come to order and I now recognize Mr. LoBiondo for a motion.

Mr. LOBIONDO. Pursuant to rule 1(a)(1) of the rules of the Committee on Transportation and Infrastructure, I move that the chairman be authorized to declare recess during today's hearing.

Mr. SHUSTER. The question is on the motion.

All those in favor, signify by saying aye.

All those opposed, signify by saying nay.

In the opinion of the Chair, the ayes have it, and the motion is agreed to.

Well, I want to welcome everybody to today's hearing on FAA [Federal Aviation Administration] reauthorization and reform. I want to welcome Secretary Chao.

Thank you very much for being here. This is your first hearing before the committee. And I know that you have a hard stop today at 11:30 because you have a meeting down at the White House. I know that the President has a number of stakeholders in continuing—talking about infrastructure to the stakeholders and to the American people. So we will do our best to abide by that.

Given those constraints, after consultation with the ranking member, we will observe the following timing: opening statement by the chairman and ranking member will be 3 minutes; questions for the chairman and ranking member will be 5 minutes. However, I will defer my questions until the end. And questions for Members will be 4 minutes, to ensure everyone gets a chance to ask questions today.

We could not be discussing a more important aspect of our Nation's infrastructure this morning. A long-term, comprehensive FAA authorization and reform bill is critical to bringing our infrastructure into the 21st century.

We have held a number of hearings this year to prepare for an FAA bill, and getting your input about the administration's priorities is another critical step in that process.

On Monday some of my colleagues and I joined you as the President announced his support and principles for air traffic control reform. As you know, this reform is vital to the future of our aviation system. But our FAA bill will address many much-needed reforms of the agency.

We need certification reform, so that our manufacturers can compete on the world stage. We need to ensure we don't stymie innovation in new and emerging aviation sectors like drones and commercial space travel. We need to improve our airport infrastructure across the country. We need to ensure the safety of the system and the fair treatment of the flying public.

Without bold action, America will, without a doubt, fall behind other nations in aviation. It is time for this committee and for Congress to act, and I look forward to working with you as we do that.

I would now like to recognize subcommittee chairman Mr. Larsen for 3 minutes to make an opening statement.

Mr. LARSEN. Ranking Member.

Mr. SHUSTER. Ranking Member Larsen; sorry about that. Three minutes? For an opening. I am confusing myself.

Mr. LARSEN. First—thank you, Mr. Chairman. First off, I regret Mr. DeFazio is unable to attend today with a very important hearing with Secretary Chao. He is in Oregon, undergoing an urgent medical procedure. I fully expect him to be back to work and on the road to recovery next week. So I just want to pass that on.

And, Mr. Chairman, thank you for calling this hearing today.

To Secretary Chao, we welcome you to the committee for your first hearing—at least first hearing with us.

Yesterday Ranking Member DeFazio and I were joined by every Democratic member of this committee in introducing H.R. 2800, the Aviation Funding Stability Act, which offers simple and narrowly tailored solutions to the challenges facing the air traffic control system. The bill provides a steady funding stream for aviation programs, improves FAA's procurement and personnel systems, and amplifies the aviation stakeholder's voice in FAA management through the Management Advisory Council.

Our bill fixes every problem identified by aviation system stakeholders, and does not engage in the science experiment of air traffic control privatization, which will slow down, rather than speed up, NextGen implementation. If we are going to have—if we have a discussion about air traffic control, we cannot deny the progress the FAA has made, and the motivation that this committee's oversight itself has provided.

The FAA has rolled out DataComm in 56 of the busiest control towers, nationwide, and plans to deploy to en route facilities in 2021. Electronic flight strips, a symbol of all that is supposedly wrong with the current system, come online in 2020, as part of a larger suite of automation. And the FAA has published over 8,000 performance-based navigation procedures. The FAA has completed a network of automatic dependent surveillance-broadcast towers that will replace radar in 2020, and the list goes on.

And a privatization bill will not come with a magic wand to accelerate these efforts. But the plan will not only freeze modernization programs in place, but also jeopardize enacting a long-term,

comprehensive FAA reauthorization bill that the industry and flying public rightly demand.

Yesterday, in a Senate Commerce, Science, and Transportation Committee hearing on privatization, Republican Senator Jerry Moran said that "With the administration's support for this proposal, the odds of getting a long-term authorization are diminished," adding, "Those two things, the spinoff and the long-term authorization, may be mutually exclusive."

In his closing remarks, Chairman Thune encouraged you, Secretary Chao, to find consensus among stakeholder communities because right now there are a whole lot of questions. An ever-growing list of stakeholders have registered objections.

And, Mr. Chairman, I just ask unanimous consent that the following items be entered today in the record, including public releases of aviation stakeholders and labor groups expressing concern about privatization.

Mr. SHUSTER. Without objection, so ordered.

[The letter from the Electronic Privacy Information Center is on pages 66–70.]

Mr. LARSEN. As well as the statement by Ranking Member DeFazio.

Mr. SHUSTER. Without objection, so ordered.

[The written statement of Hon. Peter A. DeFazio is on pages 49–50.]

Mr. LARSEN. Federal unions, including PASS [Professional Aviation Safety Specialists], which represent FAA safety inspectors and technicians, also objected to privatization, as well as 100 mayors.

Secretary Chao, you stated during your confirmation that you wanted a national consensus on air traffic control privatization. This plan has not attracted consensus in 20 years. There does not seem to be consensus. And we want to hear from you how you plan to go about doing that.

So, with that, I want to thank you, Mr. Chairman, for holding today's hearing, and look forward to hearing from the witnesses.

Mr. SHUSTER. I thank the gentleman. And now I recognize the chairman of the subcommittee, Mr. LoBiondo, for a statement.

Mr. LOBIONDO. Thank you, Mr. Chairman. I think we have a tremendous challenge, but a tremendous opportunity with the reauthorization bill.

In order to ensure that the United States remains at the forefront of aviation innovation, technology, and, most importantly safety, it is imperative that we pass a multiyear bill. Critical to the FAA's modernization effort is the cutting-edge research and development done by the outstanding men and women of the Federal Aviation Administration's Technical Center located in my district. This is the premier aviation research and development center, and I have the honor of representing them.

From pavement testing to lithium battery research, the work done at the tech center has developed and validated new technologies that have saved lives and makes our aviation system the safest in the world.

Today, the unique labs at the tech center are focused on 21st-century challenges such as UAS [unmanned aircraft system] inte-

gration and cybersecurity efforts to protect the NAS [National Airspace System]. Our current construction of the Stockton Aviation Research and Technology Park, which is adjacent to the tech center, will complement those efforts, bringing private companies into direct and daily contact with the labs and the personnel at the tech center. I want to see their hard work better utilized and more efficiently integrated into our aviation system. But due to restrictions and decisions by FAA headquarters here in Washington, their efforts and expertise cannot and have not been fully leveraged.

We hope to be able to change that. I look forward to the hearing today.

And, Secretary, thank you for being here.

I yield back.

Mr. SHUSTER. I thank the gentleman, but now I would like to welcome our witness, Secretary Chao.

Again, your first time before the committee in this capacity.

But I just want to remind all my colleagues that we have somebody here that has got a tremendous amount of experience in the transportation world. Not only has her family had a maritime shipping business, and still do, she was a Commissioner to the Federal Maritime Commission and also the Chair of that Commission, but also Deputy Secretary of Transportation under the first Bush administration and then Secretary of Labor under the second Bush administration. So we have someone here who is well versed on the issues, and well versed in Washington and its ways.

But again, it is great to have you here today to testify.

I ask unanimous consent that Secretary Chao's full statement be included in the record.

Without objection, so ordered.

Since your written testimony has been made part of the record, we would ask you to keep it down to 5 minutes. And, with that, Secretary Chao, please proceed.

TESTIMONY OF HON. ELAINE L. CHAO, SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION

Secretary CHAO. Thank you very much, Chairman Shuster, Ranking Member DeFazio, who is not here today, and all the members of the committee.

Our air traffic control system is currently the best in the world. But it is under tremendous performance pressures that cry out for action. Despite spending billions of taxpayers' dollars over the past several decades, the Government has not been able to implement the state-of-the-art air traffic control technology that is needed.

Air traffic controllers, as mentioned, still use paper strips and 1960 technology. Congestion and delays cost more than $25 billion annually in higher fuel costs and lost productivity, not to mention degradation of our quality of life.

By 2020, air passenger traffic will soar to over 1 billion annually. Air freight is expected to more than double over the next three decades. Drones and unmanned aircraft systems will have to be integrated into the national airspace. Without change, the current air traffic control system will be unable to keep up.

So this administration has proposed to liberate the air traffic control operations and move it to a nonprofit, nongovernmental

independent cooperative. The safety regulatory oversight function will remain at FAA. This will also solve a longstanding conflict of interest problem of an operating entity, the air traffic control system regulating its own safety.

More than 50 countries worldwide currently have this structure. The proposed new air traffic control structure will ensure the deployment of state-of-the-art air traffic control technology that will manage the national airspace with more precision, thereby enhancing safety.

Number two, it will protect our national security. It will maintain access for all users of the airspace, especially those in rural communities, general aviation, and the military. The new structure will also ensure financial self-sufficiency through retention of all user fees and access to the public markets.

The new organization will be governed by a professional board of 13 directors nominated by all stakeholders, such as general aviation, airlines, airports, the general public, for example. No one stakeholder group will constitute a majority. The board will not be dominated by the airlines, as they will only have 2 out of the 13 seats.

Currently, there is over $5 billion in the Aviation Trust Fund, which is not permitted to be spent. Under the new proposal, 100 percent of the surplus revenues would be reinvested back into the organization.

Despite the fact that Congress allowed the FAA to adopt its own procurement rules in 2001, the system has been unable to deliver new air traffic control technology in a timely and cost-effective manner. And mindful that the key to any organization's success is its employees, the administration proposes that the new air traffic operations entity honor existing labor agreements.

During the proposed 3-year transition, there will be no operational disruptions, as this proposed structure advocates a new governance and financing structure, not the physical movement of people nor equipment.

We look forward to working with you, Mr. Chairman, the committee, and all stakeholders on these proposed reforms, because I know that we all want to ensure that the United States remains the world's leader in aviation, an industry that we pioneered.

Thank you very much, again.

Mr. SHUSTER. Again, thank you, Secretary Chao. And again, I am going to—because of the time constraints, again, we are going to go to the subcommittee chair and the ranking member for 5 minutes of questions. Everybody else will have 4 minutes. I am going to hold my questions until the end.

So, with that, I recognize the subcommittee chair, Mr. LoBiondo, for 5 minutes.

Mr. LOBIONDO. Thank you, Mr. Chairman.

Madam Secretary, can you explain how the research and development work at the technical center has helped to make our aviation system the safest in the world?

Secretary CHAO. You have given a wonderful introduction and description of what the center does, and I look forward, actually, to visiting it myself on August 4th.

Mr. LOBIONDO. OK. Well, we will be able to fill you in with a lot more.

I think, as you are aware, cybersecurity is an important issue for this committee. And I am assuming you are fully supportive of the efforts of the FAA Technical Center with cybersecurity and the advances they are making.

Secretary CHAO. Cybersecurity is very important, yes.

Mr. LOBIONDO. And the tech center employees are playing a key role in the safe integration of unmanned aircraft systems, both through their work at the tech center and through the test range that is there. Do you see us continuing to play a role in how the unmanned aircraft system will be integrated?

The tech center—you may have been briefed on this—is taking the data from all six national test sites for the integration of unmanned aerial systems, and we would like to try to make sure that this will be a priority as we move forward for this integration.

Secretary CHAO. Drones and unmanned aircraft will be a part of the airspace in the future, which is why the administration is making this proposal. And certainly the center is very important in crafting the future of aviation.

Mr. LOBIONDO. Thank you.

I yield back, Mr. Chairman.

Mr. SHUSTER. I thank the gentleman.

Madam Secretary, could you pull that microphone a little closer to you?

Secretary CHAO. Yes.

Mr. SHUSTER. I think the whole thing moves.

Secretary CHAO. Better?

Mr. SHUSTER. The whole box moves forward, if you—yes. There you go, thank you.

Secretary CHAO. Thank you.

Mr. SHUSTER. And with that I recognize Mr. Larsen for 5 minutes.

Mr. LARSEN. Thank you, Mr. Chairman.

Secretary Chao, thanks for being here. I think this is the most exciting hearing of the day on Capitol Hill, by the way, so I just——

[Laughter.]

Mr. LARSEN [continuing]. For the record.

Mr. SHUSTER. You can tell by all the cameras here.

Mr. LARSEN. That is right, all the attention.

So, as you are probably aware, you know, last year we had broad, bipartisan agreement on about 80 to 90 percent of the FAA reauthorization bill, and it got hung up on the debate we are having today on this issue. We are here a year later, nothing much has changed.

So I wanted to get your view on how the Department sees the future. Are you willing to support another extension if we can't get a whole bill done?

Or, as I hope, you know, we have got certification reform nearly done, we have got UAS integration of the airspace nearly done. There are other issues that are really that close to getting done, and we can move on with a more complete bill while this issue that

we don't have consensus on is set aside. Has the administration thought through how to approach that yet?

Secretary CHAO. Obviously, we would prefer that this very important initiative of the liberation of the air traffic control be considered and successfully passed. But as we have always said in the past, we want to work with the committee and the Congress. So let's work on the issues, and see how far we get.

Mr. LARSEN. I just think on—you know, we are looking for victories on infrastructure. This is one where everybody could claim a victory if we can get past this, this hangup. But thank you for that, as well.

So in the proposal, the administration is—as I understand it, plans to transfer all air traffic control assets to this not-for-profit, nongovernmental corporation free of charge. Is that—do I have—read that right, in the principles?

Secretary CHAO. Well, the American flying public has already paid for the use of the system. So to make them pay twice doesn't seem very fair.

Mr. LARSEN. So including the real property of the air traffic control system capital input, is it your position, then, the assets are worth zero dollars?

Secretary CHAO. They are not worth zero, of course, but that has to be worked out.

Mr. LARSEN. Well, if they are not worth zero, then it doesn't seem that we should transfer them free of charge to the corporations——

Secretary CHAO. Well, I think the air traffic control system has to—if it were to be moved to a separate entity, it has to be capitalized properly. And we want to make sure that it is sustainable.

Currently, there is $5 billion in the Aviation Trust Fund——

Mr. LARSEN. Right.

Secretary CHAO [continuing]. Which has not been appropriated.

Mr. LARSEN. Right.

Secretary CHAO. So all of these details, again, we are willing to work on all these details, and look forward to talking further with the Congress——

Mr. LARSEN. But—and this is an imperfect analogy, but if I bought a house and I paid off my mortgage, if I want to—if someone wants it, they just don't get it because I have already—if I am a symbol of the U.S. taxpayer—I have already paid for it. They don't just get it. So I should get money for that.

So I just—I don't understand. Perhaps you can get back to us on this a little bit better, on how the administration sees the fact that the U.S. taxpayer has put money into the system, and then that should just be transferred to a not-for-profit, nongovernmental corporation, as you say. That makes no sense at all. You can say it makes sense, but I look forward to the complete analysis of that, from your perspective.

Secretary CHAO. There is already an Aviation Trust Fund which is not being used right now——

Mr. LARSEN. Yes, I understand all that. That is not the point.

Secretary CHAO [continuing]. Different purposes.

Mr. LARSEN. I am talking about the capital assets.

Secretary CHAO. Yes, I think the capital——

Mr. LARSEN. I am talking about the assets in the system.

Secretary CHAO. The capitalization of this new entity needs to be paid attention to. And again, we are open to discussing that——

Mr. LARSEN. But if it is a not-for-profit and nongovernmental, why—the U.S. taxpayers shouldn't——

Secretary CHAO. Well——

Mr. LARSEN. Sorry, the U.S. taxpayer, in my view, shouldn't be paying that not-for-profit, nongovernmental corporation to capitalize it. They should be paying to capitalize it. Or it should be——

Secretary CHAO. Capitalizing it can come from different aspects of what is already there. So that is part of the delicate task of making the separation, which does require great care and deliberation, and we are very much aware of that.

Mr. LARSEN. Great. So I understand on NextGen, as well—you and I perhaps have a different view, or maybe we are seeing it from different perspectives on this.

Yes, NextGen implementation hasn't been solid. It—to be—that is being nice about it. It has been fits and starts. But it is occurring. I have outlined some of the implementation that has occurred.

And, in fact, the Joint Planning and Development Office in 2007 estimated that not only would NextGen infrastructure cost for the Federal Government range from $15 to $22 billion in 2025, but the aviation industry would range $14 to $20 billion. And today, where the cost investment has occurred, that is about where the numbers are going to be. So there is, one, envisioning that it would take that long, as—and so—that is not today, it is later. And the cost estimates are about where we estimated them back in 2007.

So I will close there, and I am sorry for taking a little more time, Mr. Chairman. But I just think that there is another story to be told about NextGen implementation.

Mr. SHUSTER. I——

Secretary CHAO. Do I get—this committee has held numerous oversight hearings on this particular issue. And the IG [inspector general] has written several reports on this. So we are trying to respond to the issues that the Congress has raised, the issues that GAO [U.S. Government Accountability Office] and the IG has raised, as well.

This is not a slam at all against the FAA. They are trying very, very hard. But the pace of—the accelerated pace of technological change is such that something has to be done. Thank you.

Mr. SHUSTER. Thank you, Madam Secretary. I now recognize Mr. Duncan for 4 minutes of questions.

Mr. DUNCAN. Thank you very much, Mr. Chairman.

Madam Secretary, between 1995 and 2001 I chaired the Aviation Subcommittee for 6 years. And at the request of then-Speaker Gingrich, the first hearings we held, we held 3 days of hearings on the proposal by President Clinton to create an air traffic control corporation. At that time, almost every group was opposed to it. Now, almost every group, stakeholder group, seems to be supporting your proposal, except we still hear concerns from general aviation. And we all support general aviation. Would you discuss their concerns?

And secondly, I read one of the reports about your hearing in front of the Senate yesterday, and the story I read said you re-

ceived an icy reception. Would you tell us what was the main concern or concerns of the Senate, now that you have had 24 hours to think about it, and how you—anything you might want to add, or how you would respond to those concerns raised in the hearing yesterday?

Secretary CHAO. We understand the concerns of the general aviation community. We need to talk to them more. They are concerned about access, that they will somehow be disadvantaged in a system that would be dominated by big airliners, legacy airliners. We will work with them. We will continue to work with them to assuage their fears and concerns.

General aviation doesn't consist of just mom and pop small aircrafts. It also includes corporate aircrafts. So I think that distinction needs to be understood. They are concerned about user fees and access.

And if you take a look at Canada, which has moved their air traffic system into a separate entity, the user fees have actually decreased by more than 45 percent, if you adjust it for inflation.

So we want to ensure that we are reaching—we want to work with general aviation, assuage their concerns. I have met personally with both of their associations, and the White House has, as well, as well as members of our team here. We will continue to do so. But the fears, I think, are unfounded, and that is what we are trying to say.

We also want to partner with them to address some of the issues. I understand that the chairman has been talking with some of the members of the committee who are representing general aviation concerns, and we hope that—and we understand that some adjustments will be made. But the new entity will have a new board of about 13 people. General aviation will be represented on that board. Airlines will only have 2 out of the 13 seats.

Mr. DUNCAN. Anything you wish to add about points raised at the Senate yesterday?

Secretary CHAO. This is a big move. I can understand concerns. And so we pledge to continue to have outreach, as does the White House, on this issue. We are going—we are proceeding carefully, deliberatively. It is a big step. But we feel that, after 30 years of debate, that I think our country is ready.

I was Deputy Secretary of Transportation in 1989. Coming back to the Department of Transportation in 2017, I hear the same arguments and the same concerns expressed about the air traffic control system and the level of technology. So while progress is made, it is not fast enough in an accelerated environment where change is occurring so rapidly.

Mr. DUNCAN. Well, my time is up, but I notice the air traffic controllers are in favor.

And I would like to ask, Mr. Chairman, unanimous consent to introduce to the record at this point the USA Today editorial endorsing this proposal.

Mr. SHUSTER. I thank the gentleman, yes. Without objection, so ordered.

[The USA Today op-ed follows:]

President Trump's right. Privatize air traffic control.

The Editorial Board , June 5, 2017

FAA had its chance. It's time for a new approach: Our view

Most everyone driving a car today has instant access to apps with GPS to navigate the quickest routes through traffic. But when these same people get on a jetliner, controllers are still using radar, a system that's been around since World War II and can't take full advantage of GPS to help planes take the most efficient routes through the skies.

Something's wrong with this picture, and it's the failure of the Federal Aviation Administration to make good on decades of promises to modernize air traffic control with advanced satellite-based technology in a system called "NextGen."

On Monday, President Trump endorsed getting the job done by creating a private, non-profit corporation that would apply business principles and provide a steady stream of financing. This change would free air traffic control modernization from two major sources of delay: the bureaucratic process used to select contractors, and Congress' crazy, on-again, off-again budget process that disrupts long-term planning.

The FAA has been trying for decades to modernize the system. While the agency has had some success, major projects have faced cost increases and schedule delays because of systemic problems, according to testimony in the House last month by the Transportation Department's inspector general. These include "overambitious plans, unreliable cost and schedule estimates, unstable requirements ... and ineffective contract and program management." That's enough to convince anyone that it's time for a new approach.

The idea of putting a non-profit company in charge — a plan most of the major airlines have been promoting for years — has considerable merit. (The FAA would remain in charge of safety functions.) Other countries that have successfully privatized their air traffic control systems include Canada, France, Germany and the United Kingdom.

Mr. SHUSTER. Ms. Norton is recognized for 4 minutes for questions.

Ms. NORTON. Thank you, Mr. Chairman, and thank you, Secretary Chao, for coming this morning.

I would like to pursue your response that the assets have already been paid for. It is not uncommon to separate controllers from safety regulators. In fact, 21 nations have done that. We know who they are: Canada and the United Kingdom. But only two have privatized. Both Canada and the United Kingdom, both of those Governments were compensated. Why shouldn't the Government of the United States be similarly compensated for these taxpayer assets?

Secretary CHAO. I think your question—I am a bit confused by your question. We are removing—we are liberating the air traffic control system—which, as mentioned, the air traffic controllers themselves are in support of—from the safety aspect, so that the safety aspect remains with FAA.

But to your question about——

Ms. NORTON. Payment to the taxpayers.

Secretary CHAO. Yes, the capitalization. I agree that the capitalization of this new entity needs to be addressed.

Ms. NORTON. So the taxpayers may indeed need compensation, as they have gotten in every other country that has privatized. Is that an area that is under study?

Secretary CHAO. We have always said that the capitalization of this new entity——

Ms. NORTON. Well, I ask that that be studied, and that you look——

Secretary CHAO. Yes, of course, I will do so——

Ms. NORTON [continuing]. Forward with an answer to the taxpayers of why they shouldn't be compensated the way the Canadians and the British were.

Let me ask you a question about constitutionality. Those who wrote this bill already seem to know that its constitutionality is in doubt, because Congress has limited authority to transfer or delegate its functions to any but a public entity like an administrative process. So they have assumed this kind of workaround that—so that you have to come back to the Secretary. Private corporation has to come back to the Secretary to get the final answer on important decisions.

Now, doesn't this undercut whatever efficiencies that the bill may seek through privatization that, because of constitutional issues, you have still got to come back to the Secretary——

Secretary CHAO. I don't think you do——

Ms. NORTON [continuing]. And then there can be litigation in the district court and the court of appeals. Where are the efficiencies?

Secretary CHAO. I don't think that is the case. I will get the answer for you, but I do not believe that is the case.

Ms. NORTON. I ask that you have your counsel look specifically——

Secretary CHAO. I will do so.

Ms. NORTON [continuing]. At the question of the constitutionality of this provision.

Secretary CHAO. I will do so.

Ms. NORTON. Thank you very much, Mr. Chairman. I yield back.

Mr. SHUSTER. With that, I recognize Mr. Barletta for 4 minutes.

Mr. BARLETTA. Thank you, Mr. Chairman.

And Secretary Chao, thank you for being here today. The contract tower program continues to be one of FAA's most effective Government-industry partnerships to enhance air traffic safety at many of our Nation's smaller airports. Not only do contract towers play a critical role at smaller commercial service airports and general aviation and reliever airports in major metropolitan areas, but it is also important to note that 47 percent of all military operations at civilian airports occur at contract tower airports, as well.

Given the importance of the program to ATC [air traffic control] operations at over 250 airports in the country, can you please comment on the value of contract towers to air traffic safety and efficiency in our Nation's air transportation system and the cost effectiveness of the program to FAA and to the taxpayers?

And what is DOT [U.S. Department of Transportation] doing to make sure that this program is protected and enhanced for participating in interested airports?

Secretary CHAO. I know that contract towers are a very important topic to many rural communities. So for people who are interested in protecting the contract towers, they should really be looking at another way to help ensure the stability of the funding. Because whenever the FAA budget is under pressure, what happens is that the contract towers get cut. And we have seen that with sequestration. There were over 240 contract towers that were threatened to be cut.

So, the current proposal actually helps to ensure the stability of the funding, number one. And, number two, in the future, remote towers may actually be a more widely occurring phenomenon.

And so, I know that in Virginia and in Colorado experiments are proceeding with remote towers. And they may hold the promise of future ways of having air traffic controllers. I don't think that is a satisfactory answer to some in rural communities, and that is a ways off in the future, but that is another development that is occurring.

Mr. BARLETTA. Thank you. As chairman of the subcommittee with jurisdiction over emergency management, I am committed to ensuring our first responders have the tools that they need to save lives and protect property.

Section 2207 of last year's FAA extension bill required FAA to publish guidance for using unmanned aircraft systems in response to natural disasters, particularly for utility and infrastructure restoration efforts.

Secretary Chao, what is the status of this guidance? And what is the FAA doing to work with the utility industry on emergency response preparation?

Secretary CHAO. I think we are very close, and I hope that we will get—I think it is going to happen, and we are almost there.

Mr. BARLETTA. OK, thank you.

I yield back, Mr. Chairman.

Mr. SHUSTER. I thank the gentleman. With that, Mr. Nadler is recognized for 4 minutes for questions.

Mr. NADLER. Thank you.

Secretary Chao, one of the essential functions of this committee is to exercise oversight of the executive branch agencies over which we have legislative jurisdiction. It has come to our attention that the Trump administration has determined that only the chairman of a committee or subcommittee of jurisdiction may exercise the oversight function of that committee.

Further, the opinion instructs that an agency should not consider an oversight request, even from the ranking member of the committee or subcommittee with jurisdiction, as an inquiry requiring a response. In other words, the administration will only respond to requests from Republicans and not from Democrats.

As Secretary, will you assure us that the Transportation Department and modal administrations such as the FAA, FHWA [Federal Highway Administration], and so forth, will respond substantively and timely to oversight inquiries from the Democratic members of this committee?

Secretary CHAO. Number one, I always want to work across the aisle. That has always been my history. But number two, in the past administration this practice was kept, as well, and it is——

Mr. NADLER. I am not interested in the past administration. Will you assure us that you will—that your Department will respond——

Secretary CHAO. I will do everything I can——

Mr. NADLER [continuing]. Substantively and timely to oversight requests——

Secretary CHAO [continuing]. But it is up to the White House on what they want to do with it.

Mr. NADLER. Excuse me?

Secretary CHAO. It is—I will do everything I can, but it is up to the White House and this administration. I am not in charge of that policy.

Mr. NADLER. Have you received instructions from the White House or anyone else to limit responses from the——

Secretary CHAO. Again, as I have mentioned——

Mr. NADLER [continuing]. Department——

Secretary CHAO [continuing]. This is always the case. It has always been the case in past administrations. This is nothing new.

Mr. NADLER. No. No, it has not. I am not talking about the legal requirement. It has been the policy to respond to majority and minority Members of Congress.

Have you received instructions not to respond to inquiries from Democratic Members?

Secretary CHAO. I have not, personally, no.

Mr. NADLER. Has your Department received such instructions?

Secretary CHAO. I will find out for you.

Mr. NADLER. Thank you. I understand—because, obviously, such instructions, whatever the legal basis, which I am not talking about, would be obnoxious in the extreme, and a violation of all the traditions of this country from 1789.

Secretary CHAO. This was——

Mr. NADLER. I understand.

Secretary CHAO. This was the——

Mr. NADLER. That is not a question.

Secretary CHAO [continuing]. Case in the previous administration.

Mr. NADLER. I understand that the President's budget proposal does not include funds for replacement of the New York Terminal Radar Approach Control Facility. As you know, this facility is 36 years old. Is the administration content to let the facility sit in need of replacement for the 7 years it could take to transition to a new air traffic control provider?

Secretary CHAO. Well, I think, given the questions about the real estate, I think it is probably prudent to let things set for a while until these decisions are made.

Mr. NADLER. So, in other words, there—we should let that sit for another 7 years?

Secretary CHAO. I don't know whether it is going to take 7 years. The transition period proposed is 3 years.

Mr. NADLER. OK. Now, can you—if this privatization proposal were to go through, whom would my constituents call when the private ATC corporation institutes a new flight route that exposes them, in their opinion, to undue noise? Who would they call——

Secretary CHAO. They would call the FAA. That responsibility remains with the FAA, noise, safety, environmental protection issues——

Mr. NADLER. OK.

Secretary CHAO [continuing]. That would all be——

Mr. NADLER. Thank you.

Secretary CHAO [continuing]. With FAA.

Mr. NADLER. And finally—because—if the Air Traffic Organization is transferred to a private corporation, and the remaining critical safety functions of the FAA would be paid for by the general fund, and therefore, still be subject to the whims of Congress annual appropriations, sequestration, and shutdowns, why does ensuring the safety of the flying public come second to the efforts to privatize our Nation's air traffic control system?

One of the reasons for that privatization is that those functions would not be subject to annual appropriations, sequestration, and shutdowns. But safety still would be. So why is safety second?

Secretary CHAO. In more than 60 different countries, safety and operations of the air traffic controllers are separate. Safety is an oversight issue. The way that the air traffic control actually runs the system in a safe way is paramount.

Mr. NADLER. But the safety——

Secretary CHAO. Safety is number one.

Mr. NADLER. But the safety functions would still be subject to the problems that you say we——

Mr. SHUSTER. The gentleman's time has expired.

Secretary CHAO. So Congress has to do something about it, then.

Mr. SHUSTER. The gentleman's time has expired. Look, we got to keep on a pretty tight time schedule here. So with that I recognize Mr. Gibbs for 4 minutes.

Mr. GIBBS. Thank you, Chairman.

Thank you, Secretary, for being here today, and thank you for your leadership and your—obviously, your—on short term as Secretary of Transportation, your grasp—your ability to grasp these

issues is evident. You are catching on really quick, and know what the challenges are.

I want to talk a little bit about the—obviously, there is a need to adopt this NextGen technology. I see it all the time, I find the—if there is a hiccup somewhere in the Northeast, you can see what happens with the slowdowns, and all those congestion issues.

We talk about the $5 billion in the Aviation Trust Fund. Well, I guess my first primary question is this new entity would have the ability to capitalize—actually do bonding where we can't really do now. I guess what I want to say is one of my pet peeves has been Government seems to live on depreciation. You know, to fund something and then years later, decades later, when the asset is, you know, falling apart, then they come to Congress and say, "We got to do this, we got to do that," and not like the private sector. You know, we don't live, you know, on depreciation. We, you know, expense that.

So, this new entity would—like a private business, where they could capitalize and do bonding authority and move this NextGen technology, implement it and get it going a lot faster. Would you comment on that, how that would function, and how that $5 billion in the trust fund would interact with that?

Secretary CHAO. The Aviation Trust Fund has been having this surplus, and that obviously means that it took in more than it gave out. So we are basically funding this Aviation Trust Fund for non-aviation purposes.

What is very important is that the new entity would be able to access the financial markets on their own. And with that, they will be able to fund their own operations. And with user fees, combination user fees, and go into the markets, they will be able to manage their own financial needs and reinvest, most importantly, 100 percent of the monies that they have raised. Even though they are nonprofit, you still have surplus revenues, sometimes, or deficits. But the surplus revenues would be reinvested 100 percent into keeping the system, improving—you know, improving the system.

Mr. GIBBS. And to be able to adopt this new technology, should be really more——

Secretary CHAO. Yes, and keep—maintain a pace with technology.

Mr. GIBBS. And maintain it. Now, the question that has been raised from my colleagues on the other side about paying for the—you know, transferring assets, is the—really, the question—some of the assets we are talking about are really outdated assets. Like you said, it has already been paid for, since we are using this 1950s technology.

But then the other issue, the real estate part of that asset, so—would maybe one of the issues to maybe address that would be, like, a 100-year lease? Not just turn over all the real estate to the new entity?

Secretary CHAO. We are open to discussing all of these different ideas, and I should have brought that up, yes. Because we understand that there is disagreement about this. So we hope to work with the Congress on that.

Mr. GIBBS. I would just say it might be more palatable to the American public, not just say we are not turning it over—you

know, it would be like saying we are going to turn over the national parks to a private entity and—you know it is kind of the same thing.

But I think the issue about being able to capitalize and have a private entity, run this more like a business, we could adopt this technology in a really efficient, quick manner. And, like you said, we have been talking about this for 30 years, and we just haven't been able to do it. And part of the reason is because—I think it is the constraints, the way Government runs, has to run. And I think you agree that the constraints are part of the problem here.

Secretary CHAO. That is why I use the word "liberate." We have to liberate the air traffic control system.

Mr. GIBBS. My time has run out, but thank you for being here, and thank you for your leadership.

I yield back, Mr. Chairman.

Mr. SHUSTER. I thank the gentleman. I now recognize Ms. Johnson for 4 minutes for questions.

Ms. JOHNSON OF TEXAS. Thank you very much, and welcome, Madam Secretary.

I am never opposed to progress, and know that technologies change. And perhaps we hold the responsibility for not keeping up. But in reviewing what we are considering, it does interrupt the safest aviation system in the world. And it might not be as up to par as the technology of which we are considering, but it has served us well. And, from what I understand, we are going to let this go without compensation. And then who has the liability?

Secretary CHAO. The liabilities will be part of the whole capital structure, which is why the capital structure is open for discussion. But this entity needs to be capitalized properly.

And on the issue of safety, we have the safest system in the world. But right now it is not a precise system. So the air traffic controllers have to space the planes out with a larger distance between the planes to provide for the extra element of safety, because the system is outdated. And when that airplane approaches the ground on landing, it has to go on a staircase path, rather than a slide—a glidepath, a smooth glidepath.

These are two examples of the technological changes that are so desperately needed. The system is safe. We want to maintain its safety. We want to enhance its safety.

Ms. JOHNSON OF TEXAS. What do you think that most of the concerned suspicion and lack of confidence might be that general aviation—because our system is more than twice the size of the systems that have been privatized in the world. In Texas alone we have 2,000 airports. That is more than the entire country of Canada.

In my area of north Texas, we have an airport for practically every little municipality. They are very concerned that the little airports won't be included.

Now, even though our technology might be outdated, it is working. And I know we have to plan for the future. But is it—would it be cheaper for us to do this, than to give it away to a private corporation?

Secretary CHAO. We have spent so many billions and billions of dollars already over the last——

Ms. JOHNSON OF TEXAS. Are they going to spend the same amount of billions?

Secretary CHAO. I hope not. That is what we have got to put—we have to find some other solution. The system is working——

Ms. JOHNSON OF TEXAS. How many billions are they going to pay us——

Secretary CHAO. It is a safe system, but we need to enhance it.

Ms. JOHNSON OF TEXAS [continuing]. For what we have?

Secretary CHAO. Sorry?

Ms. JOHNSON OF TEXAS. How many billions will they pay us for what we have in place?

Secretary CHAO. As I mentioned, the capitalization needs to be discussed. But right now we have—I am not criticizing FAA. I do not want to criticize them. Everyone is trying their best. But this system is under tremendous performance pressures, and we are concerned about rural America, as well.

So we have said that we want to work with general aviation. And other Members who have rural communities, we are concerned about that, too. We do not want to cut off access.

Ms. JOHNSON OF TEXAS. How much time will it be to convert this to another system if we are under such crisis now?

Secretary CHAO. We have a transition—the proposed transition period is 3 years. And if it is not enough, then the administration's bill, which will be coming out, will probably—will have appeal to either the—currently it is the President for extension of this—of the transition period.

But the transition period should not be disrupted. There is no physical movement. It is just a change in the governance and the financing structure to allow the organization to go out and access the public markets, for example. But there is no—so from day—one day to the next, in terms of transition, when it finally occurs, there is—there should be no disruptions.

Ms. JOHNSON OF TEXAS. My time has——

Mr. SHUSTER. I thank the gentlelady. Mr. Webster is recognized for 4 minutes.

Mr. WEBSTER. Thank you, Mr. Chairman.

Thank you, Secretary, for being here today. I am from the central Florida area. We depend on people coming to the central Florida area for part—our biggest asset is our tourism industry. And I would suspect that most people in this room have come to our airport in a higher number than any other airport in the world. Just in this room. And so, we need to move people. It helps us.

And so, I am—what I would ask is—we have a beautiful airport, Orlando International Airport. And there it is controlled by a board called an authority. Nothing that you are proposing would do anything to degradate anything that the Orlando International Airport Authority is doing now. Is that true?

Secretary CHAO. It—that is true.

Mr. WEBSTER. And they would lose none of the control that they have over their own airport and the facilities there at all with this privatization/not-for-profit. Is that correct?

Secretary CHAO. That is correct.

Mr. WEBSTER. And the one thing I would ask, we are—there is going to be a third terminal—and I know you have friends there

in the Orlando area, we have mutual friends there. In that particular area there is going to be a third terminal, which would expand us to about 33 percent more capacity.

And in your opinion, if we change direction, if we get a grasp on the new technology, if we implement that technology, wouldn't it be much more advantageous for the airport that most people go to—wouldn't it be more advantageous to be able to get there in a swifter manner by using the technology that would be proposed, and a swiftness of getting that all implemented? Don't you think that would be better for our tourism industry than sticking with the old system?

Secretary CHAO. It certainly would.

Mr. WEBSTER. Those are my only questions. I yield back, Mr. Chairman.

Mr. SHUSTER. I thank the gentleman, and with that recognize Mr. Lipinski for 4 minutes.

Mr. LIPINSKI. Thank you, Mr. Chairman.

I want to thank—Secretary Chao, I want to thank you for your service. I want to follow up on something that Mr. Nadler had asked about. Noise issues are—around airports are big issues for many of us. For me, in the Chicago area, it certainly is.

In response to Mr. Nadler, you said if our constituents had an issue with noise around airports, that they could still go to the FAA. But the President's statement on principles on ATC reform said the FAA's role would be limited to only safety considerations, and that NEPA [National Environmental Policy Act] would not apply unless any changes exceed the FAA-established noise threshold.

So, if that is the case, how can we be assured that the input of our constituents and of their representatives here will be given serious consideration in planning these—the routes in and out of airports?

Secretary CHAO. I don't see a contradiction with what the President's principle says. The FAA handles the noise. And if there are considerations of the noise, it would have to be in——

Mr. LIPINSKI. But——

Secretary CHAO [continuing]. Alignment with FAA.

Mr. LIPINSKI. But he said the FAA's role would be limited to only safety considerations. Only safety, not to nuisance, but only safety, unless——

Secretary CHAO. Maybe we should clarify that. But it is obviously—it is noise. It is NEPA.

Mr. LIPINSKI. And it said NEPA would not apply, unless——

Secretary CHAO. NEPA would not apply to the new entity. But it would—I am—I have to say that carefully, because I don't want to say it is totally not applicable. But it would not be—there is a certain way of—I am not saying it very well.

Mr. LIPINSKI. Does the—will the FAA be able to tell this new entity to change the routes?

Secretary CHAO. Because they are still in charge of the regulatory aspects of it, so that would be a consultative, communitywide effort that would include the FAA, for example——

Mr. LIPINSKI. That is certainly not what seems to be suggested in what the President said. So we really have to look at the details and see how the FAA would still have that authority.

Very—one quick question on the air traffic control. After Canada privatized its air traffic control system, NAV CANADA changed employees' retirement plans from defined benefit to a much less generous defined contribution plan. Under the Trump privatization plan, can the board change the retirement plans of existing or new employees?

Secretary CHAO. No, the administration's proposal would have—would preserve and honor all the existing labor agreements.

Mr. LIPINSKI. But moving forward, can that—can things be changed? And for new employees, could it be changed, then, presumably?

Secretary CHAO. They would have the right to, obviously, consult and negotiate with the new management.

Mr. LIPINSKI. I would——

Secretary CHAO. Air traffic control has signed on. They are actually in favor of it.

Mr. LIPINSKI. I understand. One last question here. Another subject that I think is very important.

The FASTLANE Grant Program was created in the FAST Act [Fixing America's Surface Transportation Act], critical to certainly my district, my region, the Chicago region, and it is designed to provide investment in the regional and national significance projects, exactly what the President has talked about where Federal funding should be targeted.

In the Chicago area, the Chicago Region Environmental and Transportation Efficiency Program, or CREATE, is a public-private partnership, including the railroads, that will improve the efficiency of the national freight movement. Again, this seems to fit exactly with what the President is talking about where Federal investment should go.

Now, in November of 2016, the Illinois Department of Transportation and others put in applications for FASTLANE Grants. None of those were—there was no money that was given out there. Does DOT plan to issue all of the fiscal year 2017 authorized amounts?

Secretary CHAO. Yes, we do. We were—we have just gotten, obviously, into office, and we were reviewing those FASTLANE Grants.

Mr. SHUSTER. The gentleman's time has expired.

Secretary CHAO. Yes——

Mr. SHUSTER. The gentleman's time has expired.

Mr. LIPINSKI. Thank you.

Mr. SHUSTER. With that, I recognize Mr. Massie.

Mr. MASSIE. Thank you, Mr. Chairman, and thank you, Secretary Chao, for coming to testify today in our hearing. These are exciting times for congressmen who have chosen to be on the Transportation and Infrastructure Committee to have a President who makes this an initiative.

I want to talk about the ATC corporatization. The President's plan is remarkable in that it is very similar to the House plan that was in our committee last Congress. But it has also got some improvements, I think. And I want to ask you about one of those, which is the composition of the board.

And I believe that our plan did not have airports represented on the board, but the President's plan does. And I just want to see if that is the intention—if that is, in fact, the intention, and is that something the President supports, to have airports represented on the board?

Secretary CHAO. We want to have all stakeholders on the board. So we have included airports, general aviation, members of the public, a 13-member board.

Mr. MASSIE. That is wonderful. I think that is an improvement, and I think that is a necessary condition for moving this proposal forward, is to make sure that all the stakeholders—general aviation, particularly, and airports—are represented.

I want to commend the President for looking for ways, creative ways, to finance infrastructure improvements. And particularly with the ATC corporatization using user fees and providing for more local control and control of the users of the facility. I want to talk briefly, though, about an initiative that the ranking member and I have proposed, which is to extend to airports the same flexibility and local control that we are talking about with air traffic control, so that the airports can be more responsive.

There are billions of dollars of delayed infrastructure improvements at airports. And rather than have them rely on the Federal Government for more grants, which would require us to raise more taxes, our proposal is to allow the airports to raise their passenger facility charge. In fact, just to get rid of the cap. Right now they are capped, their user fee.

Can you comment on that? And right now the cap is at $4.50. Can you comment on whether the President or yourself might support something like that?

Secretary CHAO. That is a very interesting proposal, and I am sorry that I was not totally briefed on this before I came. But I will certainly be very willing to take a look.

Mr. MASSIE. OK. Thank you very much. We think that—this is a bipartisan proposal, by the way, and we think that it would enable billions of dollars of investment in airports locally, without requiring the Federal "mother may I," you know, coming to the Government, hat in hand, the airports, and asking for the money.

And it would also allow them to prioritize which projects are most important to them. But it would—there would also be constraints on the money that they raise from the passenger facility charge, which, by the way, is a true user fee. The money would not come to the Federal Government and be reallocated. It wouldn't even go to a State government to be reallocated. It would be used directly, and there would be constraints on it, so that they can't build an amusement park at the airport, they have to build legitimate infrastructure improvements that would benefit the users.

So I would just ask that the President and yourself consider this proposal. It may be a way to add billions of dollars more in infrastructure improvement without raising a single penny of taxes. So thank you very much.

Secretary CHAO. Will do so.

Mr. MASSIE. Thank you, Madam Secretary.

I yield back.

Mr. SHUSTER. I thank the gentleman. Mr. Garamendi is recognized for 4 minutes.

Mr. GARAMENDI. Madam Secretary, thank you so very much for your testimony, and for being here.

Two sets of questions, one dealing with the board of directors. You mentioned 13. Could you expand on who is on the board of directors, and how they are selected?

Secretary CHAO. I will do that. It actually tries to be very fair. And I don't have that with me, do you? It basically is 13—each of the stakeholder groups will be able to nominate a certain, you know, number of people. Like general aviation, they will nominate two. Airlines will nominate two. And then it comes to the Secretary of Transportation, and she appoints some, and then she accepts the nominations of the interest—the stakeholder groups with who they recommended.

Mr. GARAMENDI. Obviously, we are rather interested in that——

Secretary CHAO. Yes, of course.

Mr. GARAMENDI [continuing]. Because that is the power structure, and I take it at the moment that that is not yet defined in a specific proposal.

Secretary CHAO. The initial board is—and I am remiss in not being able to specifically mention them, and I will ask my staff to give it to me right now—and then that will be—so—but basically, the principal—thank you.

It says here the initial board—the board will represent stakeholders, so we want the stakeholders to be——

Mr. GARAMENDI. Well, we would like to know who the stakeholders are.

Secretary CHAO. Oh, OK. It would be the major airlines; unions; two of the largest aviation groups, AOPA [Aircraft Owners and Pilots Association], NBAA [National Business Aviation Association]; two of the largest airport trade groups, ACI–NA [Airports Council International-North America] and AAAE [American Association of Airport Executives]. And then two members will be selected from the airlines list, two members from the unions list, one member from the general aviation list, one from the airports list. Two would be selected by the Secretary of Transportation.

Mr. GARAMENDI. So, ultimately, the Secretary of Transportation will have the responsibility and the authority to select the individual members from a list presented by the—by those stakeholder groups.

Secretary CHAO. Yes.

Mr. GARAMENDI. So the power resides with you.

Secretary CHAO. I can only——

Mr. GARAMENDI. And your successor.

Secretary CHAO. Well, whoever the—yes, whoever the Secretary of Transportation is would select—this is the initial—so I would select out of the nominees that are presented to me.

Mr. GARAMENDI. I understand.

Secretary CHAO. I can't go out to, like, other people, or whatever.

Mr. GARAMENDI. Well, we know this game, and we understand how that works.

My second set of questions deal with the issue of the $5 billion that would be transferred immediately to the new organization. Is that correct? That is the Aviation Trust Fund.

Secretary CHAO. That has not yet been decided.

Mr. GARAMENDI. I thought in your testimony you said there is $5 billion that would be available to the new organization. That is the——

Secretary CHAO. No, I am just saying the $5 billion—up to now the funds, which is over $5 billion in the Aviation Trust Fund, is not used by FAA at this point. So it is like you have this huge fund, people pay more into it than you——

Mr. GARAMENDI. We understand that.

Secretary CHAO [continuing]. You spend out.

Mr. GARAMENDI. But——

Secretary CHAO. So——

Mr. GARAMENDI. But what are you proposing to do with that money?

Secretary CHAO. Oh——

Mr. GARAMENDI. Are you proposing to transfer it——

Secretary CHAO. That again is the capitalization. So we want to discuss with Congress on how to deal with that.

Mr. GARAMENDI. I am sorry, please—I didn't understand that.

Secretary CHAO. This is part of the capitalization of the new entity.

Mr. GARAMENDI. So that money would be——

Secretary CHAO. So no decision has been made on that.

Mr. GARAMENDI. It seems to me a rather important issue. You have mentioned capitalization a couple of times. You have also mentioned that the organization would have the opportunity to go to the private money market——

Secretary CHAO. Yes.

Mr. GARAMENDI [continuing]. To borrow money and to do that. But is it the intention of this legislation to transfer the $5 billion—actually, it is $6.7 billion—and the administration, in its budget, proposes to increase the fund—that is, the unspent portion of the fund—by another $5 billion, so it would be like $11.7 billion in that fund——

Secretary CHAO. That is not my understanding——

Mr. GARAMENDI. Well, it is in the budget.

Secretary CHAO [continuing]. And I will be more than glad to go into it——

Mr. GARAMENDI. It is in the President's budget.

Secretary CHAO [continuing]. And take another look.

Mr. GARAMENDI. It is in the President's budget.

Secretary CHAO. But we——

Mr. GARAMENDI. But my point here is——

Secretary CHAO. We knew this was going to be a tricky issue, so we wanted to discuss it with Congress.

Mr. GARAMENDI. Well, what I am trying to understand is the capitalization of this new organization. In your testimony you indicated that it is $5 billion available for capitalization. Presumably, that means that money has been transferred to the new organization.

Secretary CHAO. No, I just said that that is money that is available that is not being tapped by the airlines nor the—by the airline, airspace system, by the air traffic control system.

Mr. SHUSTER. The gentleman's time has expired.

Mr. GARAMENDI. Thank you.

Secretary CHAO. Thank you.

Mr. SHUSTER. And with that I recognize Chairman Young.

Mr. YOUNG. Thank you. And thank you, Mr. Chairman. And the reason I am getting recognized, I said I would only do 2 minutes, so keep that in mind.

Mr. SHUSTER. Thank you so much——

Mr. YOUNG. Thank you, Madam Secretary, for being here. You know, I am listening with interest, and we appreciate your testimony. I have read it.

And one thing I can say for the rest of my friends here, that we have to pass the law before she has to implement it. That is something that is very important. How we write the law—and I am going to suggest, Mr. Chairman, if we just tweak it a little bit—it says that there is no—the Secretary does not have the authority to make regulations. If it is wrong, bring it back to us, Madam Secretary. I think that is very, very important—regulations.

As you know, in the Senate hearing yesterday, my two Senators asked you—and it is something they are—I don't think you can answer, it is up to us—it is Essential Air Service. We don't have highways, and Essential Air Service is crucially important. It is funded by overflights. And I am hoping, with the help of the chairman, we have a—something I am understanding is—all due respects to my other friends on this committee—is 80 percent of my people are served by air.

Secretary CHAO. Yes.

Mr. YOUNG. None of you are served that way; you have an alternative source of transportation.

So, Madam Secretary, I just encourage you to help us, if this bill is to be written correctly, but recognize there are some very special interests in this area, and I say special because we represent our people. And I am not about to sit down and watch a bill that takes away the ability to bring groceries into my villages. And that is Essential Air Service.

So, with that, Mr. Chairman, I will yield back the balance of my time, and I did not use 2 minutes.

Mr. SHUSTER. I thank the gentleman; I appreciate that greatly. With that I recognize Mr. Johnson from Georgia.

Mr. JOHNSON OF GEORGIA. Thank you, Mr. Chairman, and thank you for being here today. I want to point you to the fact that air—that NAV CANADA, which is a nonprofit, privatized air traffic control system, paid their CEO $3.2 million in total compensation in 2016. Are you aware of that?

Secretary CHAO. I am not aware of that. But it is a private entity, it is nongovernmental, it is nonprofit.

Mr. JOHNSON OF GEORGIA. And so, the one you are proposing today would be private, nonprofit. Would it also pay salaries——

Secretary CHAO. That depends on the board. The board is represented by all these stakeholders, including those who are prob-

ably general aviation and some others who are not totally on board. So it would be up to them.

Mr. JOHNSON OF GEORGIA. Well, you stated also that the Canada system, it—let's see. Yes, it—the user fees decreased after privatization in Canada. Is that correct?

Secretary CHAO. I have been told that the NAV CANADA user fees decreased by more than 40 percent of then the taxes that they would have raised under the—that scenario, yes.

Mr. JOHNSON OF GEORGIA. And you also stated that capitalization—you stated in your testimony today capitalization for the air traffic control system in Canada capitalizes its functions by borrowing on Wall Street.

Secretary CHAO. This new entity would have the ability to access the capital markets, if they so choose.

Mr. JOHNSON OF GEORGIA. And this would replace direct Federal revenues coming to——

Secretary CHAO. User fees would replace the revenue coming from the General Treasury.

Mr. JOHNSON OF GEORGIA. But the user fees——

Secretary CHAO. It would be user fees.

Mr. JOHNSON OF GEORGIA. User fees have come down, but salaries have gone up.

Secretary CHAO. Good management.

Mr. JOHNSON OF GEORGIA. It is management.

Secretary CHAO. It is management and it is coming out from under the constraints of a Federal Government structure.

Mr. JOHNSON OF GEORGIA. Well, so now, in your testimony, you are saying that, "Every day, the dedicated men and women of the FAA"—and I am quoting you—"safely and efficiently separate and guide thousands of aircraft carrying millions of passengers and tons of cargo to destinations around the country." Now you are not in any way saying that it is their fault that the challenges that exist for the FAA right now——

Secretary CHAO. No, I am not. Not at all. What I am saying is——

Mr. JOHNSON OF GEORGIA. You are not pointing the finger at the employees. And it is like——

Secretary CHAO. No, no, no. I am not saying that at all. In fact, the air——

Mr. JOHNSON OF GEORGIA. It is like—and you have, like, 45,000 FAA——

Secretary CHAO. Yes.

Mr. JOHNSON OF GEORGIA [continuing]. Employees, and you got——

Secretary CHAO. Please don't put words in my mouth. I never said that.

Mr. JOHNSON OF GEORGIA. Well, that is—you——

Secretary CHAO. I have always complimented the FAA and their employees.

Mr. JOHNSON OF GEORGIA. OK, I am——

Secretary CHAO. Yes.

Mr. JOHNSON OF GEORGIA. But you do have about 45,000 FAA employees——

Secretary CHAO. I have—there are 44,000—about 45,000—the Department has about 55,000 employees.

Mr. JOHNSON OF GEORGIA. And about——

Secretary CHAO. The 44,000 are from FAA; 34,000 are from the air traffic control; about 14,000 air traffic controllers. And the air traffic——

Mr. JOHNSON OF GEORGIA. And you——

Secretary CHAO. They are all working very hard.

Mr. JOHNSON OF GEORGIA. But you have not polled your other FAA employees, other than the air traffic controllers, to determine whether or not they support privatization.

Secretary CHAO. The air traffic control union is the one that represents the air traffic controllers——

Mr. JOHNSON OF GEORGIA. But your other employees have not weighed in.

Secretary CHAO [continuing]. And they are very much a part of the new plan. So their consent and agreement is very, very key.

Mr. JOHNSON OF GEORGIA. Well, your other employees are stakeholders also, but they have not been polled on that issue, correct?

Secretary CHAO. This issue has been talked about for 30 years.

Mr. SHUSTER. The gentleman's time has expired.

Mr. JOHNSON OF GEORGIA. All right, thank you.

Mr. SHUSTER. With that I recognize Mr. Mitchell for questions.

Mr. MITCHELL. Thank you, Mr. Chair. Thank you, Madam Secretary, for being here. You know, I find unique, after 35 years in private business, that when you talk about assets in the Federal Government they talk about what they spent, as if those assets are still as valuable as they were 50 years ago. So let me take the—some of the examples you have had, and ask you a question.

I built a really nice house 50 years ago. It was cool. It has got nice appliances. Problem is, I let people come in and dump garbage in the back, too, a little bit of oil. And now I have a brownfield and the appliances are old. Do you want to buy my 50-year-old house for what I paid for it 50 years ago?

Secretary CHAO. I don't think so.

Mr. MITCHELL. Exactly the problem we have. I have seen a study that shows that the property on which the FAA facilities sit is probably at a $1 billion liability, due to environmental and other concerns. Is there an update to that number? Do you know if there is any change in that number? Is your staff aware?

Secretary CHAO. I don't——

Mr. MITCHELL. That is the number I have seen. If your staff have a different number, I am certain the committee would appreciate it.

So, on top of transferring these "assets," we are also at a liability. There is not a net value. Do you have an estimate of the average age of equipment in these FAA towers and centers? What is the range of—the age of this equipment?

Secretary CHAO. I think a general statement could be that they are old.

Mr. MITCHELL. I think they certainly are. In fact, I am confident, having seen towers, and having some private aircraft of my own, I have better instrumentation in my aircraft at hand than I have in the towers that are trying to do air traffic control, by far. Yet

we value them as some version of an asset. In fact, from what I can tell, most of it has no scrap value. Yet somehow we are talking about transferring an asset.

I am confused by it, continue to be confused, because again, I am from private business, and an asset is only what it is worth in the market today, what value it can bring to the operation, and not what we paid for it before.

Quick question for you, especially given your family's background in terms of business. Best estimate—we heard in the previous hearing that to get NextGen "hopefully" in place—I do stress the "hopefully"—it would be $30 billion more in about 10 years. Now, do you know of any business, any entity, that would invest in $30 billion and "hope" to get something done? Any——

Secretary CHAO. It is a big amount of money. It is worth it, if we can get results.

Mr. MITCHELL. Only if we get results. Only if someone is on the hook for those results, right? Otherwise, we just threw more money down a rat hole, in my opinion.

Secretary CHAO. We have spent a great deal of money already.

Mr. MITCHELL. We have, a huge amount of money. And I think that is the rationale why—and I have to say I own private aircraft, I fly GA, and I support transitioning to this, because we can't continue to invest more money in a system on the hope that we will get NextGen.

We can't invest more money in a system that, when we call the tower about storms, they ask us where we want to go because we have got better radar for identifying storms than they do in the tower, and they say, "Tell us where you want to go." That is not the system we all hope to have, going forward. So I will support it, and support the chairman.

And one other point to make before I run out of time. I will not support the idea that we just continue doing what we are doing, and do this in pieces. We are going to, this Congress—I will work with the chairman to make sure that we, in fact, do complete transition for air traffic control so we can get this done. We can't keep throwing money at it.

Thank you, Mr. Chair. I will yield back.

Mr. SHUSTER. I thank the gentleman. And Mr. Carson is recognized for 4 minutes.

Mr. CARSON. Thank you, Chairman.

And thank you, Madam Secretary. Purdue University and other institutions in the great Hoosier State of Indiana have a strong tradition of training aviation professionals, including air traffic controllers. FAA's changes and hiring procedures for these training initiatives have recently made it harder for graduates in these programs to be hired. Programs in Indiana have expressed deep concerns about FAA's changes. Was that FAA's intent?

And secondly, if not, what is being done to address this concern?

Secretary CHAO. I am not very familiar with this issue, so let me get an answer for you.

Mr. CARSON. OK. Secondly, I would like to hear your views on the addition of physical barricades outside the cockpit door. I was proud to join Representative Fitzpatrick in reintroducing H.R. 911, the Saracini Aviation Safety Act of 2017, last month to add a sec-

ondary cockpit barrier to all U.S. passenger carriers manufactured, going forward.

Now, I recently met with Ellen Saracini, who is the widow of 911 pilot Victor Saracini, and we discussed the continuing need for this legislation.

Other than pointing out the importance of this, how much has changed since your tenure as Secretary, and what do you think about this secondary barrier? Is it a hindrance? Is it a value added? What are your thoughts?

Secretary CHAO. Thank you for bringing that up to my attention. I have only been in office 3 months. So I would be more than glad to take a look at this issue.

Mr. CARSON. Thank you. I yield back, Mr. Chairman.

Mr. SHUSTER. I thank the gentleman. And with that, Mr. Sanford is recognized for 4 minutes.

Mr. SANFORD. I thank the chairman. Madam Secretary, it is—I am back over this way, on your left.

Secretary CHAO. Sorry.

Mr. SANFORD. It is good to see you, how are you? I want to follow up, actually, on a comment that you made very briefly with Senator Cory Gardner in the FAA reauthorization hearing that they held on the Senate side. He asked you about supersonic aviation and your reply was you were open to it as long as it was quiet.

And I concur, but I think there is probably a need for a little bit of zeroing in on what quiet means. And I would offer this humbly, in that I think that there is the possibility of a technological revolution, given the way that technology has changed on this front. I think it is imperative that the FAA really look at ways to foster and build this business.

Right now there is a prohibition in terms of travel over the continental U.S., and yet the technology has changed from where it was in the 1950s, 1960s, 1970s, 1980s, such that you could actually have a much quieter sound envelope and allow for supersonic travel over the continental U.S. That would open up a whole range of different pairings—whether it is from Denver or Houston or Dallas or Chicago—and travel to places around the globe, and real change on that front.

If you look at what Gulfstream is looking at, if you look at what Avion is looking at, if you look at what—I mean a variety of different new vendors are coming into the marketplace, exploring on this front. You know, you are looking at having the transit time to—whether it is South Africa or Australia or the Far East, or any place around the globe—that would be, again, revolutionary in the way that it might change.

And so, my simple question to you is right now they could basically develop stage 4 sound levels. The new sound levels take us to stage 5. And yet we have operating aircraft at stage 3 levels: the 747, the 777, even the Dreamliner made in my home district, back in South Carolina, is at a stage 4 level, the Dreamliner. They could be at that level. And I would ask you to really vigorously look at ways of opening up a different standard for supersonic—because it is not the same plane as subsonic—that would be economically reasonable, technologically practical, and practical to these new vendors. Thoughts on that front?

Secretary CHAO. I know that the FAA is working with NASA [National Aeronautics and Space Administration] and ICAO [International Civil Aviation Organization] on these new standards, and they are doing testing. It is going to take a long time. I think it was 2025. Let me see what I can find out about this, and whether that can be expedited. I don't know what the——

Mr. SANFORD. I mean 2025 just seems like——

Secretary CHAO. It is a long time.

Mr. SANFORD [continuing]. A glacial pace, if we are talking about the kind of change that could be open in the marketplace if we were moving on a much more expedited basis. And I think one of the keys is differentiate subsonic from supersonic on this particular front.

Secretary CHAO. You make a very good point. As I mentioned, FAA is working on it with NASA, and according to ICAO standards.

And let me have—if you are interested, if your office is interested——

Mr. SANFORD. We are.

Secretary CHAO [continuing]. Have someone in the FAA kind of keep you up—give you a little briefing, a briefing for me, as well——

Mr. SANFORD. I would appreciate it.

Secretary CHAO. And then I will keep you informed on the progress.

Mr. SANFORD. Yes, ma'am. Thank you so much.

And I yield back the balance of my time, Mr. Chairman.

Mr. SHUSTER. I thank the gentleman. I now recognize Ms. Titus for 4 minutes.

Ms. TITUS. Thank you, Mr. Chairman.

Madam Secretary, earlier this week the President gave a rather bizarre assessment of the FAA. It was a very theatrical moment. I was pretty appalled by some of the things he said. And you stood right there next to him. And yet what we are hearing from you today is a little different. So I would like to go back over some of the things——

Secretary CHAO. It is not——

Ms. TITUS [continuing]. And see who we should believe.

The President said that the system was a total failure, and that the leadership overseeing it didn't know what the hell they were doing. Now, I find this offensive to the hard-working people at the FAA, and to Mr. Huerta, and wonder what Mr. Huerta's future is there at the FAA if you think he doesn't know what the hell he is doing.

The President went on to say that our air traffic control system is a horrible system that doesn't work. These are all quotes. You have said it is safe. What do I say to all those travelers who are coming to Las Vegas on airplanes——

Secretary CHAO. We are protecting their safety, and those are not my words.

[Sec. Chao submitted the following post-hearing supplement to her remark:]

Secretary CHAO. We are protecting their safety, and I did not say that we had a horrible system. I do not believe the President meant to imply that either.

Ms. TITUS. Well, so I wonder. Who do I believe? Do I believe the President when he says it is a horrible system and they don't know what the hell they are doing, or do I believe you sitting here telling me, "Well, the FAA is doing a good job"?

Secretary CHAO. I always—I believe that the FAA is doing a good job.

Ms. TITUS. So the President is wrong.

Secretary CHAO. They are doing the best that they can under very trying circumstances. I commend the performance of the air traffic controllers and the men and women of the FAA.

[Sec. Chao submitted the following post-hearing supplement to her remark:]

Secretary CHAO. I believe the President was referring to the horrible state of our traffic control infrastructure, not to the men and women who are air traffic controllers. They are doing the best that they can under very trying circumstances. I commend the performance of the air traffic controllers and the men and women of the FAA. They are doing an excellent job with very antiquated equipment.

Ms. TITUS. So you think the President doesn't know what he is talking about?

[Laughter.]

Secretary CHAO. You heard the President, you have relayed his words.

[Sec. Chao submitted the following post-hearing supplement to her remark:]

Secretary CHAO. You heard the President, you have relayed his words. The President knows that American air traffic control technology is old and obsolete. He has said we can and should do better.

Ms. TITUS. And they are contrary to you, and you are his Secretary.

Secretary CHAO. I have told you what I thought about the FAA. I admire the FAA, the hard-working men and women, and also the very good job that they are doing. They are trying very hard in a very difficult circumstance. And that is why the air traffic controllers are open and supportive of a move into a nonprofit, separate organization, so they can have more freedom.

Ms. TITUS. I am sure Mr. Huerta is glad to know that you think he does know what the hell he is doing over there.

Secretary CHAO. Mr. Huerta and I are good friends.

Ms. TITUS. Another, more specific, question I would like to ask you about.

In the FAST Act, I was able to get an amendment to that bill that created the National Advisory Committee on Travel and Tourism Infrastructure, and that committee was appointed—is to advise you, they are to meet periodically. It is to talk about how tourism, which contributes $2.3 trillion to our economy, can be integrated with infrastructure. Those meetings have now been canceled for this year. They have not heard anything from your office. Are you going to continue with this?

Secretary CHAO. I just met with the U.S. Travel Association. I met with the whole group.

Ms. TITUS. I am talking about——

Secretary CHAO. I just met with them.

Ms. TITUS. I think that is wonderful, but did you talk about that commission that was created, or are you going to continue that?

Secretary CHAO. I have over 1,000 commissions. I am slowly trying to understand what boards and commissions are in the Department of Transportation.

Ms. TITUS. That is great, but you canceled the meeting, so somebody knows they are there.

Secretary CHAO. Well, there are only myself and, until recently, just the Deputy Secretary. So I don't know what happened.

Ms. TITUS. Well, will you——

Secretary CHAO. It could have been the career folks who——

Ms. TITUS. Will you commit to us to——

Secretary CHAO. I don't know——

Ms. TITUS [continuing]. At least looking into it and perhaps——

Secretary CHAO. I don't know who canceled——

Ms. TITUS [continuing]. Scheduling a meeting of that commission, since you don't know anything about it?

Secretary CHAO. I will look into it.

Ms. TITUS. Maybe you could find out something about it.

Secretary CHAO. I just met with the——

Ms. TITUS. No, you met with——

Secretary CHAO [continuing]. U.S. Travel——

Ms. TITUS. No, you didn't meet with the commission, you met with—

Secretary CHAO [continuing]. Association and all the major players.

Ms. TITUS. No, you didn't meet with the commission. Those meetings have been canceled.

Secretary CHAO. I will look into it for you.

Ms. TITUS. Thank you very much.

Secretary CHAO. You are welcome.

Mr. SHUSTER. I thank the gentlelady. I now yield to the gentleman from California, Mr. Denham, for 4 minutes.

Mr. DENHAM. Thank you, Mr. Chairman.

Madam Secretary, let me start by asking a question a little bit differently than it has ever been asked before—at least I have heard from this committee. A lot of talk recently about climate change. And yet I have heard very little as far as aviation and FAA on the reduction in carbon around this bill.

The estimates I have seen are not only would there be a savings for all of our airlines and aircraft of about 15 to 20 percent in fuel and efficiencies that would be picked up, but also the carbon footprint, the amount of emissions that would go along with that. So we would anticipate about—the numbers I have seen, about a 15-percent reduction in emissions. I wonder if you could comment to that piece of it.

Secretary CHAO. That is an issue that I do not know very much about. So I will take a look and respond back to you on that.

Mr. DENHAM. But you would agree that the efficiencies that would be created under this bill—we have seen, both on——

Secretary CHAO. Well, the congestion and the delays are just eating up extra fuel. When a plane is circling unnecessarily, or if a plane is circling for, you know, a certain amount of time, it is burning up fuel. And it is not helping the environment, and it is very inefficient. And it is not great for the passengers, either.

Mr. DENHAM. As well, I fly back to California every week, and I spend a lot of time sitting on runways, waiting to get slotted. That is also a great deal of—we circle around airports when we get there, but we also sit on the tarmac for a great deal of time with the engines running, waiting to get into that pattern, as well.

Secretary CHAO. That is not good for the environment.

Mr. DENHAM. No. A benefit of this proposal, with efficiencies, also on the airport infrastructure side—what are some of the anticipated savings that this proposal, just on enhancing the ATC, the airport infrastructure in each of our airports across the country? Savings under this bill?

Secretary CHAO. I think the—a liberated air traffic control system would be more able to manage its own resources and its own operations. And it will not be subjected to the constraints and the bureaucratic processes that occur on so many fronts with being part of FAA and being part of the Government at this point.

Mr. DENHAM. Thank you.

Mr. Chairman, I yield back.

Mr. SHUSTER. I thank the gentleman. Now I will recognize Ms. Esty for 4 minutes.

Ms. ESTY. Thank you, Mr. Chairman.

Madam Secretary, the FAA is well into implementation of NextGen. Wouldn't it seem inherent, given that this new private entity would have to coordinate with the remains of FAA, that that process of separation, when we are well into this, would, in and of itself, cause some delays? I mean you are talking about liberating——

Secretary CHAO. I do not believe so, no.

Ms. ESTY. And what basis do you have for believing it wouldn't cause——

Secretary CHAO. Because those improvements will continue on to the new entity, but the new entity would be freed from all the bureaucratic and lengthy processes, procurement processes, which still plague the process.

When you talk about NextGen improvements, they have been going on for 30 years. So if we were to say, oh, let's wait and let's get this project finished, which is what we have been saying for 30 years——

Ms. ESTY. Well, we have the airlines themselves have only equipped 20 percent of their flights—of their flight equipment. So is the—is that the FAA's fault, or is that the airlines? Because the airlines are going to have a bigger seat at the table under this proposal. And you would not——

Secretary CHAO. They are not having a larger seat at the—they have 2 out of 13.

Ms. ESTY. They——

Secretary CHAO. That is not a larger seat.

Ms. ESTY. The public—I have to tell you the public is not very convinced right now. If you had been sitting in this chamber, in this room——

Secretary CHAO. I understand that very——

Ms. ESTY. And not very long ago, the public is highly suspicious of removing and having a separate entity. And I will tell you that

because I am hearing that at home. I hear no clamor at home saying, gee, let's put this in a private, separate entity.

The issues you are addressing are ones of needing to streamline, improve procurement, and, frankly, have consistent funding. That is a matter of whether Congress functions. And I would say, with all due respect, that is a function of the majority, which is controlling funding, to do appropriate funding. And that is an imperative. That is a political imperative.

So to say we are just going to take it out and form a new entity—because we, frankly—and we now have a single party in control of all branches—that we can't agree on how to appropriately fund the FAA gives me concern.

I was in California visiting my mother last week who has Alzheimer's. I was meeting with folks in Silicon Valley and elsewhere who are concerned that this effort to bifurcate FAA is going to, on top of things, mean it is likely to get underfunding, continue to be underfunded, at the same time that we have important initiatives on UAS, on drones, and on commercial space flight, in part because the commercial space entity is essential for internet connectivity for this country.

Now, my concern is now we are looking to further undermine support for appropriated funding for FAA. So I am curious as to how we make this case that there is going to be political pressure and commitment by this administration to appropriately fund the FAA for these additional new initiatives, while at the same time ensuring safety, when, in fact—you know, now we are talking about pulling it apart with, as my colleagues have already noted, massive assets. They may be aged, but they are still massive assets that were funded by the taxpayers.

Secretary CHAO. People may not understand about the—people complain all the time. Passengers complain all the time about congestions and delays. That is something that people understand. This piecemeal effort to streamline, as you mentioned, to streamline, to make things better, it is highly questionable as to whether it will succeed or not, when the entity that is in question still remains under the constraints of the Federal Government and all of its rules.

Mr. SHUSTER. The gentlelady's time has expired. Mr. Davis is recognized.

Mr. DAVIS. Thank you, Mr. Chairman.

Secretary Chao, thanks for joining us today. I look forward to working with you on this committee for many years to come. I know we are limited on our time today, so I will get right to our questions after I commend you for recognizing in this debate over air traffic control that the status quo is unacceptable. So thank you for recognizing that, thank you for your comments today. We really look forward to working with you.

My colleague, Chairman Barletta, mentioned the contract tower program. So I have contract towers that operate at two of my airports in central Illinois, the Decatur Airport and also the Central Illinois Regional Airport. You agreed earlier with Chairman Barletta that the contract tower program is working, correct?

Secretary CHAO. Yes.

Mr. DAVIS. Yes, thank you. Related to that, I have been asked questions about how the contract tower airports would be impacted by the ATC proposal, ATC reform proposal. And can you explain to the committee how this proposal would impact the contract tower program?

Secretary CHAO. This is a—the contract towers are always the first to be cut back when there are budgetary pressures. So, in fact, if there is steady funding, the contract towers would be better secure, and they would be more secure.

Mr. DAVIS. More secure. And you know what? We saw that during the shutdown in my district, when the FAA threatened to close the two contract towers that are there.

So—but under the AIRR Act [Aviation Innovation, Reform, and Reauthorization Act], existing contracts under the program would transfer to that new entity. And if the board sought to close an existing tower, wouldn't they have to come to you, as the Secretary of Transportation, to get approval to do so?

Secretary CHAO. Yes, they would.

Mr. DAVIS. OK. And would you agree with me that this would actually be a better position to be in, rather than what we saw with the 2013 Government shutdown and their effect on communities like those that are served by contract towers in my district?

Secretary CHAO. I would think so.

Mr. DAVIS. All right, thank you. I yield back.

Mr. SHUSTER. I thank the gentleman. With that, I recognize Mrs. Bustos.

Mrs. BUSTOS. Thank you, Mr. Chairman, and thank you, Secretary Chao, for being here today.

I really appreciated in your opening statements, when you were talking about the airspace, and your quote was that you want to protect it, "especially those in the rural communities." My congressional district is in central Illinois and northwestern Illinois, mostly rural and nonurban.

And so, what I wanted to ask you, I have heard concerns that the administration's proposal will limit the access of our small towns and general aviation users currently that they have in our air traffic control system, especially because general aviation access to airports has significantly decreased in privatized systems in other parts of the world.

So what specific measures are included in your proposal to guarantee that these users would get continued open access to our National Airspace System?

Secretary CHAO. Well, it can't be any worse than it is now. Whenever there is a budgetary concern, the rural areas are always the first to get cut. The towers are always the first to be eliminated. We have seen that with sequestration, we have seen that with other budgetary, you know, periods.

The intent is we want to preserve access by general aviation and by rural America. We understand that is going to be difficult, which is why we put that out there and we say we want to work with you. How do we make that happen? If you are open to ideas that we have, we are very, very—if you are open and have ideas, we are very open to talking about that, because rural America is important.

Mrs. BUSTOS. Thank you. One of the airports in my congressional district is called the Chicago Rockford International Airport. And it is only 70 miles from O'Hare, which is one of the busiest airports in the world, as you know. A major economic driver there is actually cargo. It is one of the top 20 cargo airports in the Nation.

So, do you believe a private air traffic control board will have an incentive to prioritize flights out of O'Hare in the airspace, rather than allow flights from Rockford to take off—again, 70 miles away? And would communities like Rockford, the one that I just described, have any protections in that kind of circumstance, under your plan?

Secretary CHAO. The—in broad terms, yes. Specifics, no. So that is where we are open to working with Congress on this.

Mrs. BUSTOS. OK. Can you drill down on that? I am not sure if I——

Secretary CHAO. We would like to preserve it. And if you have ideas, we are more than glad to entertain it.

Mrs. BUSTOS. OK. And are there any ideas that currently you have or the folks——

Secretary CHAO. Well, I think some kind of Essential Air Service probably will have to be maintained. But again, you know, I can't make a commitment about that at this point, because I don't have permission to say that. But rural America, overall, is an important aspect. We are thinking about putting a separate title or something, but we are, again, open to discussion about that.

Mrs. BUSTOS. OK. Also in your opening statement you said that you would honor existing labor agreements, which, I believe you said, are for the next 3 years.

Secretary CHAO. Right.

Mrs. BUSTOS. What after that, and your overall attitude about labor, organized labor?

Secretary CHAO. Well, I think, if the new organization is smart, they are going to have to work collaboratively and make sure that a key segment of their population is satisfied.

Mrs. BUSTOS. OK. I think I have time for one more question. This is a little bit of an aside, but one of the things that we consistently hear in my region is that employers in the industries like cargo air, the smaller airports, that sort of thing, they have good-paying jobs that are available, but can't fill them.

So we have got a couple good examples in my district, where the airports or the services have partnered with community colleges. Is that something that you would be interested in supporting and exploring further to fill that skills gap?

Secretary CHAO. Yes. But can I toss that to the Secretary of Labor? Having been the former Secretary of Labor, it belongs in that portfolio. But it is an important issue.

Mrs. BUSTOS. Sure, I will allow you to do that.

Secretary CHAO. Thank you.

Mr. SHUSTER. I thank the gentlelady. And I just want to remind Members from rural areas I am from rural Pennsylvania. I can assure you that rural areas are going to be attended to. And in fact, I believe, with this reform, they are going to be—their service will be enhanced significantly over time, with new technology.

So with that I recognize Mr. Smucker from rural Pennsylvania.

Mr. SMUCKER. Yes. Thank you, Mr. Chairman.

Thank you, Madam Secretary. This reform, the ATC reform, is an infrastructure proposal that, you know, I can certainly explain to the constituents that I talk to, so I appreciate your leadership on this issue, appreciate the chairman's leadership, as well. It is getting Government out of the way to make flying more modern, quicker, and with less carbon emissions.

I can also easily explain the benefits to the economy. It is helping the U.S. catch up with what our competitors are doing across the world.

What I don't want to do is go home and say that Congress stood in the way of an important reform like this. That would be a much harder one for me to explain.

I do have—the two questions I had, essentially, were asked by the last two panelists, as—or Members, as well. I have—the district that I represent includes parts of three different counties, each with their own smaller airport, but very important to the commercial operations and to the economy in each of those areas. Two of those counties have contract towers. So I am as interested—as has just been brought up, very, very interested in ensuring that what we are doing here does not negatively impact contract towers. And I think you have just answered that, and I am satisfied with that answer.

One of the airports, the Chester County Airport, does not have a tower currently, and is in the process of asking for, wants to build, a tower there. So I guess, for the—for a county, for an airport that wants to build a new tower, do you see any—do you think this proposal, compared to what we have now, would help them to accomplish that? Or would this provide some impediment?

Secretary CHAO. This proposal is basically airspace. So I think new—you know, something on the ground would not be handled by this.

Mr. SMUCKER. Yes, but you had said this proposal would potentially help existing contract towers, because they are often the first ones to be cut.

Secretary CHAO. Yes.

Mr. SMUCKER. So for the establishment of a new one, do you think it will have the same impact?

Secretary CHAO. That is a good question. I will have to get an answer for you on that.

Mr. SMUCKER. Yes. And again, the issue of access to rural areas is one that is important in my—each of those counties, as well. I think you have answered that. But I just want to emphasize, as well, that it is very important for us to ensure that that access is available, and look forward to continuing to work with you on this proposal. Thank you.

Secretary CHAO. Thank you.

Mr. SHUSTER. I thank the gentleman and now recognize Ms. Frankel.

Ms. FRANKEL. Thank you.

Thank you, Madam Secretary. It is very nice to have you here, and I really appreciate your demeanor, and when you need to look for—get more information, you are letting us know that. So thank you for that.

So what I have heard so far today that I think we all agree on is that right now we have the world's safest air traffic system, that modernization is possible, although it seems to be new ideas every day, and we would like the progress to go quicker.

As to the air traffic controllers, I think their biggest concern is about Government shutdowns, and they get—basically get forced to work without getting paid, which is not fair.

Now, you have been in—you have been the Secretary of Labor, and you have been the Deputy Secretary of Transportation. So I am assuming that you believe that Government can do good.

Secretary CHAO. I do.

Ms. FRANKEL. Right, right. I mean some of the concerns that I have heard about this—what I think is creating a new bureaucracy, giving away Federal assets to major corporations, big airlines that—and listen, being private doesn't make you perfect. I mean I don't think dragging a customer off a plane, that is not perfect. Having computer failures that mess up air traffic all over the country, that is not perfect. I am not saying—it is not meant as a criticism. I am just saying just because you are a private corporation, that doesn't make you perfect.

Now, Delta put out a study—and I think we know, from Canada, that when—that this privatization effort would cause the prices of airline tickets to go up. So you know what I think? Yes, it—you know why air traffic is going to be safer? Because there are going to be less people who are going to fly on the planes. Because who is going to be able—you know who is going to be able to afford these—going on the planes? The people at the Mar-a-Lago. I don't mind, because that is in my district.

[Laughter.]

Ms. FRANKEL. But the fact of the matter is—so I want to just ask you a serious question here.

Number one, do you think the Delta study is wrong, that the prices of tickets are going to go up? Did the prices of tickets go up in Canada?

And, let's face it, if Congress rejects what I think is not a good proposal, can you, once you get all down—do you think you have the ability to try to get this straight and do what is right, and move it along?

Secretary CHAO. First of all, airlines don't control the new air traffic control entity. There seems to be this perception. They will not be controlling the new air traffic control entity, number one.

And number two, on Delta, I would go back to Delta and ask them again, because it seems as if Delta's position on this is changing.

And number three, you asked me another question, then I probably missed one. And number three, whether—you can ask me as Secretary of Labor to try to improve the NextGen project. I would do my utmost, and I know that people at the FAA are trying their best, including the Administrator. But this has been going on, as I mentioned, for 30 years.

Ms. FRANKEL. But you do know that Congress set, I think, 2025 as to when this was supposed to go into effect, so of course it has been going on years and years. And, according to the FAA—we

have heard some of their representatives—they think it is moving along.

So, anyway, I wish you the best.

Secretary CHAO. Thank you.

Mr. SHUSTER. I thank the gentlelady. I just want to remind the gentlelady the IG said that they were concerned that the price tag on NextGen could be double or triple the price. So Government hasn't been that efficient.

With that I recognize Mr. Lewis.

Mr. LEWIS. Thank you, Mr. Chairman, and thank you, Madam Secretary, for the time today. Very, very important, very crucial.

I want to get to this "Federal asset giveaway." If you look at the board, it is a quasi-nonprofit, quasi-independent board. There are stakeholders, but there are no shareholders. So, any of the "Federal assets" we are giving are not going to flow back to a private entity for somebody's profit-making. It is going back into the air traffic control system. Isn't that right?

Secretary CHAO. Yes, it is.

Mr. LEWIS. So how would that be a Federal asset giveaway, then? There is no private entity that will benefit directly.

Secretary CHAO. I agree with you. That was—that is an excellent question.

Mr. LEWIS. And they are assuming, what, $1.1 billion in liabilities? Got old towers or brownfields or something of that nature, the new board would have to handle that, correct?

Secretary CHAO. That would be part of the—yes.

Mr. LEWIS. OK. There are about 41 States, I think, that are engaged on the topic of unmanned aerial drones, as it were, I guess, 38 enacting specific UAS laws now. There seems to be this tension between, obviously, stream of commerce, if we start delivering packages via unmanned aerial—or UAS, I should say. Has the administration looked into how we make certain there is—FAA has a say, and some preemption, but also States and localities who—with concerns about privacy, as well as nuisance law and things like that, have a say, as well?

Secretary CHAO. This is a brave new world. So everything you have said is true. We have to consider the safety, the security, and also the privacy issues. And I think we, as an agency, are grappling with that, in conjunction with other stakeholder groups.

Mr. LEWIS. Is there a theme? Are we going to have a plan to work with States and localities on this?

Secretary CHAO. We should.

Mr. LEWIS. All right. Thank you very much, Madam Secretary.

I yield back, Mr. Chairman.

Mr. SHUSTER. I thank the gentleman and now recognize Mr. Sires.

Mr. SIRES. Thank you, Mr. Chairman.

Madam Secretary, thank you for being here. I haven't made up my mind about this legislation yet. There are a lot of things I like about it, especially the dedicated fund that you can dedicate this fund to continue to improve the system. And no one can raid it, right?

Secretary CHAO. Correct.

Mr. SIRES. Once you have this fund. And I also have spoken to many of the members of the union, and I know NATCA [National Air Traffic Controllers Association] supports it. And the biggest concern that they have is funding. And, quite frankly, after seeing the budget that came out of the White House, I would be very worried also about funding.

But my concern is with the rank and file. How can I assure the rank and file that their jobs are not going to be impacted by this privatization?

Secretary CHAO. Only those jobs that are connected with air traffic control will move over with the new entity. Those that are involved with safety and other regulations—for example, the noise—it will be with FAA.

Mr. SIRES. But——

Secretary CHAO. The split will be difficult.

Mr. SIRES. But do you anticipate any of the air traffic controllers losing their jobs as we move into this private, nonprofit corporation?

Secretary CHAO. I can't—no, I do not, because they are actually hard to hire—it is hard to hire experienced air traffic controllers. They are going to need every single one of them.

Mr. SIRES. You know, I went to Ottawa, and one of the things that I noticed in Ottawa was that they reduced the number of air traffic controllers in Ottawa as a result of this. Do you anticipate that happening here? And we are much bigger, I understand that.

Secretary CHAO. I do not.

Mr. SIRES. You do not?

Secretary CHAO. I do not. But that is obviously a decision that has to be made in the future.

Mr. SIRES. And I know that you mentioned in your comments that the problem with the delays in airports, that congestion and flight delays—how can I say? You are not implying that this is because of the air traffic controllers, are you, I mean, or the airlines——

Secretary CHAO. Delays are occurring because—there are many—and I am not a—there are many, many reasons. Part of it is that we don't have updated equipment, so that the spacing between airplanes—for example, just one factor—has to be further apart than what current, up-to-date technology can accommodate, because we are dealing with an older system and we want to have safety. If it were a new, modern system, the space can be safely kept to a shorter distance. That is just one example.

Mr. SIRES. That is one of the things that we saw in Canada.

Secretary CHAO. And then also, as you come down, as you land, you don't have to come down a staircase fashion pathway, which also takes time. It can be a smooth glidepath right in.

Mr. SIRES. OK. Thank you, Madam Secretary.

I yield the rest of my time.

Mr. SHUSTER. I thank the gentleman. And now I recognize Mr. Graves.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman.

Mr. SHUSTER. From Louisiana.

Mr. GRAVES OF LOUISIANA. Madam Secretary, thank you for being here.

You trying to take my time? The good Graves, you should have said that.

Madam Secretary, thank you again for being here, and I want to follow up on Mr. Lewis's line of questioning. Is it your intent to take this asset and have this board manage it in a way where they financially profit?

Secretary CHAO. No, not at all. One hundred percent of the surplus goes back into reinvesting in a system to improve it.

Mr. GRAVES OF LOUISIANA. And so, if you are a taxpayer, if you are a passenger on an airline, what is your expectation? What is your hope or desired outcome of this? What would you realize? Would you realize a situation where this asset was being managed in a way that would benefit the taxpayer, that would benefit the airline passenger? Or do you expect this—or do you have a desired outcome for this to work to the detriment of that?

Secretary CHAO. Number one, safety is number one. We need to address the issues of this current system going forward in the future, because the pressures on this system will only mount. And we are not doing enough to maintain its supremacy into the future.

Mr. GRAVES OF LOUISIANA. So I——

Secretary CHAO. The issue about capitalization, I think, as I mentioned, we are going to have to—the bill that is from this committee currently has a free transfer. And we are open to some capitalization of some kind.

Mr. GRAVES OF LOUISIANA. And I don't want to put words in your mouth, I just want to make sure that I am understanding correctly. So this is a public asset today. Do you expect that under legislation or the proposal that you have been discussing, do you anticipate that in any way the asset would be managed that does not put the public's best interests first?

Secretary CHAO. No, not at all.

Mr. GRAVES OF LOUISIANA. So is it possible that, under this proposal you are actually taking a public asset and establishing a scenario whereby it can be maximized or utilized in a way that truly benefits safety, considering the trajectory of increase in air passenger traffic to where you can increase efficiency, reduce emissions, reduce fuel consumption? I mean aren't those all objectives of this, using this public asset and managing it in a way that truly benefits the public?

And I want to remind the committee and make sure we include back in the record—I have quoted often the ranking member's statement that our attempts to—or the FAA's attempts to achieve—to accomplish Next Generation, NextGen, he has actually called it NeverGen, because of the inability of the FAA to fully implement this system.

Secretary CHAO. Everything that you have said is correct, and I should have brought it up earlier in my testimony. Thank you for reminding me.

Mr. GRAVES OF LOUISIANA. Thank you. And with that, Mr. Chair, I yield back.

Mr. SHUSTER. I thank the gentleman. With that, I recognize Mr. Nolan.

Mr. NOLAN. Thank you, Mr. Chairman, and welcome to the committee.

Secretary CHAO. Thank you.

Mr. NOLAN. You are going to find a good, strong body of bipartisanship on this committee of men and women who want to work with you and work with the President and see to it that we get our infrastructure back in shape.

And there is no question, you know, bridges are falling down. We have seen it in Minneapolis. Trains are coming off the track. We have seen that. And municipal waste treatment facilities are overflowing, and we applaud the President's desire to spend $1 trillion on infrastructure.

Having said that, we have seen some reports—you know, everybody that has come before this committee—doesn't matter whether it is the head of the Chamber of Commerce or the trade labor unions—have all said that we need to make this investment. Civil engineers say it should be maybe $3.5 trillion. But they have all said that 90 percent of it is going to have to come from the Federal Government, and that 10 percent of it is, you know, maybe there for private-public joint ventures, which are good.

I hear reports that the President is talking about 90 percent of it coming from the private sector, and only 10 percent from the Federal. So I—number one, I would be curious to have you respond to that.

And then, being a bit more parochial, we have witnessed where our rural airports and our rural regional airports back in Minnesota, airports like Brainerd and Hibbing and Bemidji, and what not, are just essential for our business growth and job growth and economic opportunity. And then the President has submitted a budget calling for cuts and/or elimination in those Essential Air Service funds for the smaller regional hubs. So—and now we are talking about privatization of the whole system.

Would you respond to those two questions? And how are you going to do that? How are you going to protect our small regional airports? How are you going to get this job done, expecting 90 percent of the money to come from the private sector, when everybody that has come before this committee has said just the opposite, just flipped it? Thank you.

Secretary CHAO. It is actually not 90 percent. The administration has put forward a proposal for $200 billion. Also on top of that will be some sale of Government assets, and then leverage it up from $200 billion to $1 trillion.

Mr. NOLAN. Excuse me, so that would be 20 percent, as opposed to 10 percent.

Secretary CHAO. The 20—I will use your figure. The 20 percent is—will probably be a incentivized program, kind of like seed capital, and it will be given to the State and local municipalities. The ones that are able to leverage their funds and come in and bring in more innovations and more financing, will probably get a larger portion of that.

So we are——

Mr. NOLAN. Well, we have always had those incentivized programs in place, and it has ended up accounting for, like, 10 percent, not 80 percent.

Secretary CHAO. Actually, the amount of Federal funding for highway projects and bridges is actually about 14 percent, overall.

So the majority of funds have actually come from the State and local.

And in terms of incentivizing, there are States that don't allow private sector investments in public infrastructure. And so the private sector is actually discriminated against if they so wish to invest in public infrastructure. Part of that would be to encourage States who don't currently allow public-private partnerships to be able to participate.

Mr. NOLAN. Well, I mean, you are right when you—if you count State, local, and Federal. Everybody that has come before this committee—a lot of experts—said, you know, that is where about 90 percent of the money is coming from. And all these programs are incentivized programs to get private sector to invest. And the best that they have been able to come up with is 10 percent.

I mean you can't just wave a magic wand and call something new that has actually been around for a long time and expect it to have different results.

Mr. SHUSTER. The gentleman's time has expired.

Secretary CHAO. I think we are talking about a lot of numbers here which we need to clarify——

Mr. SHUSTER. And we are going to have a hearing on infrastructure——

Secretary CHAO. OK.

Mr. SHUSTER [continuing]. Things at another time. So I thank the gentleman and I thank the Madam Secretary.

Secretary CHAO. Thank you.

Mr. SHUSTER. With that, Mr. Graves from Missouri is recognized.

Mr. GRAVES OF MISSOURI. Thank you, Mr. Chairman, and I appreciate the Secretary being here and willingness to—obviously, to testify. And I actually don't have any questions, but I do want to point out just for clarification, as much as anything else, because there is a lot of misunderstanding out there, that this is step 1 in a 10-step process.

You know, this has got a long way, you know, to go: the House of Representatives, Senate, committees, floor, everything else that goes along with that. Because there is a lot of misunderstanding out there. And for—another reason I just wanted to make sure that that was clarified. There are a lot of people listening and watching this.

So thank you, Mr. Chairman. I yield back.

Mr. SHUSTER. I thank the gentleman. And with that, Ms. Brownley.

Ms. BROWNLEY. Thank you, Mr. Chairman.

And thank you, Madam Secretary, for being with us today, and your testimony, and your service to our country, both past and present. I appreciate it very much.

I wanted to ask if, based on all of the goals and objectives that have been laid out—and I think there is generally a lot of agreement in terms of goals and objectives. The question becomes how do we get there, what is the mechanism to get us there. Do you believe that there is an alternative way to get to those goals and objectives, other than privatization?

Secretary CHAO. I guess one way is that we continue the path that we are on. So, in fact, the proposal that is on the table, and

one that has been passed by this committee, is one of do we stay with the status quo or do we try to prepare the system for the future? Because the volume will be quite substantial, and the new entrants, like drones, will also have to be considered, as to how to integrate them into the system.

Ms. BROWNLEY. Well, and I agree. I am—I guess the question is, is there another alternative, other than the status quo or privatization. Is there some other—is there another mechanism, in your mind, that we could travel down to get to those objectives?

Secretary CHAO. Are you talking about—I don't know what you are talking about.

Ms. BROWNLEY. Well, we have talked——

Secretary CHAO. Sorry.

Ms. BROWNLEY. Well, you were talking about the status quo and then what we are doing today in moving forward.

Secretary CHAO. If you have——

Ms. BROWNLEY. I mean the President proposed a privatization scheme, I think, to get to most of those objectives. I guess my question is do you think that there is another way to get to those objectives, other than privatization?

Secretary CHAO. I don't know whether that is a leading question or not, or whether you have some particular ideas in mind as well?

Ms. BROWNLEY. No, I don't. I just think that there is some agreement on basic objectives and goals, and I am just wondering if you are open to, you know, to other pathways in terms of getting there.

Secretary CHAO. Of course.

Ms. BROWNLEY. Thank you. Thank you. I represent two general aviation airports: one where the FAA staffs the tower and one that is a contract tower. As we drill down on all of this, and as we get to a detailed proposal, do you intend on having any safeguards for general aviation airports, other than the decisionmaking that may come from this governing board? Safeguards such as, you know, not closing GA towers, contract towers, making sure that general aviation airports have the resources they need for their ongoing capital improvements?

Secretary CHAO. This proposal talks about a national airspace and the air traffic control system, and that is—so it is up in the air. It is not—and the issue of assets, which has been discussed here, is another issue.

Ms. BROWNLEY. I understand, but it is the towers, the mechanisms on the ground that are controlling the airspace. And so, I am just wondering, as we move forward and get a more detailed proposal, do you see some safeguards for those——

Secretary CHAO. We are very open to discussing them.

Ms. BROWNLEY. Thank you very much. And again, thank you for being here, and thank you for your service.

I yield back.

Mr. SHUSTER. I thank the gentlelady. We—Ranking Member DeFazio and I agreed to an 11:30 hard stop, but the Secretary has agreed to go 10 more minutes. So I would encourage Members to expedite their questions. I am sure she will answer them in writing, if need be.

And with that, I am recognizing Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman. Being from the West, northern California, we have a lot of issues, transmission lines and vegetation management around them. And most transmission lines are in rural areas, anyway. So it is very important that we have drone capability for inspection of very remote, sometimes very tough terrain, power lines, hydro facilities, and others, as well as in agriculture, the flexibility we can have to help that with farming, ranching, et cetera.

But we have current restrictions on the beyond-line-of-sight aspect of that. Last year the Congress passed legislation directing FAA to work with critical infrastructure industries on the applications to fly these drones beyond line of sight. Most of these applications have not even been really looked at yet.

So I was disappointed that, yes, FAA has communicated that the application was received, but it is kind of like being on hold, like, you know, "Your application is very important to us, keep holding."

So can you describe what—and I know, you know, you are still getting up to speed there, so I don't fault anything, but can you describe what is FAA doing to get these applications going, and get answers to those folks if—for very important technology?

Secretary CHAO. This is such a new field that FAA, I know, is trying to understand and grapple with its own roles in this space, in connection with other agencies, and also the private sector—Silicon Valley, for example. But I will go back and ask what is the status.

Mr. LAMALFA. Thank you very much for your appearing and for your leadership on this. It is very important for us in the very rural part of the country. I appreciate it.

Thank you, Mr. Chairman.

Mr. SHUSTER. I thank the gentleman, and with that I recognize Mr. Capuano.

Mr. CAPUANO. Thank you, Mr. Chairman.

And thank you, Madam Secretary, for staying a few extra minutes. It puzzles me why we are going to have so much faith in the airline industry when, in the last 2 years, they have proven repeatedly that they don't know how to manage large computerized systems. Otherwise, we wouldn't have had shutdown after shutdown after shutdown across this country. But that is a different argument, different debate.

Secretary CHAO. I think that is a point that is worth emphasizing, in terms of refuting. The airlines are not in charge of this new air traffic control system.

Mr. CAPUANO. But they are going to hire people to do it, and they have hired people——

Secretary CHAO. No, not at all.

Mr. CAPUANO. So they are just miraculously going to appear?

Secretary CHAO. It is FAA——

Mr. CAPUANO. Who runs this board?

Secretary CHAO. It will be 13 people.

Mr. CAPUANO. The airlines.

Secretary CHAO. It would be a candidate list provided by five initial nominating groups: the major airlines; the major——

Mr. CAPUANO. The airlines.

Secretary CHAO [continuing]. Unions, airlines, unions——

Mr. CAPUANO. Look, Madam Secretary——

Secretary CHAO [continuing]. General aviation groups, and airport——

Mr. CAPUANO [continuing]. That is fine. We all know it is the airlines who are going to run it. And I am going to——

Secretary CHAO. I mean it is not controlled by the airlines.

Mr. CAPUANO [continuing]. Later on today.

Secretary CHAO. If I may just——

Mr. CAPUANO. Let me ask you a question.

Secretary CHAO. If there is one thing that can emerge from this hearing——

Mr. CAPUANO. Let me ask you a question.

Secretary CHAO [continuing]. They do not control the air traffic control system.

Mr. CAPUANO. You know, I——

Secretary CHAO. They will not.

Mr. CAPUANO. You do realize that virtually nobody here believes that, but that is OK.

Secretary CHAO. I think critics of this proposal are using them as a prop.

Mr. CAPUANO. Well, thank you.

Secretary CHAO. And scaring people.

Mr. CAPUANO. Well, I don't think it is scary. I fly on the airlines every day, every week. I am going again today. I am not afraid of them. But they haven't proven to me that they can run large, computerized systems.

Secretary CHAO. They are not running the system.

Mr. CAPUANO. Well, that is great. So somehow, miraculously, it is going to be run by somebody we don't know. That is even——

Secretary CHAO. By the——

Mr. CAPUANO [continuing]. More assuring.

Secretary CHAO. By those who are currently running it now, the FAA.

Mr. CAPUANO. Well, that is part of the problem with this legislation, isn't it? We don't know who is going to do it.

Let me ask you a question. If I took your house, and gave it away to one of the airlines, that wouldn't be fair, would it?

Secretary CHAO. Airlines again.

Mr. CAPUANO. Yes.

Secretary CHAO. I told you they are not involved.

Mr. CAPUANO. Or anybody. If I gave it away to any private corporation, would it be fair?

Secretary CHAO. I have also said that the capitalization of this proposal and the asset base has yet to be resolved, and I look forward to working with the committee on that.

Mr. CAPUANO. It is not yet to be resolved. We have legislation and we have a Presidential commentary on it. It is what is proposed in front of us. So this legislation is not done yet?

Secretary CHAO. No, it is not. It is up to you to accept it.

Mr. CAPUANO. Well, I know. That is what I am doing today.

Secretary CHAO. Yes.

Mr. CAPUANO. I am discussing the legislation that is in front of me——

Secretary CHAO. Well, I appreciate the discussion——

Mr. CAPUANO [continuing]. That says give away billions of dollars of taxpayer-paid entities. And I don't see the difference between giving it away to a private entity or a nonprofit.

Secretary CHAO. If the Congress does not agree——

Mr. CAPUANO. If you give away somebody's property, it is still taking their property away.

Secretary CHAO. We will look forward to working with you. We disagree with that, you know, please——

Mr. CAPUANO. Oh, don't worry, I do disagree with it, and I have disagreed with it before, and I will continue to disagree with it tomorrow.

Let me ask you another question. You talk repeatedly about putting airlines—airplanes closer and closer together, which I understand, I expect that. I would like to invite you this summer, any time you want, you pick the day, to come to my house. Come to my home, we will have a barbecue in the backyard. We will have a nice little fire, and I will bring up the wine and whatever you want to eat.

And we will sit there, a mile and a half under the flight path of runway 33. And you will find out that when a plane goes over—which I don't mind, I have lived there a long time, we have had planes going over there all the time. But there is a big, big difference between a plane going over your house every few minutes versus every few seconds. And it has become an accepted problem across the country. And I am working with the FAA now, as we speak, to study how to deal with that. And they have been very good.

And according—again, now, maybe we can change this, too. But the President's legislation says the FAA won't have the ability to do that. The FAA will only have the ability to do it if they go outside the noise lines. They are not outside the noise lines. They are within the 65 decibels. So in—except it is not 65 decibels every few minutes. It is now 65 decibels every few seconds.

And if you want to take me up on that, since my time is—just let me know. We will arrange it any time you want, and you will see the problems——

Secretary CHAO. I am sorry the planes are flying over your house. And if you feel differently about the noise—about the issues that you have discussed, we look forward to talking about it with you.

Mr. SHUSTER. And the good news is the FAA still has to be involved when it comes to noise.

We are going to have time for two questioners: Mr. Perry and then Mr. Woodall. And then we are going to have to close it down, because our agreement was—the ranking member and I—to get you out of here at 11:30.

So, with that, Mr. Perry.

Mr. PERRY. Thanks, Mr. Chairman, and thanks, Madam Secretary. We appreciate you being here, and we appreciate the truth.

With that, I just want to register my accord with the inspector general and the contract tower system being effective and efficacious, efficient for industry, for the taxpayers. And I just want to register it, as well, because I know it has been asked on several occasions.

As well, my good friend, Mr. LaMalfa from California, asked about the part 107 waivers. And I too have constituents that have requested waiver beyond the line of sight for very specific reasons.

Of course, the waiver request is in, it has been in since August of last year. I know you are working short-staffed, and we appreciate it, Madam Secretary, but we would like some indication of when we can expect an answer on—or more guidance from the FAA on the waiver process. It is one thing to submit the waiver and then hope that, you know, look, if there are some things that need to be done to bring people into compliance or what have you—I understand the FAA is grappling with this. But at some point it just takes too long, right? It is inefficient, it takes too long, and they are holding up the show.

So, my understanding—have any beyond-the-line-of-sight waivers been approved? It is my——

Secretary CHAO. Well, there is a recent court decision——

Mr. PERRY. OK.

Secretary CHAO [continuing]. On this issue, which has also held them up. But I will—so that is—they are trying to—FAA is trying to decide how to handle that right now.

Mr. PERRY. OK.

Secretary CHAO. But I will get—I will remind them again and go back to them. And I will give you a—get them to coordinate with your office.

Mr. PERRY. I appreciate your involvement, Madam Secretary.

Finally, while we look at the dollars spent on infrastructure improvement facilities, hard structures, facilities, I just want to make a case for reviewing the prevailing wage requirements. Some people say it is a 30-percent increase. I have never seen that shown. I imagine it happens on occasion. I would say it is somewhere between 7 and 10 percent. That is verifiable, that I can prove.

When I look at the average current cost of a transportation project being $1.5 million, and looking at the threshold being $2,000 to invoke the prevailing wage, functionally, since 1935, it seems to me that we should be able to review that and allow more entrants into the marketplace, and save the taxpayers some money.

So I am just curious if the administration is amenable to having a discussion about raising that threshold.

Secretary CHAO. You mean for the——

Mr. PERRY. For Davis-Bacon wage——

Secretary CHAO. Yes, but for the infrastructure project.

Mr. PERRY. Yes.

Secretary CHAO. I think the President—the administration's proposal is to include Davis-Bacon.

Mr. PERRY. But are you amenable to a discussion regarding the threshold? The threshold now is——

Secretary CHAO. I think that is actually the Secretary of Labor. That is not really the Secretary of Transportation.

Mr. PERRY. OK. Are you—would you be opposed to changing it, even as the Secretary of Transportation, or reviewing it?

Secretary CHAO. For the infrastructure proposal, I would like to see it passed. And I understand that, without that provision, the minority probably will not sign on.

Mr. PERRY. So no changes at all.

Secretary CHAO. I am interested in getting the infrastructure bill passed. And the specific issue that you are talking about, I think the Secretary of Labor probably would address that.

Mr. PERRY. OK. Thank you, Madam Secretary.

I yield.

Mr. SHUSTER. I thank the gentleman. With that, the final questioner is Mr. Woodall.

I apologize to all Members who didn't get to ask a question, but we agreed to a deal.

Mr. Woodall, please proceed.

Mr. WOODALL. Thank you, Mr. Chairman. I will be brief.

I just had two comments, Madam Secretary. One is I appreciate you consistently reminding this panel that it is our responsibility to write the law. You are lending us all of your credibility, all of your expertise, all of your team's expertise. We get to make these decisions at the end of the day, and we get to sort these decisions out at the end of the day. And so I don't have any anxiety at all about where we come down, because I know it will be a collaborative team effort.

And secondarily, I may be the only member on this committee who has gotten to see you all-in in your first 4 months on the job. You were all-in for the people of Georgia——

Secretary CHAO. Thank you.

Mr. WOODALL [continuing]. When our major interstate bridge collapsed in a fire. You were all-in for us within hours after that crisis broke out. You were short-staffed, but you sent people down to help us. You hadn't put together your entire team. But if you ask our Governor, our DOT Commissioner, they will both tell you they were not working with a Secretary who had been on the job for 4 months, they were working with a Secretary who had been on the job for 9 years.

I have never heard so many compliments about the professionalism that the Federal Government had employed to serve the good men and women of Georgia. You will hear that from our Democratic mayor in downtown Atlanta, you will hear that from my Republican Governor, our DOT Commissioner. When you are all-in, things happen, and they happen in amazing ways, and ways that had not happened in Georgia before. I am glad you are all-in on FAA reform, glad you are all-in on corporatization cooperative system, and I am excited to be your partner, as we sort through that.

Thank you for what you did for us in Georgia.

Secretary CHAO. Thank you.

Mr. SHUSTER. I thank the gentleman.

Madam Secretary, I thank you for being here. If you would just indulge me for just a minute or so——

Secretary CHAO. Yes, of course.

Mr. SHUSTER. I don't have a question, I just want to make a comment.

Mr. DeFazio and Mr. Larsen put forth a piece of legislation here, and I believe that they fundamentally agree with me that the FAA is broken, and that—although it is a very, very safe system, the ef-

ficiency, the innovation, the modernization for decades has fallen behind.

Their proposal puts—taxpayers will continue to fund a system that I believe is dysfunctional. It gives the FAA Administrator a whole lot of authority, and complete freedom from DOT, OMB [Office of Management and Budget], and Congress, and contrary to what Mr. DeFazio has said publicly, my proposal—or our proposal we are putting forward takes Congress out of the equation. I believe it doesn't. I believe their proposal would do that. It requires a lot of studying, a lot of reporting.

And additionally, putting forth the acquisition and personal reforms are just rehashes of the previous attempts. And I am sitting in this room, and I am thinking to myself this is like Groundhog Day. Not because we had this kind of hearing last year, but because my father, who sits on the wall over there, over 20 years ago put that legislation forward. They passed it, and the FAA has failed for 20 years to use that procurement authority, to use that—taken out of the Federal hiring practices.

Again, for 20 years they failed to do that. And my friends from across the aisle have put that forward as their proposal again when we failed to do that. So again, I believe we have to do something transformational, something very different. And again, we look forward to working with you as we are going forward.

And as has been reminded here earlier, this is the beginning of the process. There are a lot of questions, good questions my friends on the other side asked, and we need to get into the details and talk about and discuss it.

So, with that, thank you so much for being here today. I appreciate it, and look forward to having you back again.

Secretary CHAO. Thank you.

Mr. SHUSTER. I would ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing, and unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses included in the record today.

Without objection, so ordered.

I would like to thank the Secretary again. And if no other Members have anything, the committee stands down.

[Whereupon, at 11:46 a.m., the committee was adjourned.]

STATEMENT OF
THE HONORABLE PETER A. DEFAZIO
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE HEARING ON
"BUILDING A 21ST-CENTURY INFRASTRUCTURE FOR AMERICA: FEDERAL AVIATION ADMINISTRATION AUTHORIZATION"
JUNE 8, 2017

Although I was not happy with the results of the November election, I was hopeful that investing in our Nation's infrastructure was one area in which I could work with President Trump. During the campaign, he said all the right things about investing in infrastructure, to the tune of a $1 trillion infrastructure package, and to the ire of the Republican Leadership in Congress.

Unfortunately, today's hearing is not to discuss a plan to provide additional funding to invest in our crumbling highways, transit, ports, and airports. Instead, the first and only infrastructure proposal this Committee has received from this Administration is a controversial plan to privatize our Nation's air traffic control system.

A similar plan to the President's failed 31 years ago when the airline industry brought it forward. Failed in the 1990s. Failed in the early 2000s. In fact, this plan failed last year and killed an otherwise comprehensive, bipartisan Federal Aviation Administration (FAA) reauthorization bill.

Why has it failed time and again? Because it does not have enough support in Congress or among aviation stakeholders.

Secretary Chao, at your confirmation hearing you said there should be "national consensus" on air traffic control reform. I hope today's hearing will make clear to you that there is far from a consensus in Congress or among stakeholders on privatizing air traffic control.

Privatizing the Nation's air traffic control is yet another giveaway to special interests. It will give private, self-interested actors the power to effectively tax the flying public. It will harm national security and jeopardize aviation access to small communities. It gives away the equipment and property free of charge. It is likely unconstitutional, and it definitely will slow down NextGen. And, by the Trump administration's own calculation, it will increase the budget deficit by **$46 billion**.

Privatization is a solution in search of a thousand problems. And it will be sure to find them. By tearing the FAA apart, it will leave the agency's critical safety oversight offices— including aviation safety inspectors and the agency's certification offices whose operations are vital to the livelihood of U.S. aviation manufacturers— without a guaranteed funding source and subject to the vicissitudes of Congress, including budget sequestration and shutdowns.

Proponents of privatization claim NextGen is moving too slowly and that it would be implemented more quickly under a private corporation, so let's talk about NextGen for a moment. The truth is that privatization will actually slow NextGen down, not speed it up. According to a study by the MITRE Corporation, a proper transition to a privatized system could take seven years. During those seven years, modernization work will all but stop. In fact, even President Trump's Budget cuts off funding for replacement of a major air traffic control facility— the New York Approach Control— and two smaller facilities in light of the limbo created by its privatization plan.

A seven-year standstill of NextGen work would be a stunning contrast to the FAA's progress to date. The FAA has already rolled out **8,030** performance-based navigation procedures, **4,421** wide area augmentation system approaches, and **390** required navigation performance approaches, with more in the works. The FAA has built out the ground network for a 21st-century, GPS-based air traffic control system called automatic dependent surveillance-broadcast (ADS-B), and it is ready to go. What's the hold up? It's not the FAA, it's the airlines. The airlines, not the FAA, are slowing down the process by petitioning the FAA to excuse them from certain ADS-B performance requirements because their aircraft navigation equipment is too old.

And let's not forget, the U.S. Constitution. The Constitution prohibits delegation of a regulatory or ratemaking function such as air traffic control or user fees to the private sector. So this plan, which delegates those powers to a private entity, is likely unconstitutional. Moreover, the Trump plan completely removes elected Members of Congress from overseeing the Corporation's assessment of user fees, offering little to no recourse for users to challenge unfair charges, and specifically prevents judicial review. It also strips Congress of the power to effectively weigh in on behalf of constituents suffering from airplane noise when the private corporation changes aircraft routes and focuses airplane noise on their homes, day and night. Finally, the plan creates uncertainty for the 7,400 dedicated public servants who certify the safety of airlines and airplanes— who will remain subject to sequestration and shutdowns.

I will agree with proponents of privatization on one point, however: The FAA needs stable, predictable funding. That's why, together with Aviation Subcommittee Ranking Member Larsen and **every** Democrat on this Committee, I have introduced an alternative plan that **all** of FAA labor, including the National Air Traffic Controllers Association, supports. Our bill keeps the FAA together while solving the **real** problems the agency faces: unstable funding, inefficient procurement and personnel management processes, and political tinkering through the Department of Transportation and Office of Management and Budget.

U.S. airspace is the busiest and most complex in the world. It is also the safest. Targeted air traffic control reforms can cure what ails the FAA without privatizing a national asset worth tens of billions of dollars and risking U.S. aviation leadership and safety.

I urge Chairman Shuster, Aviation Subcommittee Chairman LoBiondo, and Committee Republicans to work with us on our alternative plan to achieve common ground and ensure that Congress enacts a comprehensive, multi-year FAA reauthorization bill by the end of September.

I regret that I am unable to attend today's important Committee on Transportation and Infrastructure hearing with Secretary Chao. I am in Oregon undergoing an urgent medical procedure, but I fully expect to be back to work and on the road to recovery next week. In the meantime, I appreciate the opportunity to share my statement on this critical issue.

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CONGRESSIONAL YOUTH CHALLENGE CAUCUS
CO-CHAIR

CONGRESSIONAL HISPANIC CAUCUS

JUNE 8, 2017

Statement of
The Honorable Grace F. Napolitano
Committee on Transportation and Infrastructure
Hearing on Building a 21st Century Infrastructure for America: Federal Aviation Administration Authorization

Chairman Shuster, as this is our last hearing prior to the markup of an Aviation Authorization Bill, I strongly urge the Committee NOT to include detrimental provisions that would preempt state laws guaranteeing meal and rest breaks for truck drivers.

I am concerned that there is an effort by special interests to revive a controversial proposal known as F4A that Congress has previously rejected multiple times. This proposal would attack States' rights and harm men and women trying to make a decent living in the trucking industry.

On July 9, 2014, the Ninth U.S. Circuit Court of Appeals ruled that trucking operators in California must abide by California labor law and allow for a 30-minute meal break after 5 hours of work and a 10-minute rest break after 4 hours of work. This meal and rest break standard is very reasonable when you consider that truck drivers can be subject to 14 hours of on-duty time.

The F4A provision being pursued for inclusion in the FAA bill would go further than just overturning the federal courts decision protecting California truckers. This would pre-empt existing State meal or rest break laws in 21 States and territories. Some of these laws have been on the books for decades.

The F4A proposal additionally restricts the ability of states to address truck driver working conditions and pay in the future. The language dictates that whatever "piece rate" or - pay by the load - is determined by the trucking company is the only way that drivers can be compensated. State laws to ensure drivers are paid a minimum wage tracked by the hour, paid for sick time, or be paid for excess time spent detained at loading docks, at shipper facilities, or at ports all stand to be pre-empted. This would exacerbate a problem in the trucking industry that continues to put the squeeze on drivers as they fight to deliver loads through increasing congestion on our roads.

Further, this provision has no place in an aviation bill. This is a trucking issue under the jurisdiction of the Subcommittee on Highways and Transit. The Subcommittee on Highways and Transit has not held a single hearing on this controversial, divisive issue.

Mr. Chairman, I respectfully request that you not include this contentious provision in the FAA bill as it is an attack on the ability of a State to promote healthy working conditions for truck drivers.

STATEMENT OF
THE HONORABLE ELAINE L. CHAO
SECRETARY OF TRANSPORTATION
BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES
JUNE 8, 2017

BUILDING A 21st CENTURY INFRASTRUCTURE FOR AMERICA:
FEDERAL AVIATION ADMINISTRATION AUTHORIZATION

Chairman Shuster, Ranking Member DeFazio, Members of the Committee:

Thank you for inviting me to speak with you today on the future direction of the Federal Aviation Administration (FAA). The upcoming FAA Reauthorization provides an opportunity to build on the FAA's safety record and encourage innovation and creativity. Every day, the dedicated men and women of the FAA safely and efficiently separate and guide thousands of aircraft carrying millions of passengers and tons of cargo to destinations around the country. Despite the FAA's outstanding safety record, the agency is increasingly challenged to address the quickly evolving needs of the nation's airspace users.

Over the years, representatives from the Department of Transportation and the FAA have come before you to discuss new and, all too often, ongoing challenges. As this Committee previously recognized, some of the major ongoing challenges facing the FAA involve being able to respond to the demands of the users of the national airspace, the flexibility to execute its priorities, and funding stability. The FAA has responded to these challenges by prioritizing its work, knowing that safety cannot be compromised. However, the time has come to address these challenges head on. The need for a comprehensive FAA Reauthorization, including a new governance structure for air traffic control operations (ATC) is critical to address these

challenges. The Administration has introduced its principles for crafting legislation to accomplish this reorganization.

These principles include the creation of a private, nonprofit cooperative for air traffic control, leaving the FAA to focus on its oversight and safety duties. Separating the regulated entity from the regulator is hardly a novel concept; that is but one element of the Administration's proposal to transform American's aviation system.

Our skies are becoming increasingly congested; flight delays and time wasted on the tarmac waiting for clearance are the new normal. Some domestic flights between the same two cities today actually take longer than they did decades ago because of congestion and indirect routing. What this means is that we do not have a system that can handle increasing capacity and still maintain safety.

Our air traffic organization must be more nimble. A bulky federal government procurement apparatus does not move fast enough to keep pace with new technologies and new demands. A private non-profit entity with the flexibility and authority to make investment decisions can move much more quickly to replace old equipment and paper flight strips with the latest technology.

A private entity, with an impartial board of directors, is directly responsive to the users of the National Airspace System – delivering the air traffic services that users demand, and charging for the cost of those services. ATC improvements could be made more effectively by an organization supported by its own revenue. Fees charged to users of these services will support the new entity, and any surplus revenue will be reinvested to keep the system current. This is an improvement from the today's mix of aviation taxes that are not tied to the use of air traffic control services.

Today, the FAA must deal with NextGen implementation, the integration of new entrants such as Unmanned Aircraft Systems (UAS), and aviation safety reforms, including aircraft certification and cyber security.

Among other important safeguards, legislation based on the Administration's principles would ensure that the government would work with key stakeholders to achieve a responsible and seamless transition. This transition will be vital to provide operational continuity and protections for existing employees and system users – all without impact to the FAA's safety mission.

While the U.S. remains the gold standard in aviation, the FAA understands that continued innovation and modernization are important to safety and global leadership. Shifting air traffic control out of the government, improving accountability to aviation users and adaptability in its operations are key steps to achieving these goals. While NextGen modernization has been implemented at certain airports and facilities under current constraints, FAA's efforts are often hampered by piecemeal government appropriations and a slow Federal procurement process. A private, nonprofit ATC co-op would be able to leverage private sector financial tools with agility and ingenuity, and accelerate advances in aviation technology. Combined with a steady, predictable revenue stream from user fees and borrowing from capital markets when necessary, the new ATC would be able to make the best modernization investment decisions to keep ATC technology up-to-date and competitive with that of our global peers.

Even under its current constraints, the FAA has been engaged with and responsive to industry. The NextGen Advisory Committee (NAC), comprised of aviation stakeholders, is the most prominent avenue for industry collaboration. It advises the FAA on policy-level issues facing the aviation community in implementing NextGen and plays a critical role in defining

priorities so that the FAA can focus its investments and deliver the NextGen capabilities that matter most to the customers.

The NAC previously identified the development of Data Communications (Data Comm) as a priority. Voice communications can be time consuming and labor intensive. For example, when planes are awaiting takeoff, controllers must use a two-way radio to issue new routes to pilots to help them avoid bad weather. This process can take 30 minutes or more, depending on how many aircraft are in line for departure. It also introduces the potential for miscommunication known as "readback/hearback" error. Data Comm dramatically reduces communications time, which results in faster taxi outs and reduced delays. Data Comm also enhances safety by virtually eliminating the chance of the flight crew misunderstanding the message from air traffic control. Data Comm is now operational at 56 air traffic control towers nationwide and is installed on over 3,800 aircraft operating in the nation's airspace. However, expanded Data Comm services at all FAA en route air traffic control centers will not begin until 2019. While Data Comm delivered capabilities to air traffic control towers ahead of schedule and on budget, deployment to en route centers could happen faster with a non-governmental entity. Government is simply not the most effective generator for change, particularly involving technology.

New Entrants

The Department of Transportation and the FAA are uniquely positioned, but not adequately equipped, to assimilate the exciting new technologies that are revolutionizing our transportation infrastructure, such as unmanned aircraft systems (UAS)—more commonly referred to as drones. Drones are the new frontier of aviation and the Administration is committed to making America the world leader in UAS technologies and applications. It is a

priority of this Administration to fully and expeditiously integrate drones into the NAS so that they may operate harmoniously, side-by-side with manned aircraft. Safely integrating new entrants, such as drones, into the NAS will require a flexible governance framework that can adapt to new capabilities, technologies and users and effectively coordinate with all stakeholders. The Administration recently sent draft legislation on Unmanned Aircraft Systems (UAS) to the Congressional Armed Services Committees for inclusion in the fiscal year 2018 National Defense Authorization Act. This legislation is an important step in unlocking the promise of a new era in aviation and industry development. Under current law, the government is unable to fully evaluate or utilize essential detection, tracking, and mitigation technologies to counter rapidly advancing safety and security risks that may be posed by errant or hostile UAS operations. The Administration's proposed legislation provides a tailored grant of authority within a framework that provides effective oversight and protects privacy, civil liberties, and airspace safety. I ask for the committee's support for this important piece of legislation as DOT and interagency partners work with Congress to its hopeful enactment into law this year.

Drones present unique security challenges. As Congress recognized in the FAA Extension, Safety and Security Act of 2016 (FAA Extension) these challenges require a whole-of-government response. The FAA is working with several departments and agencies–including the Department of Justice, Department of Homeland Security, Department of Defense, and others–to identify and evaluate technologies that detect, and track unmanned aircraft movement through the NAS, and mitigate threats posed by UAS in a safe manner.

As directed in Section 2206 of the 2016 FAA Extension, the FAA has established a pilot program and is working with interagency partners to evaluate some of these technologies, which have been tested in airport environments at New York's JFK Airport, Atlantic City International

Airport, and Denver International Airport. The FAA recently completed another test session at the Dallas-Fort Worth Airport. Additionally, the FAA is working with interagency partners to develop policies and procedures for restricting UAS operations over fixed site facilities, as directed by Section 2209 of the 2016 FAA Extension.

Moving forward, the FAA intends to build on the progress that it has made. One example of an initiative currently underway is the FAA's development of an automated process for drone operators to notify ATC of flights within five miles of an airport or to get authorization to fly in certain classes of airspace. Developed in partnership with industry, this initiative, known as the Low Altitude Authorization and Notification Capability (LAANC), will provide operators with a streamlined solution to enable notification and authorization, with the goal of near real-time processing of airspace notifications and automatic approval of routine requests. Once fully operational, LAANC will be the first step toward implementing UAS traffic management (UTM), as directed by the 2016 FAA Extension.

The FAA continues to involve all stakeholders in framing challenges, prioritizing activities, and developing consensus solutions. Last summer, the FAA formed the Drone Advisory Committee (DAC). Its members include representatives from industry, government, labor, and academia. The DAC will allow the FAA to look at drone use from every angle, while considering the different viewpoints and needs of the diverse UAS community. Currently, the DAC is assisting the FAA in three key areas: identifying the roles and responsibilities of drone operators, manufacturers, and government officials concerning drone use in populated areas, determining what the highest-priority drone operations are and how the FAA can enable access to the airspace needed to conduct these operations, and how to fund the full complement of services required to safely integrate drones into the NAS in the long-term.

The FAA has ambitious plans for UAS integration. Contrary to other countries who merely wish to segregate UAS operations, the FAA's long-term plan is to fully integrate UAS into the NAS. This endeavor will be a complex process requiring creative new pilot projects, the use of new technology to identify users, the development of a guidance framework aimed at supporting technological advancement, and the involvement of multiple partners nationwide. While the FAA has made great strides to integrate UAS into the NAS, full integration would substantially benefit from comprehensive FAA Reauthorization, including a stable, efficient, and flexible air traffic control corporation.

Risk-Based Decision Making

The aviation industry is undergoing a transformation, with hundreds of thousands of new entrants, and cutting-edge advancements in technology. Comprehensive FAA Reauthorization, including a new, private ATC entity, is critical to support the FAA in its efforts to continue to set global standards in areas such as aircraft certification transformation, and emerging cyber security threats.

Government must be a catalyst for innovation, not an impediment. To that end, the FAA's safety organization has capitalized on its current flexibilities to implement a risk-based decision making approach that will enable it to keep pace with industry while continuing to increase the level of safety. In the area of aircraft certification, the FAA is moving beyond the reforms that Congress directed in the FAA Modernization and Reform Act of 2012 to transform its Aircraft Certification Service (AIR) to meet the demands of today's dynamic aviation environment. Refreshing the certification strategy means FAA will take a systems approach, relying on industry's processes and competencies based on risk management. This minimizes our involvement along the certification path to those areas of higher risk.

To support this shift to a risk-based management model, the FAA is making investments in information technology that will allow it to adjust its level of involvement and assign its resources accordingly. Perhaps most importantly, the FAA is investing in its people. By moving away from an organizational structure based on geographic locations to an organization built around the functions AIR performs, AIR will better match industry's demands and global needs. Emphasis will be placed on up front planning on new technologies with industry, development of reusable compliance techniques adaptable to industry, and a shared risk-based oversight program with industry.

We know industry wants to maximize the Organizational Delegation Authorization, or ODA—and the FAA is doing just that. For example, AIR recently created a new Organizational Performance Division that will oversee its roadmap to transformation, tracking outcomes expected by both the FAA and industry. The new division will establish agreed upon metrics and effectiveness measures for both the FAA and industry. In this new organizational framework, the FAA and industry will hold each other accountable to meeting these metrics. With the support of Congress, the FAA has also completed the first major revision of its aircraft certification regulations. In December of last year, the FAA issued new performance-based rules for small aircraft certification in 14 CFR part 23. Instead of prescribing certain technologies and designs, the new rules define performance objectives and give industry the flexibility to determine the best and safest way to meet them. A major endeavor in conjunction with this revision is streamlining the cost and timelines associated with acquiring and installing safety enhancing equipment in the general aviation cockpit. We want to "right size" the level of rigor applied in certifying this new technology based on the overall risk it presents, balanced by the

potential safety enhancement it introduces. The FAA has also streamlined the process of installing other non-required safety enhancing equipment in the general aviation cockpit.

Other Priorities

The FAA recognizes that cyber security is one of our greatest challenges, because threats change continuously. We know that the agency must be vigilant, particularly as new technologies and procedures are added into the NAS. In 2015, the FAA tasked its Aviation Rulemaking Advisory Committee (ARAC), comprised of industry stakeholders, to form a working group to provide recommendations on cyber security aimed at the full spectrum of civil aviation products—from transport aircraft to general aviation aircraft to engines. The FAA intends to use these recommendations to promote the establishment of an international standard to protect civil aircraft from cyber vulnerabilities.

Conclusion

To accommodate growing air traffic and address the quickly evolving needs of the Nation's airspace users, Congress should be ambitious and embrace a bold, comprehensive vision for FAA Reauthorization. To maintain its status as the global leader in aviation, the Administration's proposal to separate ATC into a non-profit entity, with the ability to charge for air traffic services and governed by an impartial Board of Directors representing the broad stakeholders that use the national airspace, will accomplish this. The critical aviation safety activities such as the certification of manufactures and pilots, safety oversight of aviation operators and the air traffic control private entity, and the regulation of new entrants such as UAS, would be maintained in the FAA. The Administration is committed to working with Congress to foster American innovation in aviation and solidify America's role as the global leader in aviation.

This concludes my statement. I look forward to working with you and the members of the Committee as we move forward on FAA Reauthorization.

"Building a 21st Century Infrastructure for America:
Federal Aviation Administration Authorization"
Thursday June 8, 2017, 9:30 AM
2167 Rayburn House Office Building
Washington, D.C.

Questions for the Record

Submitted on behalf of Chairman Bill Shuster (PA-09)

QUESTION 1. Secretary Chao, is there anything from the hearing that you would like to clarify for the record?

RESPONSE:

Yes. I would like to clarify my exchange with Rep. Titus. Referring to President Trump's remarks during the White House event when he announced the proposal to create a new nongovernmental, nonprofit entity for air traffic control operations, she asked whether air traffic controllers were doing a good job protecting safety, or whether we had a "horrible" system. I responded that we are protecting safety, and I believe the men and women of the FAA are doing that. I never said air traffic control was "horrible," and I do not believe the President meant to imply that either. I believe the President was referring to the horrible state of our air traffic control infrastructure, which is decades out of date and "horrible" when compared to the technology that is available today. As I said, our air traffic controllers are doing excellent work given the equipment they have to work with.

Submitted on behalf of Congressman Mark Sanford (SC-01)

QUESTION 1. How does the Department of Transportation ensure grant assurances are satisfied and maintained, for federal airport grants? What action does the Department take, when a grant assurance is not being met? Does the Department have the authority to modify the grant to ensure compliance? Has the Department ever taken any action with regard to the assurance concerning access to airport by intercity bus services?

RESPONSE:

The FAA has a statutory duty to obtain assurances from airport sponsors prior to approving a project grant application. It is also the duty of the FAA to ensure compliance with the assurances. FAA's Office of Airports includes the Airport Compliance and Management Analysis division, which has responsibility for the Airport Compliance Program. Additionally, each of the FAA's nine regions has one or two staff members dedicated to overseeing regional compliance. The Airport Compliance Program does not control or direct the operation of airports, but includes processes to investigate allegations of non-compliance with the grant assurances.

There are two processes in place. First, 14 CFR Part 13 allows a private party to bring a complaint to FAA. FAA and the parties then attempt to resolve the matter informally. Second, 14 C.F.R. Part 16 allows a private party with standing the opportunity to file a complaint with the FAA. Part 16 cases follow an established process set out in the rule itself (i.e., 14 C.F.R. Part 16). The complaints are adjudicated by national program specialists. The FAA can also initiate its own Part 16 investigation in lieu of or in addition to a complaint filed by a private party.

Remedies associated with the Airport Compliance Program include requesting corrective action, evaluating the continuance of AIP funding and related actions (e.g., reimbursement or reinvestment) and initiating a 14 CFR Part 16 investigation. The Part 16 actions can be commenced by the FAA by the filing of a notice of investigation. 14 C.F.R. subpart D. It can also be initiated by a private party by filing a complaint. 14 C.F.R. § 16.23. A private party must show that they are "directly and substantially affected" by any alleged noncompliance. *Id.*

Under Part 16, the Director may issue orders, including, terminating eligibility for grants pursuant to 49 U.S.C. 47106(d), an order suspending the payment of grant funds pursuant to 49 U.S.C. 47111(d); an order withholding approval of any new application to impose a passenger facility charge pursuant to 49 U.S.C. 47111(e); a cease and desist order; an order directing the refund of fees unlawfully collected; or any other compliance order issued within the jurisdiction of Part 16. 14 C.F.R. § 16.109. Where the FAA proposes to issue such an order the opportunity of a hearing is afforded to the airport. *Id.* FAA orders and the grant assurances may be enforced in federal court. 49 U.S.C. § 47111(f).

In the vast majority of cases in which non-compliance is established, the FAA works with the airport to formulate a Corrective Action Plan. 14 C.F.R. § 16.109(c). The general intention of the airport compliance program is not to be punitive, and the FAA will consider a successful action to cure a violation as grounds to dismiss a complaint or terminate an investigation. In the context of revenue diversion, however, the FAA does

have authority to seek penalties. 49 U.S.C. § 47107(n).

The FAA has limited authority to modify grant obligations. Where the FAA has a mandatory duty to impose the assurance under 49 U.S.C. § 47107, then there is no authority for FAA to override the statute. If the modification of the assurance would not violate the statute, then there are limited opportunities to modify or add assurances pursuant to 49 U.S.C. § 47107(h). If the project sponsor opposes the modification, then it is possible they could assert contractual arguments that such modifications are improper. This question would require an analysis of the language of the specific grant agreement at issue, the specific modification sought, and the relevant text of the statute, assuming a statutory provision is implicated or related.

To date, the FAA has not adjudicated a formal Part 16 Complaint involving access to airports by intercity buses [Grant Assurance 36, 49 U.S.C. §47107(a)(20)]. It is possible that intercity bus access issues may have been addressed through planning or informal resolution between airports and FAA local and regional offices.

QUESTION 2: In consideration of reducing carbon emissions and addressing increased congestion challenges posed by the expansion of ride hailing services, does the Department ever take into account the efforts airports undertake to mitigate such concerns by facilitating passenger use and access to intercity bus services or other high-occupancy vehicles, when evaluating grant applications? If not, why?

RESPONSE:

When evaluating grant applications, the Department – through the FAA Airport Improvement Program (AIP) grant process -- does take into account the efforts airports undertake to mitigate such concerns by facilitating passenger use and access to intercity bus services or other high-occupancy vehicles.

Airports will typically consider this while developing long term plans for airport development. The FAA provides AIP grants for airport master planning efforts, including airport access issues (along with all other long term development objectives and issues at the airport).

The airport master planning effort requires an airport to identify the stakeholders, and identify key issues, which at some airports may include intercity bus access and facilitating passenger use. The environmental considerations are also a large part of a master plan, as is considering ground access, and circulation.

"Building a 21st Century Infrastructure for America:
Federal Aviation Administration Authorization"
Thursday, June 8, 2017, 9:30AM
2167 Rayburn House Office Building
Washington, D.C.

Questions for the Record

Submitted on behalf of Congressman Jeff Denham (CA-10)

1. Secretary Chao, as you may know, light-sport aircraft have made pilot training more cost effective across the United States, thus providing greater access to individuals aspiring to learn to fly. Under regulations governing the certification of such aircraft, FAA requires that the aircraft engines be reciprocating engines only. While relevant at the time to preclude the more powerful jet engines under this classification, the limitation has had the consequence of also precluding innovative alternative fuel engines, such as fuel cell and battery electric, from certification as they are not reciprocating engines. I am concerned that this may be an unintended consequence of the regulation and that engine technology has now rendered that restriction outdated.

2. Would you provide this Committee and my office information on your plans to integrate light-sport aircraft with electric engines into the national airspace to allow new technology to help train future pilots, including veterans in California's Central Valley?

Response:

Currently, light-sport aircraft (LSA) regulations do not allow for electric LSA due to lack of maturity of this technology. The FAA regulations currently keep LSA limited to aircraft that can be flown easily by a sport pilot, and uses technology with a good service history. The FAA wants to gain familiarity with electric propulsion to make sure the motor, battery, and motor controller safety standards have been evaluated and matured under a 14 CFR part 23 certification before allowing their use in the self-compliance process for LSA. When the safety standards have been evaluated during a part 23 certification, and pilot training for electric propulsion has been addressed, the FAA will make efforts to update its regulations to allow electric aircraft into LSA.

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June 8, 2017

The Honorable Bill Shuster, Chairman
The Honorable Peter A. DeFazio, Ranking Member
U.S. House Committee on Transportation & Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Shuster and Ranking Member DeFazio:

We write to you regarding the upcoming hearing on "Building a 21st Century Infrastructure for America: Federal Aviation Administration Authorization."[1]

EPIC is a public-interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues. EPIC has taken a particular interest in the unique privacy problems of Unmanned Aerial Vehicles (UAVs or "drones"), and has sued the FAA for its failure to establish privacy safeguards to protect Americans.[2] EPIC is now proceeding in the U.S. Court of Appeals of the D.C. Circuit against the FAA for the agency's failure to establish drone privacy safeguards.[3] EPIC has also pursued several open government matters regarding the FAA's decision making process, which appears intended to purposefully avoid the development of meaningful privacy safeguards.[4]

EPIC believes that strong drone privacy rules are vital for the safe integration of commercial drones in the National Air Space. The present course is simply not sustainable.

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[1] *Building a 21st Century Infrastructure for America: Federal Aviation Administration Authorization*, 115th Cong. (2017), H. Comm. on Trans. & Infrastructure, https://transportation.house.gov/calendar/eventsinglc.aspx?EventID=401500 (June 8, 2017).

[2] *EPIC v. FAA*, No. 15-1075 (D.C. Cir. Filed Mar. 31, 2015); *See also Domestic Unmanned Aerial Vehicles (UAVs) and Drones*, EPIC, https://epic.org/privacy/drones/; *See also* EPIC, *EPIC v. FAA, Challenging the FAA's Failure to Establish Drone Privacy Rules*, https://epic.org/privacy/litigation/apa/faa/drones/

[3] JD Supra, *EPIC Continues its Fight Against FAA for Drone Privacy Regulations* (Mar. 6, 2017) ("The Electronic Privacy Information Center (EPIC) filed its 65-page brief in its case against the Federal Aviation Administration (FAA) this week"), www.jdsupra.com/legalnews/epic-continues-its-fight-against-faa-71113/; *EPIC v. FAA*, No. 16-1297 (D.C. Cir. Filed Mar. 2, 2017, https://epic.org/privacy/litigation/apa/faa/drones/1664208-EPIC-Amended-Brief.pdf; *EPIC v. FAA: Challenging the FAA's Failure to Establish Drone Privacy Rules*, EPIC, https://epic.org/privacy/litigation/apa/faa/drones/.

[4] *EPIC FOIA: Drone Industry Cozied Up to Public Officials* (Dec. 21, 2016), EPIC, https://epic.org/2016/12/epic-foia-drone-industry-cozie.html. EPIC v. DOT, No. 16-634 (D.C. Cir. Filed Apr. 4, 2016), https://epic.org/foia/dot/drones/taskforce/1-Complaint.pdf; *EPIC v. Department of Transportation - Drone Registration Task Force*, EPIC, http://epic.org/foia/dot/drones/taskforce/.

Aerial Drones: A Unique Privacy Threat

Drones pose a unique threat to privacy. The technical and economic limitations to aerial surveillance change dramatically with the advancement of drone technology. Small, unmanned drones are already inexpensive; the surveillance capabilities of drones are rapidly advancing; and cheap storage is readily available to maintain repositories of surveillance data. A Pew Research Center and Smithsonian Magazine survey found that 63% of Americans objected to the idea of giving personal and commercial drones permission to fly through most U.S. airspace.[5] However, in recent years individual drone use has soared, and the FAA predicts that 7 million drones will be sold by 2020.[6] As drone use increases so do the risks to privacy and safety.

Drones are now regularly equipped with high definition cameras that increase the ability of a user to conduct domestic surveillance.[7] The DJI Inspire 2 is a high-end, commercially available hobbyist drone about the size of a small desktop printer and weighs less than eight pounds, yet it can transmit high definition video to an operator over four miles away and can live-stream that video.[8] Even lower-end hobbyist drones costing less than $100 can stream live video. The Hubsan X4 H502E DESIRE, a drone that can fit in the palm of your hand, utilizes a front facing high definition camera with 720P resolution that can stream live video up to 200 meters away.[9] Drones can be used to view individuals inside their homes and can facilitate the harassment and stalking of unsuspecting victims.[10] Drones can also be modified with tools that can enable them to gather personal information using infrared cameras, heat sensors, GPS, automated license plate readers, and facial recognition devices.[11]

Drones also pose risks to security and cybersecurity. Close calls between drones and traditional aircraft have risen significantly as their use becomes more widespread.[12] Furthermore,

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[5] Aaron Smith, *U.S. Views of Technology and the Future,* Pew Research Center, Apr. 17, 2014, http://www.pewinternet.org/2014/04/17/us-views-of-technology-and-the-future/.

[6] Sally French, *Drone Sales in the U.S. More Than Doubled In The Past Year,* Market Watch, May 28, 2016, http://www.marketwatch.com/story/drone-sales-in-the-us-more-than-doubled-in-the-past-year-2016-05-27; *FAA Aerospace Forecast: Fiscal Years 2016-2036*, FAA, 2016, https://www.faa.gov/data_research/aviation/aerospace_forecasts/media/FY2016-36_FAA_Aerospace_Forecast.pdf.

[7] Petition for Rulemaking Submitted by EPIC, Mar. 8, 2012, https://epic.org/apa/lawsuit/EPIC-FAA-Drone-Petition-March-8-2012.pdf; Univ. of Wash. Tech. and Pub. Policy Clinic, *Domestic Drones: Technical and Policy Issues* 12 (2013), https://www.law.washington.edu/clinics/technology/reports/droneslawan policy.pdf.

[8] DJI, *Inspire 2*, http://www.dji.com/inspire-2/info#specs.

[9] Hubsan, *X4 H502E DESIRE*, https://www.hubsanus.com/shop/h502e.html.

[10] Petition for Rulemaking Submitted by EPIC, *supra* note 6.

[11] *Id.*; Ciara Bracken-Roche et al., Surveillance Studies Centre, *Surveillance Drones: Privacy Implications of the Spread of Unmanned Aerial Vehicles (UAVs) in Canada* 46, Apr. 30, 2014, http://www.sscqueens.org/sites/default/files/Surveillance_Drones_Report.pdf; Mary Papenfuss, *Utah Couple Arrested Over 'Peeping Tom' Drone,* Huffington Post, Feb. 17, 2017, http://www.huffingtonpost.com/entry/peeping-tom-drone_us_58a6847fe4b045cd34c03e56.

[12] Alan Levin, *Drone-Plane Near misses, Other Incidents Surge 46% in U.S.,* Bloomberg, Feb. 23, 2017, https://www.bloomberg.com/news/articles/2017-02-23/drone-plane-near-misses-other-incidents-surged-46-in-u-s; Steve Miletich, *Pilot of Drone That Struck Woman at Pride Parade Gets 30 Days in Jail,* The

the very features that make drones easy to operate also make them susceptible to cyberattacks.[13] Hackers have the ability to exploit weaknesses in drone software to take over operation of a drone and access the camera and microphones.[14]

The privacy risks of drones, as well as the safety and security vulnerabilities, underscore the need for the FAA to develop drone privacy regulations. *We urge the Committee to question why the FAA has not yet taken steps to issue regulations on drone privacy despite prior Congressional directives to do so.*

The FAA Has Failed to Implement the Requirements of the FAA Modernization Act

The FAA has failed to take the action mandated by Congress. The FAA Modernization Act required the FAA to create a Comprehensive Plan to integrate drones into the National Airspace and subsequently conduct a notice and comment rulemaking. In the Plan, the FAA identified privacy as an important issue to address, acknowledging that "as demand for [drones] increases, concerns regarding how [drones] will impact existing aviation grow stronger, especially in terms of safety, privacy, frequency crowding, and airspace congestion."[15]

Under the FAA Modernization Act, Congress required the FAA to implement the recommendations of the Comprehensive Plan via a public rulemaking within 46 months of the enactment of the Act. The FAA identified privacy as an important issue directly related to domestic drones, yet the agency has failed to address privacy in the agency's only public rulemaking on drones in the National Airspace.[16] Indeed it has been over 60 months and the FAA has failed to implement the rulemaking that addresses the issues identified in the Comprehensive Plan, including privacy, as required by Congress.[17]

The FAA Has Failed to Conduct the Required Drone Privacy Report

Soon after the FAA's Comprehensive Plan identified privacy as an important drone integration issue, the agency was ordered by Congress to conduct a drone privacy report, which the agency failed to do. In the 2014 Consolidated Appropriations Act, Congress required the FAA to conduct a drone privacy study, stating:

Seattle Times, Feb. 24, 2017, http://www.seattletimes.com/seattle-news/crime/pilot-of-drone-that-struck-woman-at-pride-parade-sentenced-to-30-days-in-jail/.

[13] Kacey Deamer, *How Can Drones Be Hacked? Let Us Count the Ways,* Live Science, Jun. 10, 2016, http://www.livescience.com/55046-how-can-drones-be-hacked.html.

[14] Wang Wei, *You Can Hijack Nearly Any Drone Mid-Flight Using This Tiny Gadget,* The Hacker News, Oct. 27, 2016, http://thehackernews.com/2016/10/how-to-hack-drone.html.

[15] Joint Planning and Dev. Office, Fed. Aviation Admin., *Unmanned Aircraft Systems (UAS) Comprehensive Plan: A Report on the Nation's UAS Path Forward* 4 (2013), https://www.faa.gov/about/office_org/headquarters_offices/agi/reports/media/UAS_Comprehensive_Plan.pdf.

[16] Operation and Certification of Small Unmanned Aircraft Systems, 81 Fed. Reg. 42,063 (June 28, 2016) (codified at 14 C.F.R. pts. 21, 43, 61, 91, 101, 107, 119, 133, and 183).

[17] FAA Modernization and Reform Act of 2012, Pub. L. 112-95 § 332, 126 Stat. 73-75.

> Without adequate safeguards, expanded use of UAS and their integration into the national airspace raise a host of concerns with respect to the privacy of individuals. For this reason, the FAA is directed to conduct a study on the implications of UAS integration into national airspace on individual privacy.[18]

The report specifically required the FAA to study "how the FAA can address the impact of widespread use of UAS on individual privacy as it prepares to facilitate the integration of UAS into the national airspace."[19] The report was to be submitted to Congress within 18 months of enactment of that appropriations bill and completed "well in advance of the FAA's schedule for developing final regulations on the integration of UAS into the national airspace."[20] Nearly 38 months since the bill was enacted, the FAA has failed to produce the report. Furthermore, EPIC obtained documents through a Freedom of Information Act request that suggested that the FAA has no intention of complying with Congress' directive to produce a report.[21]

EPIC's Lawsuit, EPIC v. FAA

Immediately after the passage of the FAA Modernization Act, EPIC and more than one hundred legal experts and organization petitioned the FAA to undertake a rulemaking to establish privacy regulations prior to the deployment of commercial drones in the National Airspace.[22] More than two years later, the FAA responded to the petition by refusing to conduct a separate drone privacy rulemaking but said privacy would be considered in an upcoming rulemaking on small drones.[23] However, the FAA later stated that privacy issues were "beyond the scope of the rulemaking"[24] and did not consider privacy in its final rule,[25] prompting EPIC to file suit.[26] EPIC is challenging the FAA's refusal to consider privacy and to conduct a comprehensive drone rulemaking as required by Congress. The FAA has failed to explain why the agency did not evaluate privacy in their final rule despite the requirements of the FAA Modernization Act, EPIC's petition calling for the agency to address privacy, the FAA's own statements establishing privacy as an important issue to address, and the hundreds of comments that raised privacy issues in the small drone rulemaking.

EPIC urges this Committee to ask the FAA why the agency has failed to take steps to protect the public from the privacy risks posed by drones. Any privacy and security risks are no longer hypothetical and the longer the FAA waits to issue comprehensive privacy rules, the longer the public is at risk.

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[18] 160 Cong. Rec. 1186 (2014), https://www.congress.gov/crec/2014/01/15/CREC-2014-01-15-bk2.pdf.
[19] *Id.*
[20] *Id.*
[21] https://epic.org/privacy/litigation/apa/faa/drones/EPIC-16-07-20-FAA-FOIA-20160921-Production.pdf.
[22] Petition for Rulemaking Submitted by EPIC, *supra* note 6.
[23] Letter from Fed. Aviation Admin. to EPIC (Nov. 26, 2014), https://epic.org/privacy/drones/FAA-Privacy-Rulemaking-Letter.pdf.
[24] Operation and Certification of Small Unmanned Aircraft Systems, 80 Fed. Reg. 9,544 (proposed Feb. 23, 2015).
[25] Operation and Certification of Small Unmanned Aircraft Systems, 81 Fed. Reg. 42,063 (June 28, 2016) (codified at 14 C.F.R. pts. 21, 43, 61, 91, 101, 107, 119, 133, and 183).
[26] EPIC v. FAA, No. 16-1297 (D.C. Cir.); https://epic.org/privacy/litigation/apa/faa/drones/.

Conclusion

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Committee on these issues of vital importance to the American public.

Sincerely,

/s/ *Marc Rotenberg*
Marc Rotenberg
EPIC President

/s/ *Jeramie Scott*
Jeramie Scott
EPIC National Security Counsel

/s/ *Caitriona Fitzgerald*
Caitriona Fitzgerald
EPIC Policy Director

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