

FAA REAUTHORIZATION: ADMINISTRATION PERSPECTIVES

HEARING

BEFORE THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

JUNE 7, 2017

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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FAA REAUTHORIZATION: ADMINISTRATION PERSPECTIVES

WEDNESDAY, JUNE 7, 2017

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

The Committee met, pursuant to notice, at 10:05 a.m. in room SR-253, Russell Senate Office Building, Hon. John Thune, Chairman of the Committee, presiding.

Present: Senators Thune [presiding], Wicker, Fischer, Moran, Sullivan, Heller, Inhofe, Lee, Capito, Gardner, Young, Nelson, Cantwell, Klobuchar, Blumenthal, Schatz, Markey, Booker, Peters, Duckworth, Hassan, and Cortez Masto.

OPENING STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

The CHAIRMAN. Good morning. I want to welcome Secretary Chao back today. This is her first time before the Committee since being confirmed.

Madam Secretary, I want to thank you for appearing before us today to discuss reauthorization of the FAA. We are working hard on a bipartisan basis to produce a bill, hopefully, during this work period, and we appreciate the Administration's engagement.

Already this year, the Committee has held hearings on a range of topics underpinning this legislative effort, including safety, drone policy, rural issues, aircraft certification, consumer concerns, and infrastructure financing. One of the key governance issues we have not yet focused on this year but which has been discussed extensively over the last 2 years and commonly occurs in other parts of the world is whether the United States should separate the air traffic service provider function from the FAA and create a non-governmental, not-for-profit corporation to do the job.

The FAA runs a remarkably safe operation, but outside auditors have dinged the Government's performance on delivering safety and efficiency upgrades, prompting a debate as to the best path forward to realize those benefits. This week, the President used his bully pulpit to join the proponents of significant reform. The President has challenged Congress, his administration, and aviation stakeholders to take bold action to improve our air traffic control system.

It is hard to ignore the many independent studies and reviews that document the flaws with the current structure. I'm looking forward to a robust discussion today on the merits of the reform pro-

posals as well as ways the Administration will seek to address concerns of key stakeholders, especially those with a rural perspective.

While ATC reform has garnered much of the attention this week, there are plenty of other important issues that require the consideration of the DOT and this committee. The Department administers several key programs, including the Essential Air Service Program, and is responsible for consumer protection oversight for the aviation industry. Last month, Aviation Subcommittee Chairman Blunt and Ranking Member Cantwell held a hearing on recent consumer issues, and I'm interested to hear directly from the Secretary on what steps the Department has taken to address these matters.

In addition, as we craft our FAA bill, we will continue to focus on certification reform, the integration of drones into the airspace, airport infrastructure development, aviation safety, and rural air service. There is still a lot of work to be done, and I look forward to working with the Administration and all of my colleagues throughout the process.

With that, I reiterate my thanks to Secretary Chao for being here and turn to Ranking Member Nelson for his opening statement.

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

Senator NELSON. Thank you, Mr. Chairman, and thank you also to the Committee in the way that it is so interested in this subject and with which we dispatched this subject matter last year in an exceptionally bipartisan way and an almost unanimous way.

Madam Secretary, welcome. The current extension of the FAA is set to expire the end of September. I'm hopeful that we are going to have a bipartisan and a long-term reauthorization bill ready to go in the coming weeks and what I had expressed as my preference to you just a few minutes ago, a bill somewhere in the range of 5 years to give you certainty over time that you have the authorization with which you need to execute the Executive Branch of government.

I remind our committee that we passed this one-year extension with a lot of substantive stuff in it 95 to 3 in the Senate, and at the time, the Chairman and I focused on areas of agreement. This resulted in legislation that addressed the safe integration of drones in the national airspace, significant reforms to the FAA certification process, and broad-ranging aviation consumer issues. This was a win for aviation stakeholders as well as the traveling public, which was reflected in that overwhelming vote.

Now, any further progress on that bill was thwarted in the House by the proposal of privatization of air traffic control. So we now operate just on a one-year bill with a new looming deadline.

Madam Secretary, I understand that you will present the Administration's support for shifting ATC services from the FAA to an independent entity that will be governed, in part, by the airlines. My views on this matter I have already shared with you are the same as I expressed rather vigorously last year when this subject was up for debate. Why? Because we have the safest air traffic control system in the world. Why would we risk that by handing the

whole thing over to an untested, unproven entity? And why give away billions of dollars in government assets to an entity that will be governed in large part by the airlines?

Even some of our colleagues on the other side of the aisle, which really is not so much applicable to this committee as it is to the full Senate, have not rallied behind this proposal because they understand the potential harm to general aviation as well as to small and rural communities, and a fundamental breakup of the FAA cannot advance when there is such strong division among aviation stakeholders and in Congress. So this entire discussion over ATC privatization distracts from legitimate matters that must be addressed by the Congress on the part of FAA reauthorization.

Now, it's no secret that the traveling public is frustrated, and I want to support what the Chairman has said about this matter. There are certainly ways that we can be more efficient. We are right at the point of handing over a lot of the communication via radar to the GPS satellite system. That, as I understand it, is going to occur in about 3 years, whereas the remaining implementation of the entire next generation is going to be over a dozen years. That can certainly be made more efficient and effective, and, indeed, it will save time and fuel and money for the traveling public as well as the airlines.

If you can go from Point A to C, instead of having to go a route because of a radio beacon from A to B to C, and you can cutoff that dog lag with a beeline straight to your destination, then it saves a lot of time, fuel, and money. That's the point of NextGen, plus having situational awareness in the cockpit so that you know at all times, because you have a much improved communication system in the cockpit—that you know what other traffic is around you.

At the same time, the traveling public is frustrated. Look what we are seeing every day. They're frustrated they can't check their bags or board flights with increasingly shrinking sizes of and/or overbooked seats without paying fees. So one of the airlines is ordering a whole new set of Boeing 737s, and instead of 31 inches between the seats in tourist, in fact, they're going to get it down to 29 inches because they are going to put in this new Boeing 737 an additional 12 seats in the same amount of cabin space.

Passengers are expressing their frustration. They're frustrated that airlines won't design their websites that clearly communicate their fees and policies. They're frustrated that failing airline IT systems result in canceled and delayed flights for days on end, and I see a lot of our members with very interested expressions on their faces, because it's happened to us as well.

So this is why this year's FAA reauthorization legislation must once again include strong consumer protections to address these growing frustrations. After all, if the airlines can't even manage their own IT systems, you can imagine that if you took and put all of that over into air traffic control, that doesn't give us a very good result.

So let's deal with the real problems, like the way passengers should be treated as valuable customers, which the airlines obviously want to do. Let's not go around trying to find a solution in search of a problem that's not a problem. So let's keep the focus on a bipartisan long-term and, I'd say, 5-year comprehensive FAA

reauthorization bill, and let's try to do it and show that, actually, in this Congress, we can get something done and something passed in a bipartisan way.

So, as usual, Madam Secretary, all of us look forward to working with you. You're an excellent public servant. You have given yourself to public service over the years, and we appreciate that very much.

Thank you.

The CHAIRMAN. Thank you, Senator Nelson.

Madam Secretary, we gave you a lot to chew on there, so we look forward to hearing from you, and, if you would, please proceed with your remarks, and then we'll open it up to the panel for some questions. So thank you again for being here. Welcome.

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

Secretary CHAO. Thank you very much. Chairman Thune, Ranking Member Nelson, and members of the Committee, thank you for inviting me to testify before this committee on the future of the Federal Aviation Administration and the FAA reauthorization legislation.

You know, nearly a century has passed since the Federal Government began regulating the Nation's airspace. We've come a long way since the transcontinental airway system of the 1920s, guided pilots flying at night with light towers and huge concrete arrows painted yellow. In the decades since, a progression of congressional and Presidential initiatives has resulted in the air transportation system we know today and altered the regulatory framework along the way, sometimes quite dramatically.

To keep up with evolving technology, new regulatory entities were created and old ones were restructured to make more efficient and effective use of our nation's airspace and to improve aviation safety. We can all take pride in the tremendous gains that have been achieved.

But as you well know, the pace of technological change has increased dramatically over the past several decades. At the same time, the traditional model of government procurement and budgeting is making it more and more difficult to keep up. Air traffic control is a perfect example. Despite billions of dollars of taxpayer investments over several decades, the implementation of state-of-the-art air traffic control technology is not where it needs to be.

So this administration has taken a bold step and joined many of our counterparts worldwide by separating air traffic control operations from the safety oversight functions of the FAA. This administration's proposal would create a separate non-governmental, non-profit cooperative to operate our country's air traffic control system. The new entity would be a fully capitalized, financially self-sustaining entity funded by users of its services. All surplus revenues would be reinvested back into the system, because just because it's non-profit doesn't mean that it doesn't accumulate surpluses.

Mindful that the key to any organization's success is its employees, the Administration's proposal poses that the new entity honor existing labor agreements and that employees transferred from the

FAA would be kept whole in terms of pay and benefits, although they would no longer be Federal employees.

These reforms will accelerate the deployment of new air traffic control technology that is so critical to managing the national airspace with more precision, thereby enhancing safety. Passengers will benefit because these reforms will speed up the delivery of new technology that will reduce delays and congestion. Air traffic controllers will benefit because these reforms will ensure that they have the most up-to-date tools and technology. And I want to single out and thank these dedicated professionals who are, indeed, the best in the world. They are true heroes, keeping the flying public safe every day. Taxpayers will benefit because the system will be fully financed with user fees. And let me mention again that 100 percent of the surplus will be able to be reinvested back into the system.

We also believe that the proposed new entity is necessary to accommodate the expected dramatic increase in passenger traffic over the next decades and to integrate new entrance into our airspace, such as unmanned aircraft systems and commercial space operations. My written testimony contains more detailed information on the proposal, and, of course, legislative language to be submitted will contain many more details.

It is worth noting that over the past 20 years, more than 60 countries have successfully managed similar ATC, air traffic control, reform efforts. Each country is different. We recognize that, and we also recognize that the U.S. national airspace is the biggest and most complex in the world. Nevertheless, there are lessons to be gleaned from the experience of other countries, and we need to embrace transformational reform.

Innovation and the ability to change with changing times is one of the hallmarks of our country and part of our aviation history. The proposed reforms will ensure that the United States remains the world's leader in aviation going forward into the future, and this is an industry that we pioneered.

So thank you for the opportunity to appear before you today, and I'll be happy to take any questions that you may have.

[The prepared statement of Secretary Chao follows:]

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

Chairman Thune, Ranking Member Nelson, 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, non-profit 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.

The CHAIRMAN. Thank you, Madam Secretary.

As I mentioned in my opening statement, there have been many concerns raised regarding the recent proposals for ATC reform and the potential impact on small community air service. I was glad to see that the principles announced by the President this week underscore the need to maintain access and services for rural communities.

My question is: How does the Administration envision this proposal for a new ATC entity ensuring that there are such safeguards in place for rural America?

Secretary CHAO. The Administration's proposal will enhance safety, improve access, and also increase efficiency. All of these features will help to make the system better. As we have already heard, the congestions and delays that we are seeing in our airspace can be alleviated by a different governing structure. The tardiness with which we are implementing technological advances can be addressed through taking this air traffic control entity out of bureaucratic government procurement rules.

We have the best and safest system in the world. We want to maintain that. And to enable the system in the future to maintain its supremacy, we need to have the much needed technological advances. We need to have a different way for the air traffic control system to be able to space airplanes, for example.

On the rural front, I'm very concerned about access for rural America. Currently, the rural areas are most hurt by the status quo in terms of low traffic towers, air traffic control towers, many of which are the first to be cut in any budgetary cutbacks. So access for rural America would actually be enhanced if the air traffic control system were taken out of the bureaucratic government budgeting and procurement processes.

The CHAIRMAN. I guess I would add that, as you would understand, if you look at the composition of this committee, there are a lot of people who represent rural states—

Secretary CHAO. Absolutely.

The CHAIRMAN.—with a lot of geography and not a lot of people and smaller airports and smaller communities where general aviation is very important. Like you, I share a concern that rural areas be treated fairly and that there be safeguards put in place. And, I guess, specifically, my question was to what safeguards in the Administration's proposal—in what ways would they go about ensuring that rural areas would continue to have access, and that that access to the Nation's air system would be affordable?

So if you have—maybe you haven't, at this point, since there's no legislation, specifically, to look at, sort of gamed that out. But that's something, obviously, a lot of people on this committee would be interested in knowing about.

There were editorials in yesterday's *Washington Post* and several other papers that echoed the President's call to spin out the ATC

function from the FAA, and they noted that the basic concept has been around for a long time and has enjoyed support by both Democrats and Republicans at various times. Still, there are some who question the need for major change.

What would you say, for instance, to those who argue that NextGen is working out fine and that reforming the ATC system will actually slow down the modernization process?

Secretary CHAO. Well, we respectfully disagree. The men and women who work on NextGen are doing their very, very best, and we do not want to criticize them. But the NextGen effort has been going on for quite a while, it has expended billions of dollars, and we are still facing many, many delays, congestions, and procurement issues that existed decades ago.

I was a Deputy Secretary of Transportation in 1989. Coming back into the Department in 2017, I am hearing the same arguments, the same descriptions of the problems as I did then. The procurement issues are real, and we need to make sure that the hardworking men and women who man our air traffic control system have the latest technology. Right now, the air traffic control system is still operating from vacuum tubes and also paper strips in an age where we have digital technology available. So we need to, again, equip our tremendous air traffic controllers with the best tools that they can have going into the future.

The CHAIRMAN. Thank you.

Senator Nelson?

Senator NELSON. Madam Secretary, we'll just have a disagreement on this, and I appreciate the position that you have to articulate for the Administration, for the White House, and entirely respect you as you go about your duties.

I would point out that one of the reasons for the delays on the NextGen implementation is lack of money, and lack of money also gets in the way—for example, a lot of rural airports are covered by contract towers. They're not FAA, and we went through that drill a couple of years ago and had to really get with it, because some of those contract towers were being cut out simply as savings.

A lot of the rural airports that don't have them now would like to have contract towers. But, again, it's a function of money. I don't think, when you compare that to implementation, that that is a reason why you suddenly turn all of the government assets over to a private entity. That is my opinion, and we will certainly in the crucible of debate and amendments proceed and see where it comes.

I want to give most of my time to the other members, because it's pretty well known where I am. But before I turn it over, I just want to give you another topic for your consideration. Takata airbags have been linked to 180 injuries and 11 deaths. Several of those have occurred in my state.

Last week, we released data from an independent monitor that showed that after 2 years of the nationwide recall, two-thirds of the cars out there still have not been repaired. It appears that since you were sworn in, Madam Secretary, the National Highway Traffic Safety Administration has not taken any further action to speed up the process.

Last Friday, Chairman Thune and I sent you a letter requiring additional action to get the process moving again. So I wish you would be refreshed on the contents of that letter and see if you could crack the whip on NHTSA to get them going. Do you have any additional detail or steps that you might want to share with us at this point?

Secretary CHAO. Senator Nelson, thank you very much for the letter that you and the Chairman have sent. We are in receipt of the letter. It just came in the last few days. We understand that this is a concern to you. This is also a concern to us. We are working diligently on this issue, but, obviously, it's not fast enough. So thank you for reminding us and, indeed, I will go back and we will redouble our efforts.

Senator NELSON. Thank you.

The CHAIRMAN. Thank you, Senator Nelson.

Senator Wicker?

**STATEMENT OF HON. ROGER F. WICKER,
U.S. SENATOR FROM MISSISSIPPI**

Senator WICKER. Well, it's wonderful to see you again, Madam Secretary. Let me just say with regard to the air traffic control proposal that this is a tough sell in states like my state of Mississippi, where the small airports are very concerned about where this will leave them, and I think you're going to see this on both sides of the aisle. So the sell needs to be made and needs to be made convincingly.

What assurances can you give us about the fear of higher air fares and higher fees resulting from this proposal, particularly in light of the fact that the privatized model in Canada and the United Kingdom found that after the first 6 years, in Canada, there was a 59 percent increase, and in the United Kingdom, a 30 percent increase?

Secretary CHAO. I think Canada actually had a 30 percent decrease in user—

Senator WICKER. In the United Kingdom, ATC fees rose 30 percent, according to a study that I've seen. But your testimony is that, in fact, the fees decreased?

Secretary CHAO. For general aviation, which I know there is an area—is a group that is very concerned about that.

Senator WICKER. Well, OK. Let me just say that that's something we need to nail down, and folks back home need a comfort level—

Secretary CHAO. Yes.

Senator WICKER.—about what this might result in. What do you say to the statement—and let me turn it into a question—of Senator Nelson about the effect of this on the contract towers, and can you comment on the value of contract towers?

Secretary CHAO. The contract towers are very important to rural America. So let me emphasize again that I understand and I'm very, very concerned about the impact on rural America, because I come from a state that is rural. I know that the majority of the members of this committee come from rural areas and rural states. So I take into advisement very seriously this concern about how to address the rural issues. The ironic thing is the contract towers are

actually much better if the governance system were separate. For example——

Senator WICKER. How do we know that?

Secretary CHAO. Contract towers are the first to go in any budgetary cutbacks. When we have sequestration, when there are CRs, when there are uncertain budgetary demands, as Senator Nelson mentioned, it's a matter of money, and the contract towers are always the first to go, and yet they're so important to rural America. So if the air traffic control system were to be separated, and it was able to have a much steadier budget stream, budget scenario, the threat to the contract towers actually drops, and that would be very good for rural America.

Senator WICKER. Well, we'll be visiting about this over time. Let me shift in the minute and a half I have left.

We had testimony from the Air Force yesterday about the global shortage of pilots, and, certainly, that affects the civilian sector, too, here in the United States and with all of our allies. Can you comment, and do you have any specific recommendations about what your department might do in working with all concerned entities to address the pilot shortage, and do you acknowledge that there is a serious shortage?

Secretary CHAO. Well, the 1,500 hour rule was put in by Congress, and it has set a much higher standard for the number of hours, obviously, that a potential pilot has to attain before they can enter into service. So that's really an act of Congress, and there's very little that the Administration or the Executive Branch can do about that.

Senator WICKER. Well, let me say there's a larger problem, though, and I would direct your attention to the problem that General Goldfein mentioned yesterday, the Chief of Staff of the Air Force. There is just a shortage across the board, in the military, in the Air Force, in the Navy, in the United Kingdom, in the air forces, and also among the commercial pilots. There's an overall shortage, which we and our friends are going to have to deal with.

So I would simply ask you to go back to the Department and see if we can, on the civilian side and the military side, be part of a solution there, because it is a serious problem.

Secretary CHAO. Well, if I may, as a former Secretary of Labor, what we're really talking about is a skills gap, and there's a larger issue about a skills gap in our economy. So I share your concerns about the pilots and the shortage thereof and where we're going to get them in the future, and I'd love to work with you on that.

Senator WICKER. Thank you, ma'am.

The CHAIRMAN. Thank you, Senator Wicker.

Senator Cantwell?

**STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Secretary Chao, for being here, and thank you for answering questions about the contract towers. You can see it's a very hot topic with our colleagues. That's because there are 250 contract towers in 46 states, so I think just about every part of the country is interested in this.

Given Senator Wicker's question about the value, I would assume, then, you would be willing to say that you'll protect these contract towers, no matter what?

Secretary CHAO. I can't promise you that now, because under the current budgetary process, it's an issue of what's available, dollars—is that what you're asking? Am I hearing—perhaps I didn't hear correctly.

Senator CANTWELL. Yes.

Secretary CHAO. So that's why the proposal of separating out air traffic control from the regulatory safety part of FAA is to address some of the budgetary issues as well so that this new entity will be self-sustaining, it'll be self-financing, and it will not be victim to the vagaries of year-to-year annual appropriations.

Senator CANTWELL. Are you saying—

Secretary CHAO. But that's good for contract—for the contract towers.

Senator CANTWELL. Are you saying that they won't get protected unless we do that?

Secretary CHAO. Under the current—you're asking about under the current budgetary process?

Senator CANTWELL. Yes.

Secretary CHAO. I'm not saying that I won't protect them. I'm just saying I can't guarantee that, because it depends on the budget that you give to me and what you ultimately decide.

Senator CANTWELL. OK. Well, anyway, I would hope that you would protect them no matter what.

So on the NextGen system, do you know if the President's infrastructure plan supports investment in just NextGen? I hear what you were saying this morning about the air traffic controller system, but just on NextGen, because, obviously, one of the things we struggle with here as a committee is we get all the players here, and they sit at that table that you're sitting at now, and they debate amongst themselves. I mean, I wish we could make them stay there until we got a resolution of funding issues. But that's really what is hampering the implementation of NextGen. So does the President's infrastructure plan include making some investments in NextGen?

Secretary CHAO. Well, the President's infrastructure proposal has as a major part of it the separation of the air traffic control system from the regulatory safety aspect which remains with FAA. So, in fact, the modernization of FAA is the cornerstone of the infrastructure project. And, again, there is an aviation trust fund there, which we cannot use, even though it's got huge surpluses in there, and because it has not been appropriated, and there's also the whole issue about financing and the budgetary process from year to year and how uncertain it is, which impedes the ability of FAA to plan further ahead. So this whole issue about funding certainty is tied in with why the separation would be good to maintain a more robust air traffic control system.

Senator CANTWELL. And I think—

Secretary CHAO. But, again, I don't want to—I'm not here—I'm here to work with all of you, because I know this is a controversial issue. I know there are concerns about it.

Senator CANTWELL. And I think I'm with Senator Nelson when he's saying NextGen is paying dividends, and so if we get to this point where we don't get there on this discussion, we hope that we'll keep making progress on the implementation, just as we did under the last extension bill.

Secretary CHAO. Yes, it would.

Senator CANTWELL. Thank you. I have one more question. I know it's a little more related to broader freight, but there are cargo freight issues, too, at airports. We recently sent you a letter about the National Freight and Highway Grant Program. Are you expecting to make a second round of freight grants this year? You can get back to me if you don't know the answer to that.

Secretary CHAO. We hope to—this and other grants have been under review because of the new administration. So we hope to finish the review quickly and then get these grants out as quickly as we can.

Senator CANTWELL. So you think that would happen this year?

Secretary CHAO. I sure hope so.

Senator CANTWELL. Thank you.

Thank you, Mr. Chair.

The CHAIRMAN. Thank you, Senator Cantwell.

Senator Fischer?

**STATEMENT OF HON. DEB FISCHER,
U.S. SENATOR FROM NEBRASKA**

Senator FISCHER. Thank you, Mr. Chairman.

Welcome, Madam Secretary. Nice to see you. I think you just mentioned about the need to have a longer planning period and a longer reauthorization period when it comes, I think, to all infrastructure, not just with regards to air service and airports, but with all infrastructure. And I hear that from stakeholders across Nebraska as well, because it takes a long time to plan projects and then get the permitting done and then to go through the construction.

First of all, do you agree with that? And if you do, what are you going to do to help us get to that longer planning period when it comes to infrastructure?

Secretary CHAO. Well, it certainly would help if it's a longer period that the Committee can come to some consensus on. If, indeed, the FAA reauthorization is for a longer period of time, I think that would alleviate a lot of the—some of the pressure.

Senator FISCHER. And as we look at air services, specifically, and the access that's there, I know you have mentioned the needs in rural America, and it's very critical that we have that access to our communities and to families and to businesses so that they can take advantage of opportunities that come with having air service. I am concerned about the elimination of the congressional appropriations for Essential Air Services in the President's budget request.

Can you tell us what the Administration plans to do, what their intentions are concerning rural communities? How are you going to ensure that these rural areas in America still have that access to air services? We have seven rural communities in Nebraska, and, as you know, we're a large state and sparsely populated. If rural

America is going to be able to grow and thrive, Essential Air Services is a big part of that. So what are the intentions of your department with regard to that?

Secretary CHAO. It is unfortunate at the EAS Program was restructured the way it is. I am working within the Administration to see how we can address that, and I am hopeful that I will have a partial solution to this pretty shortly.

Senator FISCHER. I would be happy to work with you on that as well, and I know there are many members of this Committee where the Essential Air Service plays a big part in keeping areas in our states connected and continuing to grow and have opportunities for economic growth. So I hope that you feel free to reach out to me and other members of this committee to try and work through the problems that I see with the request that's come down from the Administration.

I am pleased to hear that the President has talked about the importance of regulatory reform as a way that we can address infrastructure investment and also freight movement across this country. Sometimes when we look at Federal regulations, they're pretty prescriptive, where the government is going to dictate to industry how things are going to happen, and I try to look for ways that we can look at performance-based standards so that we can involve stakeholders and really develop more innovative methods for achieving a regulatory goal that is put out there.

Do you agree that performance-based standards could facilitate innovative compliance and safety technologies, and, if so, has the Department of Transportation reviewed how it could move away from these more prescriptive regulations to a more performance-based series?

Secretary CHAO. We are in total agreement on that, and we hope to move in that direction, yes.

Senator FISCHER. Do you have any examples of specific ways you're looking at to address some of those right now that you could share with us?

Secretary CHAO. There was an Executive Order from the White House dated, I believe, February 28, and it was an effort to look at all of the regulations from a status quo point of view that have been just issued. As you all know, everything was frozen for 60 days, and we're looking at that.

And then as part of the infrastructure project proposal, we're looking also at the permitting side, and we're going to announce some of that—announce may be too ambitious a word, but there will be a day devoted to how we can work with some of the permitting issues. For example—and I don't want to go on for too long—some of these permitting issues are—we all respect the environment. We all want to protect the environment. But some of these permitting issues occur sequentially. Does it not make sense to have some of these permitting procedures occur concurrently? So very simple issues like that can make a big difference.

So we're, in fact, having a gathering of Mayors and Governors at the Department of Transportation this Friday on this particular issue, and we hope to have some further consultation, dialog, and discussion about it as well.

Senator FISCHER. Thank you very much, and I would just add my concern about the contract towers and looking for a way that we can continue that.

Thank you.

The CHAIRMAN. Thank you, Senator Fischer.
Senator Blumenthal?

**STATEMENT OF HON. RICHARD BLUMENTHAL,
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thanks, Mr. Chairman.

Welcome back, Madam Secretary. At the outset, I want to thank my colleague, Senator Moran, for working with me during a previous session on the contract tower issue during the Continuing Resolution consideration, and we stated then, and I will restate now my commitment to working across the aisle on this very important issue with my colleagues. A seemingly minor issue like this one has vast ramifications for our country, as you well know.

I have been discouraged, as many of my colleagues have been, by the lag in responses to some of our inquiries. There was a report in *POLITICO* very recently that officials from the White House were telling agency officials to ignore oversight requests from Democratic members of this Congress. Do you know of any such contacts, and have you had such a discussion with White House officials, Madam Secretary?

Secretary CHAO. Well, first of all, I think you all know that based on my reputation, I have always worked very hard to ensure that whatever department I am leading, that it would be working very well with both sides of the aisle on issues. We pride ourselves on being very responsive, and I have a history of working collaboratively with members of Congress. Having said that—

Senator BLUMENTHAL. Well, let me ask you, then—and I hesitate to interrupt you, but my time is limited. I wrote to you 2 months ago, just days after the now infamous incident involving United Airlines, demanding an investigation into the issue that was raised there. DOT said publicly it was reviewing that issue, and I asked for answers about the airline employees' knowledge of passenger rights. In fact, I have helped to lead the effort to improve those rights through a new Passenger Bill of Rights, which I hope you would support. But in the meantime, I've received no response to my inquiry. What is the status of that investigation?

Secretary CHAO. I'm sorry you did not receive a response. I'm not aware of that, but I will certainly take a look. But I was going to say, having said what I just said, it's actually not unusual for administrations—every administration, including the previous administration—that any oversight responses be coordinated through the Chairman and the Ranking of each committee. So that's separate from like ordinary kind of correspondence. Oversight is a bit different, and this has always been the policy through all administrations.

Senator BLUMENTHAL. I'm very skeptical, I have to say with all due respect, about the plan that has been advanced that would provide for so-called reform in a system that has seen no fatality on a commercial plane since 2009. I am puzzled that the Administration wants to break apart the FAA and put the critical safety over-

sight role, air traffic control, into the hands of an unknown, untested entity that, in effect, will be controlled by the airlines, particularly since nearly 40,000 people are expected to die on our roads every year, and the Administration has yet to propose a specific set of measures to build new roads, rails, bridges, and other infrastructure. In fact, during the campaign, President Trump promised to replace our, “obsolete,” rails and tunnels with the, “gleaming,” infrastructure our country deserves.

So I am wondering why the priority on breaking apart the FAA when we have yet to see any specifics—in fact, a cut in the investment on infrastructure in the 2017 budget. I wonder if you could explain what the impacts will be of the cuts that are contemplated, for example, in the TIGER program and other programs within the jurisdiction of your department.

Secretary CHAO. The separation of FAA—air traffic control from the FAA regulatory safety aspect is a cornerstone of the infrastructure project proposal. The current budget of 2018 does not reflect the priorities of the new infrastructure proposal. So the projects that were cut in the 2018 budget, in fact, will be realigned to newer priorities in the infrastructure proposal.

Let me also say that—

Senator BLUMENTHAL. Are you saying that TIGER will be fully funded and Amtrak will be fully funded, in fact, increased in—

Secretary CHAO. It will be a different kind of funding. As was announced, the infrastructure proposal is going to be a trillion dollars over 10 years. It will have \$200 billion of direct Federal funding, which is far higher than the past highway bill of December 2015, and it will be leveraged to the \$1 trillion through public-private partnerships and possible sale of Government assets.

Senator BLUMENTHAL. And when will we see the specifics?

Secretary CHAO. Hopefully, soon. We came out with principles, and so we hope to have the legislative language, depending on the congressional schedule, probably third quarter of this year.

Senator BLUMENTHAL. My time has expired.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Blumenthal.

Senator Moran?

STATEMENT OF HON. JERRY MORAN, U.S. SENATOR FROM KANSAS

Senator MORAN. Mr. Chairman, thank you.

Madam Secretary, thank you for your presence today.

I appreciate Senator Blumenthal recollecting the efforts to make certain the contract tower program was funded. That occurred back in 2013. I would remain skeptical, Madam Secretary, that rural America and, particularly, the contract tower program would be more secure with privatization of air traffic control and run by a Board of 13 people.

Based upon my experience in dealing with this issue in the Senate, as I recall, to restore the funding for that contract tower program, there were 26 Democrats and 25 Republicans who joined together in offering legislation and an amendment on the Senate floor. So a majority of the Senate, in fact, a majority of both Repub-

licans and Democrats in the Senate put the efforts together to make sure contract towers were supported.

Secretary CHAO. Yes.

Senator MORAN. And I would put that—I would put the risk of the survival of contract towers in the hands of Congress much more easily than I would put it in the hands of a board of 13 people making decisions nationwide. I think one of the problems with privatization is the removal of Congress from having a role to play. And by rural, what I think I mean by that is almost any place, except for the largest cities in our country, is rural. So I would put my eggs in the basket of asking Congress to be supportive of rural programs much more readily than I would put my eggs in the basket of a 13-member private board.

I want to comment on your statement about a longer—to Senator Fischer's question—a longer reauthorization is a good thing. I share that view, and I was very disappointed that we were unable to ultimately get a long-term FAA reauthorization bill passed through the Congress last time. But the reason that we were unable to do that is this topic that now is in front of us again, privatization of air traffic control.

So, Madam Secretary, if it becomes clear that the votes are not present in this committee or in the United States Senate, will you then help us pass an FAA long-term reauthorization without the privatization provisions?

Secretary CHAO. I wish I could answer that question, but as you well know, I cannot without consultation from the Administration and the White House.

Senator MORAN. Well, perhaps I'm only making a point, and perhaps it was a rhetorical question. But the issue that now faces us is the same one that faced us the last time, and, in fact, with the Administration's support of this concept, the chances of getting a long-term FAA reauthorization, in my view, have now been diminished. So at some point in time, the decision needs to be made by you and others in the administration—is our priority a long-term FAA reauthorization, or is it privatization of air traffic control, because those two things may be mutually exclusive.

And then I want to thank you for responding to our February letter that Senator Klobuchar and I wrote you asking about your assurances that—your comments in your confirmation hearing about reaching a national consensus on this topic. We received your response last night, and I thank you for answering that letter. I'm not sure there's a national consensus, but I know the effort was made to seek input from a variety of interested parties when it comes to this topic.

Finally, on a different topic, let me ask you about spectrum allocation. Madam Secretary, one of the significant legislative accomplishments that Senator Udall and I worked on was to expand the spectrum reallocation fund to include a \$500 million pool for research and development. I'm pleased to see that the FAA recently announced that it is taking advantage of that pool to investigate whether it can relinquish some of the 1,300 to 1,350 megahertz band. That's encouraging. It will free up more spectrum, if you reach that conclusion, to deploy next-generation wireless networks, 5G.

Could you bring me up to speed on your thoughts and the status of that effort to that investigation within your department?

Secretary CHAO. The investigation is extraordinarily complex, and I don't have a good answer for you today, but I will get one for you.

Senator MORAN. Very good. Madam Secretary, thank you again.

The CHAIRMAN. Thank you, Senator Moran.

I now have in order of appearance—Senator Schatz is no longer here—Senator Inhofe.

**STATEMENT OF HON. JIM INHOFE,
U.S. SENATOR FROM OKLAHOMA**

Senator INHOFE. Thank you, Mr. Chairman.

Let me first, Secretary Chao, just mention—we've talked a lot about—there are other issues other than just the privatization issue that's out there, and I think you've—I have several questions that should be asked. I want to make one comment, though, about contract towers. I agree with the comments that Senator Moran made.

The major request that I have of you is if this becomes a discussion in the Administration, I'd like to be a part of that discussion. We've had very good successes with our contract towers, and we would have a serious problem without them. Does that sound reasonable to you?

Secretary CHAO. Yes.

Senator INHOFE. OK. On the issue of the privatization, I think almost every question I could ask you've already answered. But I would like to know—is there just a short answer to a specific reason why NextGen would be better served under the system that you're proposing? Is there a short answer to that? Because I have not yet heard one that really makes a lot of sense to me.

Secretary CHAO. We can procure new equipment faster.

Senator INHOFE. That's a short answer. All right.

Secretary CHAO. Because the government procurement rules are very bureaucratic. By the time that the Federal Government gets the equipment, many times it's not state-of-the-art modern technology, just because of the lengthy procurement process.

Senator INHOFE. All right. On Monday—and I didn't attend it, but I did read what the President was saying about the proposal. The one thing that was not mentioned was having to do with user fees. One thing about the House bill was it specifically excluded user fees in certain areas, starting with general aviation. Then it gets to be a little bit more confusing when it goes up from there because of the quasi general aviation organizations that are out there.

So I didn't—it was not directly excluded in the presentation that you folks had on Monday. Any comments about that?

Secretary CHAO. Your assessment is correct. As I mentioned, we look forward to working with the Committee and Congress, and this is a point that needs to be discussed. We are willing to do so.

Senator INHOFE. All right. Now, the next thing I want to bring up is we have talked to your staff quite a bit about a proposal that I have that is—we refer to as the Flight Act, and what this does is give assurance to general aviation airports, those airports that

receive \$150,000 a year, to do a number of things, including extending that amount from 6 to 7 years, and then also assuring that if there is a surplus in those accounts that they be reserved for general aviation airports as opposed to others. That's one provision in that.

Another provision—I chaired the Environment and Public Works Committee when we had the MAP-21 and the FAST Act, and some of the things that we successfully did, in concert, I might add, with the ranking member, Barbara Boxer, was to have some of the environmental streamlines put into effect that I think we could do, and we could emulate, and so I've done that in this legislation.

We have also—well, actually, I don't have the time to get into a lot of detail on this. But have you had a chance to review this, the Flight Act, with your staff?

Secretary CHAO. We have. I'm interested in, specifically, what you have in mind. So I look—we can have an offline discussion after this hearing.

Senator INHOFE. That would be good. Senator Booker and I were interested in and have actually worked together on some of the drone legislation that we've had in the past, and we've been successful. We've gotten language in there that will allow drones in the non-line of sight environment to take care of problems that are—like pipelines and other areas that have been successful. And while the FAA has established a process to address such applications, such non-line of sight applications, the FAA has approved very few of them. I am concerned about this.

Is there anything that you can think of that is causing the FAA to be a lot slower than they should be in this respect on drones?

Secretary CHAO. I think they are trying to be very deliberative, very careful, and they're trying to take into account all the different viewpoints. But yours and Senator Booker's concerns about this issue is registered with me today, and I will go back to FAA and talk with them further.

Senator INHOFE. That's good. I appreciate that, and maybe you can let us know what the response is.

Thank you very much.

Senator NELSON. Mr. Chairman, would the Senator yield for a point of clarification? The FAA is exempt from the Federal procurement rules. This was set in the 1990s. So in your examination of the procurement rules and whether or not there are delays, I point that out. You want to look for the FAA's specific procurement rules.

Senator INHOFE. Well, the bottom line is they're dragging their feet, and it should be done much more expeditiously.

The CHAIRMAN. Thank you, Senator Inhofe.

Next up is—he has returned—Senator Schatz.

STATEMENT OF HON. BRIAN SCHATZ, U.S. SENATOR FROM HAWAII

Senator SCHATZ. Thank you, Mr. Chairman.

Thank you, Secretary Chao, for being here. It seems that recently, almost every week, there has been a new episode of passengers on airplanes being treated unfairly, and it's obviously created a number of PR debacles for the airlines. But, more impor-

tantly, every instance is an example of airlines violating the trust that their customers have put in them with their dollars.

I'd like to get your perspective on what you think the Department of Transportation can do and what we ought to consider as we're doing FAA reauthorization. I know this is sort of a delicate space, because this is private enterprise and we don't want to be too prescriptive, especially when people are entering into a contract. But from my standpoint, it is difficult to understand this contract is a meeting of the minds when someone clicks agree on Expedia or on an airline's website.

So I'd like your perspective on what you think ought to be done, what should be done, especially with your department?

Secretary CHAO. In light of what has happened in recent months, we obviously have kept very close track with the United incident, and also we have created a whole new section of the DOT website that informs the traveling public what their rights are as passengers and what they can expect and demand in terms of lost luggage, overbooking, and delays of over a certain period of time. So we have tried to help the traveling public to know what their rights are, and that is right on our website.

I'm not quite so sure what the protocol is, but I'm going to ask this—make this point. MAP-21 did, indeed, supposedly streamline government procurement, but having done all of that, the procurement of FAA equipment is still a problem. We are still dealing with vacuum tubes and paper strips. There's such a long gap of what we need to do. So without being disrespectful, I just wanted to kind of respond to the ranking on that, that despite MAP-21 and AIR-20, there has not been that much improvement, unfortunately.

Senator SCHATZ. Thank you, Madam Secretary. I wanted to talk to you about drones and drone registration. When Mr. Earl Lawrence testified in front of the Committee on March 15 of this year, he shared that more than 750,000 small UAS owners have registered their drones. Congress is happy about this accomplishment in relatively a short amount of time, and we're looking forward to getting to 100 percent.

But there's a wrinkle now, because the U.S. Court of Appeals in the D.C. Circuit ruled that the FAA's regulation requiring drone registration for recreational use was illegal. So my basic question is what are we going to do next?

Secretary CHAO. We have not yet decided. The decision just came out from the courts a few days ago, so we are in the process of reviewing and evaluating what our next step would be, and we look forward—if you have specific viewpoints, we'd be pleased to work with you on that.

Senator SCHATZ. And if you could consider this a request for technical assistance on the question of whether or not we need to make any statutory changes—

Secretary CHAO. I understand.

Senator SCHATZ.—to clarify. You know, drones are exciting, from a civil defense perspective, from a recreational perspective. There are lots of great opportunities. But there are new issues here, and I think it's important for us to make policy and not devolve all of our authority to the Executive Branch in this instance. And since

the authorization bill is a live vehicle, it's an opportunity for us to make policy on a bipartisan basis.

Senator FISCHER mentioned Essential Air Service, and I think I can speak for nearly everybody on the Committee when I say that the proposed reduction and funding from \$175 million to \$108 million in the Fiscal Year 2018 budget is alarming. I would just like to get your reassurance that you understand how important this is to the Committee and that we're going to work to make sure that Essential Air Service is sort of part of the basic promise that the Department of Transportation makes to all of our constituents.

Secretary CHAO. I certainly do. The budget was really put together in the beginning part of the Administration when many key members were absent.

Senator SCHATZ. Thank you.

The CHAIRMAN. Thank you, Senator Schatz.

Next up is Senator Markey.

**STATEMENT OF HON. EDWARD MARKEY,
U.S. SENATOR FROM MASSACHUSETTS**

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

We have a situation, Madam Secretary, where airlines are overcharging captive passengers just because they need to change or cancel their flight or check a couple of bags, and it's just not fair to these passengers across the country. They're kind of just captured. But today, several airlines actually charge \$200 to change or cancel, and that might actually be greater than the value of the ticket which the person actually purchased.

On top of that, many are charging as much as \$25 for the first checked bag, \$35 for the second bag. So that could be \$120 for a round trip for that bag from one destination to another and back, and the fee epidemic is just growing—carry-on bags, print boarding passes, blankets—and the reason that they can do it is that they're not operating from the most part in competitive situations. Four airlines now control 85 percent of the traffic in the skies, and an analysis from the U.S. Travel Association found that 74 airports are served by only one airline, and 155 airports are dominated by one carrier controlling over 50 percent of the seat capacity.

The result is that the airlines reap \$4.2 billion in baggage fees, \$2.9 billion in changing or cancellation fees just last year, and passengers are just demanding some relief. They're put in situations where they can be tipped upside down at the desk. So what can the Department of Transportation do in order to give relief to these passengers?

Secretary CHAO. Well, as I mentioned, we try to give people—we have posted on our website a Passenger Bill of Rights. But these are frustrating issues. We all travel. We've all experienced it. So I look forward to working with you if you have additional ideas about that.

Senator MARKEY. Well, that's what I'm afraid of. You can only give people notice that they don't have any rights, and I think as we do this FAA reauthorization, Senator Blumenthal and I are intending on ensuring that we make an amendment that gives passengers rights, gives passengers protections. It's the Fair Fees Act, but we'll make it as an amendment to ensure that the fees are fair

and reasonable, proportionate to the cost of the service which is being provided. I think we need to debate that, because notice that you have no rights is——

Secretary CHAO. No, we're not saying that. We actually do try to help passengers, and we put the Passengers Bill of Rights on. But these are issues that do emerge, and we really can't do very much about pricing. But we want to work with you as you go forward in seeking solutions.

Senator MARKEY. That's the point I'm making. We're going to need to pass legislation so there's a definition of what is fair, what is reasonable, what is proportionate.

Over on IT, the whole world is operating on IT right now, but Southwest Airlines and Delta Airlines experienced technology issues that resulted in thousands of flight cancellations across the country. Last summer, earlier this year, Delta and United Airlines had two large outages within a week of one another, causing even more flight disruptions.

The airlines' IT systems still haven't been brought into the 21st century, and we've also found that airlines have not fulfilled their obligations to take care of the stranded passengers. When there are cancellations and delays, many airlines do not have inter-airline agreements in place, which allow airlines to reboot stranded passengers on another airline at no additional cost to the consumer.

I think it's going to be critical for us to deal with this issue so that the airlines understand that we believe it's critical for them to upgrade their IT services. In many instances, they don't even notify passengers that they have a right to compensation because of the delay or the cancellation of flights. They're not expressly notified.

Can the Department help on that issue to make sure that the airlines give——

Secretary CHAO. Passengers are supposed to be told that they have a right to compensation. You may have heard that a number of airlines in response to the recent incident on United have raised the compensation, for example, for overbooking to \$10,000.

Senator MARKEY. So from my perspective, when I look at the airlines and their own IT systems right now—and they need to be upgraded dramatically in order to deal with all these issues—and then I look at a proposal to give the airlines on a nonprofit board the preponderance of the control of that board, to move us back to the 20th century, I think—if they can't, in other words, upgrade their own IT systems, if they can't figure out how to do it for their own passengers, then to give them, you know, the key seats on this kind of a board, it seems to me, given the record of safety of the existing system, would be, from my perspective, sequentially wrong. First, they should prove that they can do all of these things for their own passengers before giving them responsibility for taking on all of the larger now governmentally controlled responsibilities.

We thank you for your service, Madam Secretary, to our country. We're going to have a big debate here on this FAA authorization.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Markey.

I have Senator Hassan up next.

**STATEMENT OF HON. MAGGIE HASSAN,
U.S. SENATOR FROM NEW HAMPSHIRE**

Senator HASSAN. Thank you, Mr. Chairman and ranking member.

Welcome, Secretary Chao. It's good to see you.

As you know, earlier this year, there was a truly unfortunate incident in which United Airlines forcibly removed a passenger from one of its aircraft, bringing new attention to the lack of consumer protections that exist in the airline industry. The United incident does not represent a one-time situation of mistreatment of passengers, and, in fact, there have been several incidents in the brief period of time between the United incident and today's hearing. Just last year, DOT received 17,904 complaints across the industry, and those were just the cases that were reported.

I'm sure that you join my colleagues and me in finding these incidents unacceptable, and it's why I introduced the Tickets Act with several of my colleagues. This legislation will improve transparency for consumers, review overbooking policies, guarantee paying customers have a right to fly, and makes other common sense reforms.

Does the Department of Transportation share my concerns and the concerns of granite staters and people across the country that more needs to be done to ensure better flying conditions for consumers? And, specifically, how does your team plan to address this?

Secretary CHAO. Of course, we're very much concerned, and what has happened, obviously, is inexcusable. As mentioned, we have alerted all the airlines of what their responsibilities are, and we have posted a Passengers Bill of Rights so that individual passengers, travelers, can access the website. And as we go forward, we want to make sure, also, that the airlines understand what their responsibilities are, and it's to their own best interest to treat passengers with respect and with courtesy. So I think that effort is ongoing, and the airlines need to take that responsibility on themselves.

Senator HASSAN. Thank you. And will you and your staff work with those of us who are sponsoring the bill to look at the elements of the bill and see if it makes sense to incorporate them into the FAA reauthorization?

Secretary CHAO. Of course.

Senator HASSAN. Thank you. Last Congress, the House of Representatives put forth a proposal to privatize the air traffic control system and changed the way our nation's airspace is governed. Senators on both sides of the aisle have raised questions about how and whether this plan might work. As we assess changes to the current air traffic control system, we have to obviously make sure that safety remains paramount, and we also have to be mindful of the disparate impact privatization could have on smaller and more rural communities like the ones that I represent in my state of New Hampshire.

In March of this year, over 115 mayors, including Mayor Kendall Lane of Keene, New Hampshire, wrote to the leadership of this Committee expressing concerns, specifically noting that they are concerned that commercial airlines would be essentially governing themselves, which would devastate rural and mid-size communities where it's harder to attract robust airline service.

So, Secretary Chao, what is the President's plan, if any, to safeguard rural communities should major changes take place to our air traffic control system?

Secretary CHAO. I want to make it very clear—first of all, thank you for the question. I want to make it very clear, because I think there's a lot of concern about this, that this new air traffic control system, if it were to be taken away from FAA so that the inherent conflict of interest, which currently exists, which is that we have an air traffic control operating system that is regulating itself on safety—that is an intrinsic conflict of interest. We need to separate out the safety function from the operational function.

Number two, this new air traffic control system is not going to be controlled by airlines. What the President's proposal merely says is that, number one, there's going to be a new governing structure and a new financing structure. The governance structure will comprise of 13 members, and only two seats are available for airlines. The rest are going to be filled by airports, labor groups, labor representatives. General aviation will have at least two. So it will be the whole stakeholder group, but their responsibility is not to look after their parochial interests, but to look after the interests of the whole air traffic control system. So rural America is very much a part of that.

We're very much aware that the members of this Committee come primarily from rural states, so it is an issue that we are very cognizant of. And as we go forward—we've now released this proposal—we look forward to working with the members of this Committee and the Senate and the Congress on this issue.

Senator HASSAN. Thank you. And I think it would be very helpful if we could include Mayors and Governors in that discussion, too.

Secretary CHAO. We are actually meeting with them this Friday.

Senator HASSAN. Excellent. Thank you.

The CHAIRMAN. Thank you, Senator Hassan.

Senator Heller?

STATEMENT OF HON. DEAN HELLER, U.S. SENATOR FROM NEVADA

Senator HELLER. Mr. Chairman, thank you.

Secretary Chao, thank you for being here and taking time from your busy schedule to answer some of our questions. Can I change directions for just a minute and talk about drones? It's an issue that I've been working on for the last couple of years, and it's important to the state of Nevada because it's one of the six nationally recognized unmanned aircraft systems test sites, and you're probably familiar with that.

I think our state is a perfect place for commercial testing, and I think it's proven so, mostly because of the state's expertise, the expanse of air and space corridors, the predictable climate in Nevada—we have 300 days of sun—and there are low startup and operational costs. So I've worked with my colleagues during the last Congress from states' other sites, and that extended the FAA support for these sites through 2019.

Anyway, unfortunately, it's my opinion that the previous administration did not—their FAA did not utilize the test sites to the best of their capabilities, and I think there's a lot more work to be

done. So I guess my question for you is to ask you if you support extending the authorization and these sites beyond 2019?

Secretary CHAO. That is a question which I did not anticipate, and so I will go back and take a look at that issue. There's a folder on my table, but I did not—didn't think I was going to be asked this. I will take a look at that. Thank you.

Senator HELLER. OK. I'll anticipate a follow-up, and thank you for that.

[The information referred to follows:]

The FAA would support continued use of the Test Sites. The FAA's ultimate goal is to fully integrate unmanned aircraft system technology into the National Airspace System (NAS) so that drones operate harmoniously, side-by-side with manned aircraft. Since 2013, the Test Sites have supported UAS integration by providing an avenue for the UAS industry and stakeholder community to conduct more advanced UAS research and operational concept validation. When the FAA's applied research studies require validation flight tests or related test site capabilities, the FAA has used the services of the seven designated Test Sites, as was the case for 2206 UAS airport detection study. In addition, NASA is using the Test Sites in support of its UAS UTM and UAS in the NAS test projects.

Senator HELLER. One of the reasons I think that we need the extension is the ability to conduct these tests beyond the line of sight. Right now, they're limited. They have to be able to see the drone, and, actually, it's prohibitive to testing these things if you're only limited to line of sight. In fact, some of the commercial companies that are being tested right now are saying that if they can't go beyond the line of sight that they'll have to do their testing overseas. So that's the concern that we have, and I just wanted to see if you had any insight or do you support any testing that would be done that would be outside the line of sight?

Secretary CHAO. I'm cognizant of the issue. I just hadn't linked the two together in terms of the testing site. The other issue, of course, is having drones fly over the heads of populations.

Senator HELLER. Of course.

Secretary CHAO. So we are looking at those two issues, and we hope to—we'll work with you on that. But we're very concerned, and we hope to come out with something that is very commonsensical.

Senator HELLER. As you're well aware, Madam Secretary, there are a lot of drones out there. There are a lot of commercial drones. You can walk into Costco tomorrow and buy yourself a drone and start flying this. One of my sons—it's just the latest and greatest, and he wanted to see how these things worked, and now he's learning the restrictions of what you can and can't do with one of these mechanisms.

But I think there are some real possibilities in the future, and I just want to make sure that Nevada stays in the forefront of this particular issue when it comes to commercial use, and being able to work with your office on this particular issue does mean a lot to our state.

Secretary CHAO. That would be great. There's actually a difference between the commercial and the hobbyist. Most commercial operators understand very well what the rules are. It's much more the hobbyist and——

Senator HELLER. Yes, and he's a hobbyist.

Secretary CHAO.—and because of the recent court action as well that just came out the last 2 days, we're reviewing this whole issue about how to deal with hobbyists and their concerns.

Senator HELLER. I'd like to work with you on that because, obviously, he has an interest, and I think there are a group of millennials out there that have the same interest and need to be aware and educated about the use of these things and practicality of it, what they can and can't do. I do know that they're restricted around airports. In fact, I was with him one time as he was flying it, and it just stopped, and it's programmed in it to every airport in America how close you can get to it. That drone will just stop and hover and won't continue to move forward. So it's fascinating to see that the technology is already there for the necessary protections around corridors that perhaps are a little bit more sensitive than others.

Secretary CHAO. I understand, and we look forward to working with you.

Senator HELLER. Mr. Chairman, thank you.

The CHAIRMAN. Thank you, Senator Heller.
Senator Peters?

**STATEMENT OF HON. GARY PETERS,
U.S. SENATOR FROM MICHIGAN**

Senator PETERS. Thank you, Mr. Chairman.

Thank you, Madam Secretary, for being here today. It's always good to see you and we appreciate all the work you're doing in the auto industry as well as what we're doing here with the FAA.

I want to start off before I ask a couple of specific questions and just add my comments to what I think is incredibly important for my state and, clearly, is important to other senators, and that deals with rural airports. Michigan, of course, is a very industrialized state and we're very proud of our auto industry, but we're also an incredibly rural state. In fact, I believe we have more Essential Air—we're second in terms of the number of Essential Air Service airports in the country. I know you've responded to several questions related to that.

But it really goes back also, I think, to the privatization of air traffic control, and in your opening comments, you talked about that type of privatization would actually help rural airports, if I get your testimony right, that it'll be able to preserve contract towers that may be in some of the smaller airports. There won't be any sort of movement away from regional airports—or, excuse me, rural airports into larger regional airports.

But it just seems inconsistent that we have a budget that was put forward by the President to basically cut Essential Air Service, which is truly essential in these small communities. Without airplane service, it's difficult to attract any kind of business, to have economic development. It is a major negative for the rural areas of our country.

And then if we are moving to a privatized system of air traffic control that's basically run by the airlines, who are profit-making entities—the reason they don't serve these rural areas is because they don't make money. It's just—the economics don't work, al-

though they are essential for a variety of other public purpose reasons.

How do you square that? I mean, how do you square that the Administration wants to cut Essential Air Services and yet says that actually privatizing the air traffic control system will help rural airports by putting the major airlines that don't make money in rural airports—help me—walk through that for me.

Secretary CHAO. If I may, I would say these are actually two separate issues. But having said that, let me assure you that the interest and the concerns of rural America is one that I share. The Essential Air Service—that was part of the budget of the Fiscal Year 2018. I can defend it. But I will say that that decision was made when a lot of people were—when the Administration was just staffing up, number one.

On the issue about rural America, we are very concerned about rural America, and we want to—and some of the issues, for example, with contract towers, is actually an issue of budgeting uncertainty. If you take it out of the Federal Government, the budgeting certainty will actually benefit rural America.

The third issue is the new air traffic control system—the new air traffic control structure that we are suggesting through the Administration's proposal is not one that's controlled by airlines. There is a Board of Directors of 13 people, and only two seats of the 13 are to airlines. The rest are to airports, to labor, to advocates, and to other stakeholders. So this is not controlled by the airlines, and I think that's a very important—

Senator PETERS. Well, we'll have to—and I appreciate you bringing that out, but we'll wait to see what the actual legislation states to have a fuller discussion about this. So I appreciate that, Madam Secretary.

But with the recent attacks at airports in Fort Lauderdale and Brussels, it's clear that we need to do more to protect airports and the traveling public from attacks. However, I've heard from airports in my state that they're frustrated that the FAA and the TSA can't agree who is responsible to help airports meet their security needs, and this finger pointing is putting the traveling public at risk and is, quite frankly, unacceptable.

One solution that I have been working on would provide airports greater flexibility to use passenger facility charges to improve their security infrastructure. I know that for airports in my state, if money were no object and they had greater flexibility with their PFCs, they would already be investing in various public safety initiatives such as ballistic protective podiums and permanent force protection barriers along with curbside drop-off to protect from vehicle-borne attacks like the one we tragically saw in London recently. Additionally, we should look at allowing, I believe, Airport Improvement Program funding to be used for airside perimeter CCTV systems.

Just to your sense, does that make some sense to you, that we look to provide greater flexibility for our airports to provide the type of infrastructure necessary to protect passengers going through them?

Secretary CHAO. I think security is very important, obviously. But so much of this with the passenger facility charge is really up to the Congress.

Senator PETERS. Great. Thank you.

The CHAIRMAN. Thank you, Senator Peters.

Next up is Senator Gardner.

**STATEMENT OF HON. CORY GARDNER,
U.S. SENATOR FROM COLORADO**

Senator GARDNER. Thank you, Mr. Chairman.

Thank you, Secretary Chao, for your time and testimony today. I truly do appreciate the opportunity.

To Senator Peters, last Congress, this Commerce Committee passed a bill called the Screen Fast Act. However long it took somebody to come up with that acronym, I don't know, but the Screen Fast Act. But I would encourage, of course, the FAA and the TSA, obviously in two different departments, to continue their work together to implement the Screen Fast Act and the opportunities it has to develop new emerging technologies in how we make sure that our passengers are secure, how our airports are secure, because I do think there are some great, sort of, greenfield opportunities for innovative security options under the Screen Fast Act that the Commerce Committee passed. So the opportunities are there for the FAA and TSA to continue to work together on those new technologies.

Secretary Chao, in October 2015, the Northern Colorado Regional Airport, working with the Colorado Department of Transportation, put forward and was selected by the FAA as a site for a remote tower pilot program. The goal of the program is to demonstrate that the airspace around an airport can be managed using innovative 21st century technologies and not necessarily depending on traditional towers. So one of my goals for the FAA reauthorization would be to include language that would allow airports to use remote towers, allowing them to be eligible for Airport Improvement Program funds or inclusion in the Contract Tower Program if the technology is certified by the FAA?

So my question would be if you would support remote towers being eligible for AIP funds or inclusion in the Contract Tower Program if the technology is certified by the FAA.

Secretary CHAO. Yes.

Senator GARDNER. Thank you very much for that. And the other question, of course, is another issue dealing with Rocky Mountain Airport and Denver International Airport land uses. Over the past few years, regulatory challenges have been related to land use decisions making it difficult for these airports to operate. In Jefferson County, Colorado, they've been attempting to get final FAA approval to move forward with non-Federal private Jefferson Parkway. It's a non-Federal private Jefferson Parkway near the Rocky Mountain Airport. The Parkway is the final piece of the Denver Beltway that would go around the metropolitan area, obviously, a very critical transportation need. Corridors in the region have significant congestion challenges, and this would help alleviate that.

FAA was first requested by Jefferson County for approval of the right-of-way near Rocky Mountain Airport in 2013. It's my under-

standing that the FAA is requiring the county to undertake a multi-million-dollar environmental review of the Parkway outside of the airport property, even though the Parkway alignment has already been the subject of a \$15 million environmental study. So there's a study that has already been done for \$15 million, and the FAA is requiring another one.

In March of this year, I joined with Senator Bennet, my colleague from Colorado, in sending a letter to the FAA urging expeditious consideration of the situation to resolve it as quickly as possible. So given the Administration's goals of expedited approval for key transportation projects, would you commit to me to reviewing the Jefferson Parkway, Rocky Mountain Airport situation and reporting back to my office?

Secretary CHAO. Yes, I'd be pleased to.

Senator GARDNER. Thank you, Secretary. And related to those land use issues, Denver International Airport, one of the largest airports in the country, has been pursuing initiatives to construct a key infrastructure project to develop its non-aeronautical land use to raise additional revenue for reinvestment. Unfortunately, they have consistently run into red tape at the Federal level with the FAA that increases the cost and prolongs timelines for construction completion.

Do you think there are opportunities to eliminate or reform these kinds of burdensome regulations that can hamper this type of redevelopment and reinvestment? And, if so, could you help describe some of the steps the Department is taking to eliminate some of this red tape?

Secretary CHAO. Yes, we are. We are working on addressing the permitting aspect of the infrastructure proposal, because we have talked to many people in the private sector, and they are—many are very interested in helping to finance the infrastructure, public infrastructure. But in certain states, they are actually discriminated against and unable to participate in infrastructure needs, so that's another issue that you did not specifically ask about. But on the permitting, we are at work on that.

One example of how we can perhaps ease the permitting process without, of course, compromising any environmental concerns is, if some procedures are occurring sequentially, whether we can have them occur concurrently. Something as simple as that can shorten the permitting process.

Senator GARDNER. Thank you very much.

I don't know if Senator Lee brought this up or not, Mr. Chairman, but over the past several decades, we've watched as our aviation industry—the manufacturing industry has made incredible strides in development of new airplanes, new airplane technology. Planes are safer, more fuel efficient, more reliable, and the United States is obviously a leader in that aviation manufacturing and we must maintain that leadership.

One area that has remained relatively stagnant, though, is the development of the speed of commercial aircraft. In Colorado, we've made rapid advancements in the speed of aircraft, and I think there are incredible opportunities to pursue supersonic aviation technology that allows for safe and quick commercial air travel over land in the United States far differently than we've ever pur-

sued in the past in a much—a safe, much more reasonable, responsible manner.

So do you have a position on expanded supersonic aviation technology?

Secretary CHAO. There are noise limits, number one. NASA is working on this issue, and to the extent that the noise level of the supersonic flights can be reduced and would meet current regulations, that is something that we hope will happen.

Senator GARDNER. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Gardner.

Senator Young?

**STATEMENT OF HON. TODD YOUNG,
U.S. SENATOR FROM INDIANA**

Senator YOUNG. Thank you, Mr. Chairman.

Thank you, Madam Secretary, for your presence here today. Let me begin by commending the Administration for proposing something new with respect to our air traffic control system. So often, government falls into this stasis, where we don't propose creative new ideas, even those that have been tested, tried, and proven to work in other areas. I know that we have to incorporate the very valid concerns, which I share, about our rural communities and their service into this proposal.

But as you've indicated, this modernization proposal may enhance safety, lead to more independence between the safety side of ATC and the operation side and improve procurement. So, hopefully, we can improve the proposal and make it something that's acceptable to more members of Congress.

I'd like to turn to standards that your department is currently reviewing with respect to transportation of lithium ion batteries aboard passenger aircraft. I respectfully request that you consider the impact of these policies on public health as it pertains to the transportation of lifesaving medical devices, many of which are produced in the state of Indiana, that utilize these high-standard batteries.

I urge your department to carefully consider the implementation of any restrictions that would impede the transport of these lifesaving medical devices aboard aircraft. As your department's review moves forward, I look forward to working with you, however possible, and your staff to ensure there are limited exceptions established to protect public health and provide the seamless delivery of lifesaving medical devices in time critical situations.

Could you please briefly offer your thoughts on establishing an exception to allow for such transportation?

Secretary CHAO. Lithium batteries can be a problem on flight—on airplanes. There is a problem of them instantaneously and spontaneously igniting, and they don't need oxygen to keep on burning, and it's very difficult to put it out, which is why there's such concern about it.

So one of the current issues is whether these batteries should be banned overall or whether they should be put in the cabin, where if something did occur, an adverse incident, the human factor—human beings will be able to see that something is burning and do

something about it versus putting them into the cargo hold, where it was thought originally to be safer, but if there's no human surveillance, then that actually makes it more dangerous.

But let me assure you that this is a difficult issue that the administration is grappling with, especially from a security point of view. But you bring up a new point, which I have not heard being voiced before. So let me have my staff work with your staff on us understanding more of that issue.

Senator YOUNG. Thank you. I think it's worth noting that not all lithium ion batteries are created equally. Some are more hardened than others. Some are more stable than others. And these devices which are often implanted inside human beings to save their lives are incredibly stable, are incredibly hardened, with very low failure rates. So it's my strong conviction they ought to be treated distinctly from lithium ion batteries that are found, for example, in a cell phone.

So we'll look forward to continuing the dialog there, and it's my intention to move forward with any improvements your department may have to offer and incorporating some policy changes in the FAA reauthorization on this matter.

If I could briefly turn to reiterating the importance of a DOT program that's outside of the purview of FAA, it's the Capital Investment Grant Program. Back home in Indiana, we have several communities that are depending on the long-term viability of this transport program for projects like the South Shore Line, which provides a vital corridor from South Bend, Indiana, to Chicago.

Indiana communities have worked diligently to provide the necessary local funding for this transit program, and we believe any state matches are also going to be there. So we're depending on this Federal program's viability and continuance. So I look forward to working with you and your staff at the Federal Transit Administration to ensure the economic benefits of this program can be realized in communities like South Bend, Mishawaka, Gary, and East Chicago, Indiana.

So on behalf of our bipartisan Hoosier congressional delegation, I hope DOT will continue to prioritize these projects and do so in its Fiscal Year 2019 annual report. I also want to invite you to visit the South Shore Line in Northwest Indiana to see the potential of this line and its double track project in the West Lake Corridor Extension Project. I know in your nomination hearing, we had discussed you visiting Indiana, and I was encouraged by your response, and I'm hopeful that you might visit and observe this project.

Secretary CHAO. I look forward to it.

Senator YOUNG. Thank you so much.

The CHAIRMAN. Thank you, Senator Young.

Next up is Senator Cortez Masto.

**STATEMENT OF HON. CATHERINE CORTEZ MASTO,
U.S. SENATOR FROM NEVADA**

Senator CORTEZ MASTO. Thank you, Chairman.

Secretary Chao, thank you. It's good to see you again. I appreciate you being here. It's a long morning for you, and I appreciate you answering the questions. And let me just say this. Thank you

for the Passenger Bill of Rights that's on your website, because I found it after sitting for just under 3 hours on a tarmac on that commercial airline. So it was there, and thank you very much for that.

A couple of things that my colleagues touched on—I just want to say for the record while I understand your position on air traffic control privatization, like many of my colleagues, I do have concerns, similar concerns that have been expressed by the dozens and dozens of mayors across the country, including from many of my rural communities, like Fernley, Mesquite, Yerington, and Fallon, and one of the rural communities, Boulder City, I want to talk a little bit about, and this pertains to the Contract Tower Program.

In Boulder City, there is a non-towered airport that had about 100,000 aircraft operations in 2016, and they have experienced several incidents where aircraft using crossing runways at the same time have had close calls. A contract tower would clearly add an important layer of air traffic safety at the airport. Also, Boulder City had about 250,000 air carrier passenger enplanements in 2015 and an increase of 15 percent over 2013.

So what can I tell the Mayor of Boulder City who is looking to be a part of the Contract Tower Program and whether it is going to exist and be protected to their potential benefit?

Secretary CHAO. Whenever there's a budgetary pressure, what happens is these contract towers become the easiest targets for elimination and cutbacks, which is why, once again, the Administration is making the point that the air traffic control system really needs to be separate from the regulatory part of FAA. It will be a self-sustaining—the air traffic control will be—it's basically a change in the governance structure and in the financing structure. Nothing will change from one day to another during the transition.

Senator CORTEZ MASTO. So can I ask, under either way, is Boulder City assured that they would be able to obtain a contract tower under either program, whether we privatize or not, that they should still, as a rural community, be able to rely on that benefit?

Secretary CHAO. I would hope so, because in the new entity, the rural communities will continue to be very, very important. And, again, because of the steady budget process, there's actually a greater chance of steady funding and, therefore, greater stability for programs like the contract towers.

Senator CORTEZ MASTO. Is that something that you will be advocating for to ensure that our rural communities are protected under either program and the budget is there to protect the needs that they have?

Secretary CHAO. Yes, because I'm always very concerned about rural America, and, in particular, with your—yes. So with Boulder City, we'd be more than glad to talk to them specifically as well.

Senator CORTEZ MASTO. Thank you very much. And you heard from my colleague, Senator Heller. Of course, I am also looking for an extension of the programs, the UAS innovation that we have, the test site in Nevada, beyond 2019.

But I'm also curious. I want to just make sure that if you could lay out for me—I also know that there has been Federal personnel hiring freezes and the Executive Order requiring two-for-one regulations. I want to make sure that those programs or those policies

are not holding back any of the development into the UAS research and regulations.

Secretary CHAO. I do not believe so. The hiring freeze was put into place, as is the case with every administration when they first come in, and none of the safety positions are ever impacted by the freeze. But I will take a look at—and I don't believe that the particular project that you're talking about has been impacted.

Senator CORTEZ MASTO. Great. Thank you. And then you did talk a little bit about it with respect to the commercial users versus the hobbyists. I appreciate—I know you've stated recently at a drone conference in Fargo that the Administration is working collaboratively to resolve some of the unique policy and legal issues involved in safely integrating drones into our airspace.

Would you concur that there are still a number of unresolved questions about aspects of UAS jurisdiction for safety and oversight?

Secretary CHAO. I'm not quite sure how to answer that. It's a new field, so there are lots of issues about how—I mean, with the line of sight and with flying over heads of people, for example.

Senator CORTEZ MASTO. Well, let me put it this way, because I agree. I think there are a lot of issues we're looking at, many of them safety, many of them preemption. I think there are concerns about Federal preemption, as well, out there hindering any innovation in this space. So, one, can I get a commitment that you're willing to work with us to address all of these needs—

Secretary CHAO. Absolutely.

Senator CORTEZ MASTO.—to make sure that there is that fine balance, that we're not hindering that innovation? If you would be willing to do so, that would be great. And, then, also, let me know, or let us know here in Congress, is there a way that we should be—is there space for us to clarify the intent regarding the balance of that state and Federal interest related to this space of unmanned aircraft? So if I can just get a commitment from you that you're willing to work with us.

Secretary CHAO. Yes.

Senator CORTEZ MASTO. All right. That's easy enough. Thank you very much. I appreciate it.

Secretary CHAO. Thank you.

The CHAIRMAN. Thank you, Senator Cortez Masto.

Senator Duckworth?

STATEMENT OF HON. TAMMY DUCKWORTH, U.S. SENATOR FROM ILLINOIS

Senator DUCKWORTH. Thank you, Mr. Chairman.

Secretary Chao, it's good to see you again. Thank you for being here.

As you know, I'm a pilot. I've flown both—I've flown aircraft all over the world, both professionally for our country, but now as a private citizen, and without a doubt, our U.S. air traffic control system is the best, but also the most complex in the world. Our air traffic controllers do a phenomenal job in ensuring that U.S. air travel is safe and efficient. Does their technology need an upgrade? It does, absolutely. But that's a procurement issue.

If there's a problem with our system, it's that Congress does not guarantee the FAA consistent and reliable funding to do their jobs more successfully. And we've already heard today that the FAA is exempt from the Federal procurement rules, so they could, if Congress would allow them to do so, procure the technology they need far faster than the current rate.

When we last spoke, I highlighted that a primary goal of the FAST Act is to provide highway and transit decision makers with the funding certainty that they need to make good decisions. In that same vein, if Congress was willing to provide FAA with funding certainty, then the FAA could plan better, speed up NextGen implementation, and avoid a massive, costly, and potentially dangerous reorganization of our air traffic control system by privatizing it.

We're not Canada. We're not Great Britain. The FAA successfully manages the busiest and most complex airspace in the entire world. It's not even in the same ball park. And yet, despite the great challenge, the FAA has made America's air traffic control system the safest in the world. It's certainly safer than any of the examples championed by advocates of privatization. I don't take our air traffic controllers for granted, and I will not gamble with the safety of the flying public to address funding reliability issues. I strongly oppose any proposal to privatize the FAA—the airspace, excuse me.

As you know, transportation plays a critical role in connecting Americans and communities across this country and to economic opportunities, and as a member of three infrastructure-related committees, one of my top priorities is ensuring that communities where Federal projects are located benefit from the results from that investment so that those jobs remain in those particular areas. This is particularly important if a worker is in low-income and rural areas.

In 2015, Congress established a local labor pilot program that enabled states and municipalities to consider geographic-hiring preferences, economic-based hiring preferences, and labor-hiring preferences for veterans for Federal relief funded highway and transportation projects. As a metric of this success, the pilot has been renewed twice, most recently for 5 years.

Considering the focus of today's hearing, would you commit to working with me to expand that pilot program to aviation projects?

Secretary CHAO. I don't know enough about it, but I'm always willing to work with Members of Congress.

Senator DUCKWORTH. That would be great. Thank you. I think that this is—if you look at the fact that it has been renewed twice, it's a good sign of its success. I would hope that we would be able to expand it.

Earlier this year, your office delayed a rule that would have made it easier for consumers living with disabilities to know how frequently airlines damage critical mobility equipment, like wheelchairs or scooters. I sent you a letter asking you to explain that decision to delay the rule, but you haven't responded yet, and, in fact, you just told Senator Blumenthal that you have a reputation of always responding, and I have not yet received a response from you.

Secretary CHAO. Your letter I know about. I didn't mean to interrupt. Sorry.

Senator DUCKWORTH. Oh, no, no. That's fine. Will you commit to responding to my letter now?

Secretary CHAO. Absolutely.

Senator DUCKWORTH. Thank you. Along that vein, as a former member of the House Oversight Committee, I truly believe that Congress has a constitutional obligation to ensure that taxpayers' dollars are spent wisely and that we help foster an environment where any individual, regardless of background, can achieve the American dream. Effective and efficient government—that's my goal.

Oversight of the Executive Branch should not be a partisan issue. Transparency of accountability should not be a partisan issue. So I am deeply troubled that the White House recently ordered Federal agencies to disregard requests for information from congressional Democrats. I'm sure my Republican colleagues see the folly in this directive. As we know, both parties have experience in the minority.

Will you commit to providing all congressional offices, not just Republicans, with timely responses to requests for information?

Secretary CHAO. I always have. But this particular issue was different. This is an oversight issue, and in administrations past, including the previous administration, the oversight always comes from the Chairman and the Ranking.

Senator DUCKWORTH. But we've not always required the Chairman to sign off on the requests.

Secretary CHAO. This is not a new practice by this Administration. It was followed by the previous Administration as well.

Senator DUCKWORTH. So why did the Administration feel the need to issue a new letter?

And, in fact, Mr. Chairman, I request unanimous consent that this article I have, "White House Orders Agencies to Ignore Democrats Oversight Requests," to be included in the record.

The CHAIRMAN. Without objection.

Senator DUCKWORTH. Thank you.

[The information referred to follows:]

WHITE HOUSE ORDERS AGENCIES TO IGNORE DEMOCRATS' OVERSIGHT REQUESTS

Trump's aides are trying to shut down the release of information that could be used to attack the president.

By Burgess Everett and Josh Dawsey



The Trump administration's plans to stonewall Democrats is in many ways unprecedented and could lead to a worsening of the gridlock in Washington.—Getty

The White House is telling Federal agencies to blow off Democratic lawmakers' oversight requests, as Republicans fear the information could be weaponized against President Donald Trump.

At meetings with top officials for various government departments this spring, Uttam Dhillon, a White House lawyer, told agencies not to cooperate with such requests from Democrats, according to Republican sources inside and outside the administration.

It appears to be a formalization of a practice that had already taken hold, as Democrats have complained that their oversight letters requesting information from agencies have gone unanswered since January, and the Trump administration has not yet explained the rationale.

The declaration amounts to a new level of partisanship in Washington, where the president and his administration already feels besieged by media reports and attacks from Democrats. The idea, Republicans said, is to choke off the Democratic congressional minorities from gaining new information that could be used to attack the president.

"You have Republicans leading the House, the Senate and the White House," a White House official said. "I don't think you'd have the Democrats responding to every minority member request if they were in the same position."

A White House spokeswoman said the policy of the administration is "to accommodate the requests of chairmen, regardless of their political party." There are no Democratic chairmen, as Congress is controlled by Republicans.

The administration also responds to "all non-oversight inquiries, including the Senate's inquiries for purposes of providing advice and consent on nominees, without regard to the political party of the requester," the spokeswoman said. "Multiple agencies have, in fact, responded to minority member requests. No agencies have been directed not to respond to minority requests."

Republicans said that President Barack Obama's administration was not always quick to respond to them and sometimes ignored them. However, the Obama White House never ordered agencies to stop cooperating with Republican oversight requests altogether, making the marching orders from Trump's aides that much more unusual.

"What I do not remember is a blanket request from the Obama administration not to respond to Republicans," said a former longtime senior Republican staffer.

There are some exceptions to the Trump administration order, particularly from national security agencies, Democrats and Republicans said. Agencies will also com-

ply if a Republican committee chairman joins the Democratic requests, but ranking members' oversight requests are spurned.

Congressional minorities frequently ask questions of the administration intended to embarrass the president or garner a quick headline. And Democrats have fired off requests they surely knew the administration would not answer, such as asking the White House in March to make visitor logs of Trump Tower and Mar-A-Lago publicly available.

But House and Senate lawmakers also routinely fire off much more obscure requests not intended to generate news coverage. And the Trump administration's plans to stonewall Democrats is in many ways unprecedented and could lead to a worsening of the gridlock in Washington.

Austin Evers, a former Obama administration lawyer in the State Department who runs a watchdog group called American Oversight, said the Trump administration has instituted a "dramatic change" in policy from Reagan-era congressional standards in which the government provided more information to committee chairman but also consistently engaged in oversight with rank-and-file minority members.

"Instructing agencies not to communicate with members of the minority party will poison the well. It will damage relationships between career staffers at agencies and subject matter experts in Congress," Evers said. "One of the reasons you respond to letters from the minority party is to explain yourself. It is to put on the record that even accusations that you find unreasonable are not accurate."

TRUMP WHITE HOUSE GRANTS WAIVERS OF ETHICS RULES

By Josh Gerstein

One month ago, Rep. Kathleen Rice (D-N.Y.) and other Democrats sent a letter to the Office of Personnel Management asking for cybersecurity information after it was revealed that millions of people had their identities compromised. The letter asked questions about how cybersecurity officials were hired, and in Rice's view, it "was not a political letter at all."

"The answer we got back is, 'We only speak to the chair people of committees.' We said, 'That's absurd, what are you talking about?'" Rice said in an interview. "I was dumbfounded at their response. I had never gotten anything like that . . . The administration has installed loyalists at every agency to keep tabs on what information people can get."

At a House Appropriations hearing in May, Rep. Matt Cartwright (D-Pa.) asked acting General Services Administrator Tim Horne about a briefing House Oversight Committee staffers had received from the GSA, in which they were informed that the "GSA has a new policy only to respond to Republican committee chairmen."

"The administration has instituted a new policy that matters of oversight need to be requested by the Committee chair," Horne responded.

In February, Sen. Patty Murray (D-Wash.), and Sen. Ron Wyden (D-Ore.) asked for information on changes to healthcare.gov from the Health and Human Services Department. They're still waiting for an answer. In early May, Murray and six other senators asked the president about why Vivek Murthy was dismissed as surgeon general. There was no response, and her staff said those are just a couple of the requests that have gone unanswered.

"It's no surprise that they would try to prevent Congress from getting the information we need to make sure government is working for the people we represent," Murray said when asked about the lack of cooperation.

TRUMP ANNOUNCES U.S. WITHDRAWAL FROM PARIS CLIMATE DEAL

By Andrew Restuccia and Matthew Nussbaum

The Senate's Homeland Security and Government Accountability Committee, the primary investigator in that chamber, has received some responses from the Trump administration but has seen several letters only signed by Democrats ignored. Sen. Claire McCaskill (D-Mo.) wrote Education Secretary Betsy DeVos asking for help addressing the challenges of rural schools and joined with Sen. Tom Carper (D-Del.) to question the security of Trump's use of a personal cell phone as president. Neither was answered, an aide said.

A senior Democratic aide said that of the Senate Democrats' 225 oversight letters sent to the Trump administration since January asking for information, the vast majority have received no response.

"When it comes to almost anything we've done at a Federal agency, very close to 100 percent of those we haven't heard anything back. And at the White House it's

definitely 100 percent,” said a second senior Democratic aide. “This is rampant all over committee land.”

Senator DUCKWORTH. Why would the White House feel the need to do that, then?

Secretary CHAO. You’ll have to ask the White House.

Senator DUCKWORTH. All right. Thank you so much.

The CHAIRMAN. Thank you, Senator Duckworth.

Senator Klobuchar?

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much.

Thank you so much, Madam Secretary. I was here earlier and heard a few of your answers and then had some other things. But I wanted to first of all reiterate—I know Senator Moran had talked about some of our concerns with the air traffic control reform, and I know we’ll be talking about those going forward, and he’s covered some of that and also the Essential Air Service budget cuts that I know Senator Fischer and Senator Schatz mentioned.

So I thought I would focus on something that hasn’t been discussed, the Small Airplane Revitalization Act, which I introduced with Senator Murkowski. As you know, that was signed into law, and it requires the FAA to modernize Part 23 certification regulations for small airplane design, and there’s still work to do on this certification process.

The Senate-passed comprehensive FAA reauthorization bill from last time included provisions to further streamline the certification process, and I’m hopeful that this reauthorization bill, Mr. Chairman, includes important certification reforms.

Secretary, how would U.S. companies be affected if the FAA fell behind other countries in developing new certification standards?

Secretary CHAO. We certainly would not like that to happen, and we want to be up to date and responsive. So we continue to work on that, probably not as quickly as we would like, but we continue to work on that.

Senator KLOBUCHAR. Thank you. I just think it’s really important. We manufacture some of these jets in Minnesota, Cirrus up in Duluth, and we really try to keep up to date so we can compete with other nations, and a lot of it is safety reforms, as you know. So I appreciate it.

Here’s one I think you’ve heard of. Open Skies Agreements are an important part of the U.S. transportation policy for all air carriers. Both Democratic and Republican administrations have pursued and expanded these agreements, which have provided U.S. consumers and carriers and airports with more choice.

Senator Isakson and I recently sent you a letter raising concerns about government support for state-owned carriers. Of course, there are other countries. In your response, you reaffirmed the value of the Open Skies Agreement. We’re very concerned about the negative effect, as this keeps going, that it is going to have on American carriers and, thus, American jobs.

What steps is the administration taking to ensure that the Open Skies Agreements are protecting U.S. workers and carriers from unfair competition?

Secretary CHAO. We are concerned about protecting U.S. jobs, and this is a very complicated issue with stakeholders on both sides. So we in the administration are consulting with one another, and we hope to have a decision pretty soon.

Senator KLOBUCHAR. OK. That would be very good, because it just keeps getting worse and worse, and—yes, OK. Well, that's good. Thank you.

Safe skies—safety isn't just about the quality of the planes. As you know, it's also depends on our own aviation workforce. A tired pilot, as we've seen in the horrible crash in the Buffalo area, is not just a danger to themselves but to those in the air and on the ground. The Safe Skies Act, which I plan to reintroduce, is something that I introduced with Senator Boxer. The bill would take the rest requirements put in place for passenger pilots, after the Colgan Flight 3407, and apply them to cargo pilots. Currently, they have looser requirements.

What actions is the Administration taking to combat pilot fatigue?

Secretary CHAO. Well, there are rules and regulations on the books already, and so we certainly are enforcing them. And if the Congress has a different point of view or any additional concerns about safety, we look forward to working with you on that.

Senator KLOBUCHAR. Thank you. And then one last question. I recently led a letter with Senator Moran urging the DOT to investigate incidents of fraudulent and deceptive practices in the online travel and tourism marketplace. We know that some deceptive online companies imitate the websites of actual airlines in order to attract bookings. There's also legislation on this. These fraudulent sites can leave consumers with airline itineraries that can't be honored and misconnections and lost money.

Is the Department taking some new steps to combat what is a relatively new problem, and that's online travel fraud?

Secretary CHAO. We are very cognizant of this issue. We are looking at it. I also hope to have more staffing in the future as we go forward. That certainly would help us address this issue as well.

Senator KLOBUCHAR. OK. Very good. Just one last question. The 2016 FAA extension bill required the Department to take measures to allow families to sit together when traveling on a plane. There hasn't been a proceeding or a study yet. The deadline to establish policies on family seating is coming up. What is the Department's plan on that?

Secretary CHAO. We're obviously sympathetic to the traveling public who have family members who are separated. We think, though, that the airlines themselves, number one, would take it upon themselves to do something about it, a voluntary action in the cabin itself. But we will look forward to working with you on it.

Senator KLOBUCHAR. OK. Thank you very much. And my contract towers questions—I heard some of the answers while I was here, so I really appreciate it, and thank you for your service.

Secretary CHAO. Thank you.

The CHAIRMAN. Thank you, Senator Klobuchar.

Madam Secretary, we appreciate your patience. We'll wrap up here momentarily. I don't think we have any members that I know of that are coming back.

But let me just ask a question regarding the general aviation community, which is very concerned about how it would fare under the new proposed ATC system. The administration's principles stressed the importance of maintaining access for GA users, but also note that all users of the system should pay their fair share.

Does the administration envision the new entity being able to charge per-flight user fees on general aviation operators?

Secretary CHAO. I'm so glad you brought it up, because in my various previous statements, I had not mentioned general aviation enough, and I was actually going to end my testimony today with a mention of the general aviation's interests. We are very concerned about, obviously, their concerns about the administration's proposal. We're committed to working with them. Maintenance of access is a huge issue.

They will have—general aviation will be nominating two of the seats out of 13 seats, same as the airlines. So, again, general aviation's interests and influence will be felt. The other thing I should say is general aviation also includes corporate jets. So that's a bit different than the mom-and-pop single pilot that's flying around the country. So we understand the issues that general aviation is concerned about, and we want to work with them.

The CHAIRMAN. And to that point, one of the major concerns that they have is cost to access the airspace and whether or not user fees would be assessed. So that's why—you know, the specific question about whether or not the administration does envision that new entity assessing per-flight user fees on general aviation operators, and that's a question, I think, that they'll—

Secretary CHAO. I think it's open at this point. But using just one example, NAF-Canada under—they currently just decreased, once again, their fees for general aviation. I think it's like \$65 for the year. So it's quite low.

The CHAIRMAN. As you've heard today, there are a lot of questions that need to be addressed, and there is a consensus on this committee on that particular issue, and we're moving forward with our legislation. We'd love to do a multi-year FAA reauthorization bill that would attract broad support in the Senate. That was the case that we had last time.

So I guess what I would suggest coming out of this hearing is that you and your team and the Administration make every effort possible to try and find consensus among the stakeholder community on this issue, because it will be much easier to get consensus on this committee and in the Senate if there is consensus among those who are going to be most impacted by any proposed changes. Right now, I think, as you heard today, there are lots of questions on both sides about how this new system would function and operate. So the more precise, as you work through this, the answers to those questions can become, I think the more clarity you'll have about where this committee and, in a broader sense, the whole Senate might be.

I know there's a great interest in moving forward in the House with this approach, and we'll be monitoring, obviously, the action there and see what they are able to do and responding accordingly. But one thing that we won't probably do is wait forever. We're going to move forward. We are in the process of drafting legislation

right now. There are a whole range of other issues, as was pointed out today, too, that affect aviation in this country, most of which, if not all, we will address in our legislation.

So we'll continue to work with you and hear from you and your team on all those issues, but, particularly, with regard to the proposal on air traffic control reform, and I would encourage you to reach out to the stakeholder community and try and find consensus on this issue. It'll make it a lot easier moving forward.

Secretary CHAO. Thank you.

The CHAIRMAN. I think with that, we will keep the hearing record open for a couple of weeks, and if members wish to submit questions, we will ask that they do that in that timeframe, and to the degree that you can respond as quickly as possible, that would be most appreciated.

But thank you for being here today and for your response to the many questions raised by members of this committee, and we look forward to continuing to work with you. Thank you, Madam Secretary.

Secretary CHAO. Thank you. We look forward to working with you.

The CHAIRMAN. This hearing is adjourned.

[Whereupon, at 12:05 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JERRY MORAN TO HON. ELAINE L. CHAO

Question 1. Secretary Chao, Senator Udall recently worked together to expand the Spectrum Relocation Fund to include a \$500 million pool for research and development, representing a significant bipartisan legislative accomplishment.

I am pleased that the FAA recently announced that it is taking advantage of those funds to investigate whether it can relinquish some of the 1300–1350 MHz band of spectrum. This is encouraging news as more spectrum will be needed to deploy the next-generation of wireless networks, 5G.

Can you elaborate on how FAA will move this process forward in a timely fashion so that this spectrum is made available for auction?

Answer. FAA is collaborating with Department of Defense (DOD), Department of Homeland Security (DHS) and the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) on a program called Spectrum Efficient National Surveillance Radar (SENSR). The SENSR Program will help determine if it is feasible to make available the band 1300–1350 MHz for reallocation of current Federal radar use to shared Federal and non-Federal use through updated radar technology. This would permit the freed-up spectrum to be auctioned by 2024.

In January 2017, the Office of Management and Budget (OMB) and an inter-agency Technical Panel approved the jointly developed Spectrum Pipeline Plan. Congress had an opportunity to review it and allowed OMB to release funding to the partner agencies to begin substantive work on the SENSR Program. Since then, FAA, DOD, DHS and NOAA signed a memorandum of agreement (MOA), which allowed a joint program office (JPO) to formally be established in May. Currently the SENSR Program is on track to evaluate and, if feasible, support auctioning spectrum in the 1300–1350 MHz band by 2024.

Question 2. Secretary Chao, several administration officials have made the argument that the U.S. air traffic system is antiquated because it relies on ground-based surveillance systems, specifically radar, and not GPS.

However, in regards to moving beyond radar toward satellite-based GPS, my understanding is the FAA has, in concert with aircraft operators and private sector technology, deployed a nationwide GPS-enabled navigation and surveillance infrastructure.

In fact, a business in my home state of Kansas, Garmin, Ltd., has over 150,000 navigation avionics systems utilizing GPS to safely and more efficiently navigate into 1,847 airports which have deployed GPS approaches.

Can you please clarify the administration's position or beliefs regarding the use of GPS technology being utilized today to navigate within the air traffic control system?

Answer. As you noted, GPS-based navigation and surveillance is already widely in use in the National Airspace System.

Automatic Dependent Surveillance–Broadcast (ADS–B), one of the foundations of NextGen, uses GPS satellites to determine aircraft location, ground speed, and other data. This information is relayed to a series of ground stations and then integrated into air traffic control automation systems. Aircraft flying in certain airspace must be equipped for ADS–B by Jan. 1, 2020. It is important to note that some ground based radar capabilities will be retained for safety and security reasons.

Performance Based Navigation (PBN) is an advanced, GPS-enabled form of air navigation that creates precise 3–D flight paths that can lower fuel consumption and emissions as well as save time in flight. To date, the FAA has published more than 9,000 PBN procedures and routes.

PBN procedures require various avionics capabilities depending on the level of navigation precision involved. Almost all air transport aircraft today are equipped to take advantage of some form of GPS-based procedures. More than 85,000 general aviation aircraft, including about 7,000 business jets and turbo props, are equipped

with GPS avionics from manufactures like Garmin to fly WAAS-enabled LPV or LP procedures. Thousands of other aircraft are equipped with basic GPS navigation capabilities that assist aviators with flying direct routes and improve safety by providing precise location information.

Because of mixed equipage, not all aircraft can fly the most-demanding types of PBN procedures. New aircraft usually have the latest avionics while older aircraft have a mix of avionics of various ages and capabilities. Replacing aging equipment can prove too expensive for some aircraft operators and may lead to an aircraft being retired. In other cases, an aircraft's existing equipment may be adequate for the types of flight operations planned.

While the U.S. remains the gold standard in aviation, the Department of Transportation understands that continued innovation and modernization—including expanded use of the GPS technologies mentioned, are important to safety and global leadership. Shifting air traffic control out of the government, improving accountability to aviation users and operational adaptability are key steps to achieving these goals. While NextGen modernization has been implemented at certain airports and facilities under current constraints, these 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.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DAN SULLIVAN TO
HON. ELAINE L. CHAO

Question 1. A road system connecting communities throughout Alaska does not exist. Federal land ownership has carved up the State of Alaska such that it is nearly impossible to build terrestrial roads, thus the need to travel by air. 82 percent of Alaska communities are not on the road system and rely on aviation as the primary means of transportation.

I have deep reservations about any proposal to transfer the FAA's air traffic facilities to a quasi-private corporation and allow it, rather than Congress, to make decisions on where funding should be spent and how much tax general aviators should pay. This threatens to leave rural communities largely ignored. The 582 airports out of 600 in Alaska that do not have air traffic control would receive little if any funding for upgrades and new technology, and it is unclear what would happen to the 400 navigation aids that Alaskans depend on. The largest hubs would receive the lion's share of the funding leaving states like Alaska with no recourse.

Do you agree that congress, as representatives of the larger public interests, is in the best position to allocate resources between the few dozen airports serving larger cities and the thousands of general aviation airports and facilities serving rural America?

Answer. We believe rural communities will have more reliable services under ATC reform because funding for the management of the system will not be consistently jeopardized by the unpredictable funding process for aviation programs. Ultimately, a self-funded air traffic control organization not tied to the Congressional budget process will allow the financing and implementation of high-tech and state of the art technologies for managing airspace, making air travel safer, and lead to greater access for all users.

Question 2. Similarly, I have concerns over a non-public entity making decisions regarding the allocation of airspace. In Anchorage for example, airspace is shared among Ted Stevens International, Merrill Field, one of the largest general aviation airports in the country, Lake Hood, the world's largest floatplane airport, and major military airfields which conduct air training activities. With more licensed pilots per capita than any state in the union we have (7,933 active pilots), we have an extremely active General Aviation (GA) community in Alaska. Allocating air space among these diverse users should be determined by a government entity, not a private organization.

Do you agree that airspace should be available to all users, including those serving small towns and villages as well as individuals as it is currently?

Answer. Ensuring continuity for GA and rural and small community air service are part of the Administration's guiding principles for modernizing the U.S. air traffic control system (ATC). Any changes to procedures would need to be in accordance with the law and approved by the safety regulator—the FAA—before they could be

implemented. The Administration has consistently stated that all users, including general aviation, must continue to have open access to our Nation's airspace. Under a modernized ATC system, GA operators would continue to be guided through the national airspace by controllers operating under the same rules that apply today—with safety as their first priority.

Delivering a more efficient ATC system is the most reliable way to ensure continued GA access and to reduce the risk that increased congestion could crowd out GA in certain areas. Reform will also mean streamlining regulatory matters currently impacting small airports and could lower costs for them. Additionally, increased efficiency and capacity in the airspace could mean more frequent flights to rural communities, driving economic growth.

Question 3. During Secretary Chao's nomination hearing, Chairman Thune posed the following question: *"If confirmed what will you do to improve aviation connectivity to rural communities?"*

Then-nominee Chao replied: *"Rural communities are an essential part of our country and their access to affordable and easy air service is an issue and something that we have talked about in many many ways over the years, so I look forward to working with congress on continuing the EAS program, and finding ways in which we can improve it, as well."*

As part of the overall spending reduction effort, the Administration's FY2018 budget proposes eliminating the discretionary funding for the EAS program. (This does not eliminate the ~\$110 million derived from mandatory overflight fees). The proposal would save \$175 million and notes that the EAS program was supposed to be temporary when it was established over 40 years ago.

In my state of Alaska, Essential Air Service is not only key to small communities maintaining air service but also is critical to linking them to the rest of the state, the Nation and the world. Many of the approximately 60 communities in Alaska covered by EAS have no other linkage to our Nation's transportation system and without the program, air service would not be economically viable to maintain even minimal service.

You stated your interest in working with congress on the continuation of EAS. How much input did you have in the development of the Administration's proposed Fiscal Year 2018 budget?

In regards to the final FY18 Budget, did you anticipate it to respect the commitments made by the nominees?

When congress develops appropriations legislation that restores EAS, do you expect the Administration to raise EAS in any Statement of Administration Policy?

Answer. Development of any Executive agency's budget is a complex and collaborative process. The Administration's budget proposal for the Essential Air Service Program is intended to improve the program to ensure the continued funding of air service for the neediest and most remote communities.

By any objective standard, many Alaskan communities are precisely the type of communities that the program is designed to serve. The Department will continue to carry out its commitment to improve the EAS program to ensure air service for the communities that need it most.

The Department does not prepare or release Statements of Administration Policy (SAPs) and I would be reluctant to predict the content of any particular SAP. Nevertheless, as I noted at my nomination hearing, I look forward to working with Congress on continuing the EAS program, and finding ways in which we can improve it.

Question 4. As I previously discussed with Jeffery Rosen, confirmed recently to be the Deputy Secretary of Transportation, and Derek Kan, who is next up for nomination to be Undersecretary for Policy at U.S. Department of Transportation—

We are experiencing an aviation weather related dilemma in Alaska, as recent changes in FAA policy are placing an unworkable national requirement for weather forecasting and weather reporting for air service to operate in Alaska.

Alaska does not have adequate aviation weather monitoring and reporting capabilities due to the lack of infrastructure at a large number of our airports. FAA has not funded new weather infrastructure in Alaska since the 1990s.

This lack of data had previously justified the local FAA allow carriers to use a combination of inputs to satisfy the requirement, which allowed communities to be served.

The FAA abandoned the long established interpretation of the weather reporting requirements for Part 121 (scheduled air carrier) operations, which have been in place the past 50 years.

In doing so, there has been a tremendous burden, both operationally and economically, place on the Part 121 carriers who operate to locations other than major airports.

I raised this issue during the nomination process for Jeffrey Rosen to serve as DOT Deputy Secretary, asking him to work with me and my staff to address this problem.

To DOT's credit, FAA has met with the carriers and my staff and attempted to extend an olive branch to the Part 121 operators by asking them to, over 60 days (by July 1), develop recommendations as to how they will comply with the 2014 interpretation.

I ask that this dialogue continue. However, I am concerned that this is not a move forward in the resolution of this issue. This may result in merely placating the Part 121 operators to a point they will acquiesce to the regulatory agenda of Flight Standards.

I ask that FAA analyze the current and historical operations of the carriers, and review the 2014 interpretation for consistency with all previous documents created on this subject, keeping in mind the flexibility given by congress in the law for the Administrator to make appropriate regulatory distinctions for Alaska.

Should, as I anticipate, this interpretation be determined as inadequate, it should be removed from all files as a source of record and deemed no longer relevant.

This has occurred previously such as on September 22, 2008 when previous FAA Chief Council recognized an interpretation associated with "Known Icing Conditions", written November 21, 2006, was poorly written lacking research and intellectual rigor, just as the mentioned 2014 interpretation, and did not represent the established law.

Until this is resolved, I ask that weather requirements for in my state be as they have been the past five decades.

Answer. We are aware of the unique operational challenges in Alaska and its limited infrastructure and are committed to working with the affected air carriers in Alaska to find creative solutions that allow them to meet the standards, given the unique nature and significance of aviation to the State. This includes working with all of the Part 121 operators in Alaska to increase the availability of weather information in more of Alaska. FAA does not intend to issue penalties to operators while this matter is evaluated and we encourage Part 121 operators to continue engagement with FAA to develop alternative weather measures.

We anticipate and have promoted the use of creative solutions, beyond strictly the use of well-known products such as Terminal Aerodrome Forecast (TAF) and Meteorological Terminal Air Report (METAR). The alternatives are many and do include a regulatory exemption, which would require that a carrier show that granting the exemption would not adversely affect safety or provide a level of safety equal to that provided by the rule from which exemption is sought. We believe we can resolve this issue without going through the exemption process.

FAA Flight Standards representatives are focused on assisting the affected operators to meet the standards for appropriate forecasts and local weather. We are working with all five Part 121 operators in Alaska which have submitted to the FAA initial processes for operating safely and within the standards. Based on the initial submissions received, FAA is working with carriers to develop more detailed plans over the next couple months. We anticipate this issue will be fully addressed by the end of September, before the start of Alaska's winter weather season. We are committed to maintaining to a cooperative dialogue until the issue is resolved.

FAA's immediate focus and commitment is to work collaboratively with the affected operators, and in the development of appropriate forecasts and local weather reporting, to ensure continued air services. We will approve or seek clarity on submitted processes in a timely manner and will keep you informed of our progress.

Question 5. In previous appearances before this committee and the Committee on Environment & Public Works (EPW), you have mentioned your interest in lowering the regulatory burdens where they are too cumbersome.

As you may know, FAA prohibits "non-aviation use" of FAA funded airport access roads.

In remote areas of Alaska, where we have little infrastructure to speak of, an airport access road is typically the major piece of village infrastructure.

A strict interpretation of this prohibition of "non-aviation uses" prevents property owners from using airport roads to access their adjacent lands, including adjacent Alaska Native land allotments.

Further, instead of connecting two communities (Nanwalek and Port Graham) and only building one airport, due to this restriction the FAA would prefer to spend the extra money on two airports because there would likely be traffic between the communities on the "airport access road", and that isn't allowed.

This may be a reasonable policy for the rest of the states, but the rigidity of the funding is not appropriate in remote areas of Alaska.

Are you willing to lend your support for language to be included in the FAA legislation to provide a higher degree of local use for airport access roads located off the contiguous road system in Alaska?

Answer. I am very sensitive to needs of remote communities like Nanwalek and Port Graham and am also aware of the current statutory restrictions that require airport access roads that receive airport improvement program (AIP) funds to be used exclusively for airport traffic. I would be happy to work with you on this issue and would note from the outset that the Nanwalek/Port Graham community situation may be an appropriate opportunity for the community, the FAA and the Federal Highway Administration (FHWA) to work collaboratively toward an acceptable solution. The FHWA's Tribal Transportation Program (TTP) is available to Alaskan native villages to fund construction of access and development roads and may be a helpful funding source for these communities. I would be pleased to put your staff in touch with the appropriate DOT staff to explore possible solutions. Information on the TTP program can also be found at: <https://fh.fhwa.dot.gov/programs/ttp/>

Question 6. The public transportation needs of Alaska, like everywhere else, far exceed resources. Federal Transit Administration urbanized area formula funds for Anchorage for this year and last year are held up, creating strains that increase by the day. I have joined both with Senator Murkowski and Congressman Young in requesting that the Department make an Administrative determination with respect to resolving the blockage of some \$30 million in FTA section 5307 funds from flowing to my State of Alaska—to the Alaska Railroad and the Municipality of Anchorage.

It is my understanding that the Alaska Railroad met with the Geoff Burr and other senior Department Officials and members of the Secretary's staff on May 2nd and I'm told there was agreement that the current Administration would take a fresh look at the Railroad's, and the Alaska Delegation's, request for an Administrative determination. Can you tell me where this stands?

Answer. The Alaska Railroad requested that FTA provide a default means for splitting Section 5307 Urbanized Area Formula Program funds because the recipients designated by the Governor in the Anchorage area—the Municipality of Anchorage and the Alaska Railroad—cannot reach agreement on a sub-allocation of the funds. My office has reviewed this issue and determined that the Department of Transportation does not have the legal authority to allocate Section 5307 funds between these two designated recipients. Pursuant to 49 U.S.C. § 5302(4)(A), recipients designated through the planning process by the Governor have the authority to “receive and apportion” amounts received under 49 U.S.C. § 5336 to urbanized areas of 200,000 or more in population like the Anchorage urbanized area. Consistent with this statutory provision and FTA guidance, these designated recipients are responsible for deciding the sub-allocation of apportioned Federal funds. Pursuant to FTA Circular 9030.1E, “designated recipients and the Metropolitan Planning Organization (MPO) should determine the subarea allocation fairly and rationally through a process based on local needs and agreeable to the designated recipients.”

Due to the fundamentally local nature of sub-allocation determinations, the Department of Transportation cannot impose a sub-allocation decision on duly designated recipients. This decision must be made by the designated recipients, or the Governor of Alaska can resolve the issue by changing the designation of recipients. It is critical that the parties arrive at a timely resolution so service remains available to the people who use public transportation in Anchorage and the Alaska Railroad.

FTA facilitated a meeting in Anchorage on February 9, 2017 between Anchorage and the Alaska Railroad, at which a number of potential options were discussed, but my understanding is that the dispute continues. Until the two parties reach an agreement on the sub-allocation of Section 5307 Urbanized Area Formula Program funds, or the Governor of Alaska resolves the issue by taking a redesignation action, FTA cannot award the Section 5307 grants to either entity.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DEAN HELLER TO
HON. ELAINE L. CHAO

Question 1. Last year, one of the central issues debated in this Committee on drone issues was “federal pre-emption.”

In some cases, states have implemented laws that exert jurisdiction over national airspace, an inherent Federal responsibility.

In other cases, like in Nevada, our legislature has adopted forward looking measures that protect our constituents' privacy and empower local law enforcement to actually enforce restrictions that the FAA simply does not have the resources or infrastructure to conduct. Is there any action Congress can take so that states like Nevada can take action, while still providing regulatory certainty that encourages innovation?

Answer. The FAA is charged by statute with providing access to airspace and ensuring its safe and efficient use. It is also important to have a consistent method of informing drone operators of any restrictions—an issue being considered by the Drone Advisory Committee.

We recognize that there are unique concerns raised by UAS that are different from manned aircraft operations, and State, tribal, and local governments have expressed a desire for increased control over operations. This is one of the key questions that the Drone Advisory Committee (DAC) (which consists of representatives from industry, government, labor, and academia) has been tasked with. The DAC will allow us to look at drone use from every angle, while considering the different viewpoints and needs of the diverse UAS community. The first DAC meeting was held in September 2016 and its members have already started to work on assisting us on identifying the roles and responsibilities of drone operators, manufacturers, and Federal, state, and local officials related to drone use in populated areas. One of the questions debated is what the appropriate altitude in which State, tribal, and local governments may have an increased role to play in regulating UAS. FAA believes it would be appropriate to obtain the benefits of the DAC's deliberations before establishing definitive parameters for State, tribal, and local governments' roles and responsibilities.

Question 2. I am particularly interested in the enforcement problem. In Las Vegas, McCarran International Airport has faced issues with recreational drone use near the Strip that can interfere with aviation traffic. How can airports and the FAA work together with drone users to protect safety while allowing recreational use of drones?

Answer. In accordance with the decision of the D.C. Circuit Court of Appeals in *Taylor v Huerta*, model aircraft owners operating exclusively under the Special Rule for Model Aircraft (section 336 of Public Law 112–95) are no longer required to register. The lack of a registration requirement for this subset of recreational users significantly hinders owner education, owner accountability and FAA's enforcement ability. For example, as part of the UAS registration process, UAS registrants receive and acknowledge safety information, including the requirement that model aircraft operators must notify any airport and air traffic facility within five miles of their intent to operate. Owners of UAS operating exclusively under the Special Rule for Model Aircraft may no longer receive this information because they are no longer required to register. This is one of many reasons FAA sees the registration of all UAS as essential to maintaining the safety of the NAS. Registration also helps law enforcement associate aircraft with owners in the event of an incident. This however is only possible if registration is required for that UAS.

To enhance safety around airports, FAA has stepped up public education campaigns, and has assembled an interagency group with DHS focused on evaluating UAS detection systems around airports.

Congress has already recognized the challenges FAA faces in maintaining safety, and included several mandates in the recent FAA Extension, Safety, and Security Act of 2016 that FAA is implementing. This includes providing safety statements to go in UAS packaging (Section 2203) and standards for remotely identifying UAS and their operators (Section 2202).

Question 3. My understanding is that the FAA was supposed to conduct a test project about airport-drone mitigation. Can you provide an update on those efforts?

Answer. Last November we sent a team to evaluate three different detection systems at the Denver International Airport. We worked in collaboration with DHS and the Nevada and North Dakota test sites on this testing. More tests will take place at Dallas-Fort Worth. We will continue to evaluate a number of drone-detection technologies, including limited evaluations of radio frequency (RF) based capabilities, to the extent currently permitted by law. We are also coordinating with our interagency partners who have broader authorities to evaluate mitigation/counter technologies.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BILL NELSON TO
HON. ELAINE L. CHAO

Question 1. Under the Administration's proposal to privatize the air traffic control system (ATC), there would be a three-year transition period, after which all authorities and infrastructure would be transferred to the new entity. How do you envision the Department and the FAA maintaining momentum on modernization during such a transition period?

Answer. Currently, FAA's funding is tethered to unwieldy, complex, and often unpredictable Federal and Congressional processes—none of which are conducive to the long-term planning needed for modernization. A large, complex, 24/7 service organization operating within a slow, bureaucratic, government agency, dependent on an unpredictable political appropriations process will, at best, only deliver sporadic and incremental change. Among other things, separation from the Federal Government would accelerate capital investment by allowing the new entity to borrow from financial markets.

Although the U.S. remains the gold standard in aviation, the FAA understands that continued innovation and modernization are important to safety and global leadership. While NextGen modernization has been implemented at certain airports and facilities under current constraints, the FAA's efforts are often hampered by piecemeal government appropriations (*e.g.*, continuing resolutions, sequesters) and a slow Federal procurement process. A private, nonprofit ATC cooperation would be able to leverage private sector financial tools with more flexibility and, therefore, accelerate implementation of aviation technology. Combined with a steady, predictable revenue stream from user fees and borrowing from capital markets when necessary, the new corporation 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.

Question 2. Will the FAA and the Department of Transportation or the corporation's CEO and Board determine the priorities and funding allocations for modernization programs during the transition?

Answer. The Administration's principles for modernizing air traffic control specifically state that the transition period should be subject to milestones that are developed and monitored by the Secretary of Transportation to ensure that planning and implementation progress is made. In addition to the safety oversight role, the Department and the FAA will continue to play a large role in shaping modernization priorities during the transition. Additionally, the Secretary will be responsible for reviewing changes to airspace proposed by the new organization. In doing so, the Secretary will ensure that any proposed changes comply with performance-based regulations, which will encourage airspace efficiencies and modernization.

Question 3. What guarantees are there in the Administration's proposal that modernization will remain a priority if Congress legislates a non-government Air Traffic Organization? How would modernization initiatives be funded after the transfer to the private entity is complete?

Answer. In the transition period, the Department and the FAA will work with the NextGen Advisory Committee to continue implementation of the four existing NextGen Integrated Working Group areas (multiple runway operations, performance-based navigation, surface operations and data sharing, and data communications), as well as assess and track performance goals and measure NextGen benefits. These benefits will allow Congress, stakeholders, and the public to clearly measure the delivery of NextGen benefits in the transition period, including with respect to increasing safety, reducing aviation's impact on the environment, enhancing controller productivity, and increasing predictability, airspace capacity, and efficiency.

After the transition, the Administration believes that the new entity should be financially self-sustaining through imposition and collection of fees that are sufficient to cover costs of operations as well as recapitalization and continued modernization of the air traffic control system.

To be clear, the critical aviation safety activities such as the certification of manufacturers 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 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.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO
HON. ELAINE L. CHAO

Issue No. 1: Rail safety

In 2008, Congress required railroads to have safety plans. Many already do that, but this ensures they do it and do it right. The Obama administration finalized a rule at the end of the last administration concerning passenger railroads; it wasn't perfect, but it was progress. Then the new Trump administration decided to forego implementing it, delaying through the first half of the year. In early June, DOT announced the rule would be stayed another six months.

Question 1. Why is the system safety rule repeatedly being delayed—despite being mandated by Congress nearly a decade ago?

Answer. At the start of this year, the White House issued guidance requesting a review of new and pending regulations. The system safety program final rule is one of the regulations under review. This review includes petitions for reconsideration of the final rule.

Three months after publication of the system safety program final rule, four petitions for reconsideration of the rule and a comment on issues raised in the petitions were filed. As these petitions raise complex legal issues, DOT is doing a thorough review and assessment to provide an appropriate response. As part of its response, DOT plans to meet with the Railroad Safety Advisory Committee in October to discuss the petitions and responses with the necessary stakeholders.

Question 2. Can I get your commitment that there will be no more delays?

Answer. DOT would like to implement this rule as soon as possible; however, it is vital that the necessary stakeholders provide input on the petitions for reconsideration. Once that is complete, DOT will issue a response to the petitions and implement the rule.

Issue No. 2: Enforcement of the PTC requirement

In early June, the FRA released the latest numbers regarding railroad efforts to implement Positive Train Control. As you know, this technology could have saved the lives of hundreds of people over the years—had it been installed. For nearly 50 years the National Transportation Safety Board has been urging railroads to implement it. Railroads have a 2018 deadline—that of course comes after an original 2015 deadline was pushed back.

The numbers recently released aren't promising. It's becoming clear many major freight railroads will miss the deadline. And some passenger railroads too.

Question 3. How are you going to make sure railroads meet the deadline?

Answer. I will work with the Federal Railroad Administration to continue overseeing the rail industry's progress towards implementing positive train control (PTC) systems and to ensure each railroad subject to the statutory mandate—including Class I railroads, Amtrak, and commuter railroads—fully implements a PTC system. In May 2017, FRA sent a letter to each railroad at risk of both not meeting the December 31, 2018, implementation deadline and not completing the statutory requirements necessary to receive an extension. In June 2017, FRA also notified governors and state DOTs of the commuter railroads in their states that are at risk of not meeting the deadline and encouraged their direct involvement, as necessary, to ensure commuter railroads prioritize PTC system installation, PTC field testing, and full PTC system implementation.

I am aware of the technological struggles and costs associated with PTC implementation and am committed to working with the railroads to ensure proper implementation of PTC technology by the deadline in December 2018.

Question 4. What fines and penalties will you impose for railroads that miss the deadline?

Answer. My first and foremost priority is to ensure compliance and progress are being made under the extended deadline provided by Congress. The Department of Transportation and Federal Railroad Administration are working diligently with the railroads to hold them accountable and make certain they are progressing towards compliance.

I am aware that PTC implementation is costly and, in some cases, technologically challenging, and am committed to working with the railroads to ensure proper implementation of PTC technology. As we approach the December 31, 2018, implementation deadline, the Federal Railroad Administration will consider all administrative actions available to best facilitate PTC implementation.

Additionally, Congress has afforded the Secretary of Transportation administrative authority to extend the full compliance deadline beyond 2018 to 2020, if railroads meet certain statutory requirements. The Department and the Federal Rail-

road Administration will continue to monitor compliance with the statutory PTC mandate and will strongly emphasize the importance of meeting the December 31, 2018 implementation deadline. If railroads fail to comply with the statutory deadline, the Department will consider its enforcement options.

Issue No. 3: Unfilled positions at DOT for key safety oversight roles

The administration has yet to nominate anyone to head the Federal Railroad Administration, National Highway Traffic Safety Administration, Federal Transit Administration, and many other agencies that oversee safety.

At your nominations hearing, you said safety is your biggest priority. In response to questions I posed concerning safety, you said you'd task administrators with accomplishing those goals. But there are no administrators.

Question 5. When will the president nominate someone to oversee these many agencies?

Answer. I share in your sense of urgency to fill the leadership roles for the agencies at the Department. The Administration is making progress. The Senate recently confirmed the Maritime Administrator, and the Commerce, Science and Transportation Committee reported the nomination for the Federal Railroad Administration. The Department hopes for his swift Senate confirmation. We also expect the President to soon announce nominees for other key positions at DOT.

Question 6. What are you doing to address this void in safety leadership?

Answer. Safety is paramount at the Department of Transportation and, despite the vacancies that exist for Senate confirmed leadership positions; we have the benefit of a professional and knowledgeable corps of career employees who are equally dedicated to safety.

Question 7. How are you addressing safety issues in the absence of any administrators?

Answer. Please see the response to question 6.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CORY BOOKER TO
HON. ELAINE L. CHAO

Subcontractors

I'm very concerned about recent trends in the subcontracting of our cabin cleaners, caterers, and wheelchair attendants. Last month, Senator Brown and I sent letters to the CEOs of each of the major airlines asking for more information about their increased reliance on the subcontracted workforce.

As a former Labor Secretary, you are uniquely suited to understand the role workers play in the transportation sector.

Question 1. Do you think we can and should do more to improve labor conditions for workers that play these vital roles?

Answer. The aviation industry workforce is a crucial segment of the Nation's economy. The Department's Bureau of Transportation Statistics (BTS) recently released figures showing significant gains in the employment numbers for U.S. scheduled passenger airlines. According to BTS statistics, there were 3.6 percent more airline workers in May 2017 than in May 2016. This growth in jobs is a positive trend for the economy, the airlines and the airline employees. We hope to see this trend continue, and support conditions that encourage industry growth.

Question 2. What do you think airlines can do to improve labor conditions for workers—both the primary workers employed by the airlines, and the workers employed by the companies airlines subcontract with?

Answer. Pay, benefits, and working conditions have generally been a subject for collective bargaining in the airline industry. Growth in compensation and better labor conditions depends in large part on the health of the aviation industry. We must pursue policies that ensure the vitality of airlines.

Importance of Minority-Owned, Women-Owned, and Disadvantaged Business Enterprises in Airport Infrastructure Projects

For decades, the United States Department of Transportation has required airports to set goals for the inclusion of minority-owned, women-owned, and disadvantaged businesses in federally-funded projects.

This is a successful program across multiple transportation agencies, which is why I included an amendment to last year's FAA reauthorization legislation that aligns the Department of Transportation (DOT)'s definition of a small business with that used by the Small Business Administration (SBA). This amendment passed the

Senate but unfortunately it was not included in the FAA extension bill that became law.

Question 3. Do you agree that it is important to include small business owners from historically disadvantaged groups in federally funded airport infrastructure projects?

Answer. The Department is committed to and strongly supports the long-standing involvement of disadvantaged businesses enterprises (“DBEs”) in federally-funded airport infrastructure projects. We recognize the economic opportunity that such projects provide to emerging businesses, and such business opportunities are often valuable as a means of highlighting the economic importance of the airport to surrounding communities.

Question 4. Will you commit to work with Congress to expand access and remove obstacles to participation for disadvantaged small business owners in these projects?

Answer. The Department stands ready to work with Congress to expand access and remove obstacles to participation for qualified disadvantaged small business owners in federally-funded airport infrastructure projects.

DBEs in AIP vs. PFC

The Airport Improvement Program (AIP) and the Passenger Facility Charge (PFC) are both important funding streams for airport infrastructure projects. However, unlike the AIP, the PFC program does not set participation goals for women- and minority-owned small businesses, otherwise known as disadvantaged business enterprises (DBEs).

Meanwhile, PFCs are eclipsing AIP as the primary funding source for airport infrastructure. This means that DBEs are missing out on more and more contracting opportunities for these projects. According to a 2015 report prepared for the Airport Minority Advisory Council, the cost of these missed opportunities may be as high as \$564 million.¹

Question 5. What is the Department’s plan to improve DBE participation in PFC-funded projects?

Answer. PFCs play an important role in airport infrastructure funding and provide a certain level of flexibility upon which airports rely. Ever since the PFC program was established by law 27 years ago (in 1990), it has been treated as a special form of local revenue subject to Federal approval. Consequently, the PFC program has never been subject to any of the Federal requirements associated with Federal funds. For example, PFC-funded projects are not required to follow Federal procurement rules, Buy American requirements, etc.

At the same time, local jurisdictions that have their own DBE programs and goals (which are often higher than the Federal targets) and can apply those goals to PFC-funded projects. It is also worth noting that many airports combine AIP and PFC funding in a single contract, and many airports use PFCs for the local share of AIP grants. In such cases, DBE requirements apply to the entire project or contract.

Question 6. Would it be helpful to update legislation in this area?

Answer. In order to apply the DBE program to PFC-funded projects, a statutory change would be necessary. If such legislation is proposed, the Department would consider it carefully.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO TO HON. ELAINE L. CHAO

Question 1. Boulder City in my state is a non-towered airport that had about 100,000 aircraft operations in CY 2016. They have experienced several incidents where aircraft using crossing runways at the same time have had close calls. A contract tower would clearly add an important layer of air traffic safety at the airport. Also, Boulder City had about 250,000 air carrier passenger enplanements in CY 2015, an increase of 15 percent over CY 2013. What are DOT/FAA’s plans to make sure the contract tower program is protected and enhanced for participating airports and those interested in getting into the program including Boulder City?

Answer. The Department shares your commitment to ensuring that the FAA provides cost-effective air traffic services that enhance the safety of the national airspace system. To this end, the FAA is allowing new towers into the program. Candidate airports that have already received a benefit-cost (BC) ratio of 1.0 or greater can continue the process of entering the Contract Tower program. Consistent with the FY17 omnibus appropriations, the FAA is also evaluating outstanding applica-

¹ AMAC, “DBE Analysis of AIP vs. PFC-Funded Projects,” P. 9. March 20, 2015.

tions to join the program, including Boulder City Municipal Airport. When this evaluation is complete, any applicant receiving a BC ratio of 1.0 or above will be considered eligible to join the Contract Tower program, subject to funding availability and meeting operational requirements. Any applicant receiving a BC ratio below 1.0 will have an opportunity to appeal the results to the FAA.

In addition to its review of applications, the FAA is currently in the process of conducting studies that will inform a revised methodology for the benefit-cost analysis. The FAA expects that these studies will be completed shortly. It has been over 25 years since the FAA reviewed the safety and efficiency effects of these towers. Based upon this updated information, the FAA will develop its revised methodology that will go through public notice and comment. The FAA will then use the updated methodology to conduct benefit-cost analysis.

Question 2. During the hearing we discussed aspects of UAS, and I asked you: “I also know that there’s been Federal personnel hiring freezes and the executive order requiring two-for-one regulations. I want to make sure that those programs or those policies are not holding back any of the development into the UAS research and regulations.” To which you responded that you didn’t believe those policies hadn’t impacted progress, but that you would take a look. I would appreciate you following up with what you found out about the impact of staff limitations or regulation restrictions on movement needed UAS activities, including the UAS research, development, or enforcement of FAA policies or regulations.

Answer. The FAA has reviewed the Enforcing the Regulatory Reform Agenda and Hiring Freeze Executive Orders (EO). On the former, the FAA recently tasked our existing Aviation Rulemaking Advisory Committee (ARAC) to provide recommendations on complying with the regulatory EO. We look forward to reviewing the recommendations to help inform future rulemaking activities.

We are still moving ahead with our efforts to integrate UAS into the NAS. For example, as you know, we’ve been working on our next rulemaking to allow small unmanned aircraft to fly over people under specific circumstances. Flying UAS over people raises safety questions because of the risk of injury in the event of a failure. It also raises security issues, and we are working with our interagency partners to reconcile these challenges.

Moreover, the FAA can still process waivers and exemptions to regulations to allow UAS integration on a case-by-case basis. The FAA will continue to work on regulations that enable new UAS operations in a safe manner, so we can demonstrate the regulations are potentially beneficial to the UAS industry, while also achieving FAA’s safety and integration goals.

On the hiring freeze, as a Federal sub-agency under the Department, the FAA is included in the Federal-wide hiring freeze. The FAA has coordinated with the Department to define the vacant positions needed to be filled in order to sustain FAA’s public safety and national security responsibilities as well as exemptions for critical positions which may become vacant in the future while the hiring freeze is in effect. Aerospace engineers, aviation safety inspectors, and air traffic controllers are exempt from the freeze due to their public safety responsibilities. FAA’s employees are dedicated to their work, and are committed to ensuring that UAS integration continues unimpeded.

Question 3. Also on drones, during your recent remarks at a conference in Fargo, ND, you stated: “The FAA is also crafting a pilot program designed to let local communities try different regulatory concepts for controlling drone activity. This will generate data and best practices that the Department can use to help ensure the safety of people and property on the ground and in the air.” Can you please provide me with (a) additional background on this specific program, including whether this includes flights beyond the line of sight and over populations, (b) regular updates on the progress of this initiative, and (c) specifics on how communities like Reno and Las Vegas can be included and helpful in this effort?

Answer. The Department and FAA are working to develop a program that will foster innovation and generate data to support further integration of UAS into the NAS. To that end, we are examining all possibilities for meaningful partnership with communities, including those involving operations that can be authorized under existing legal authority. We hope to have broad participation from communities interested in being on the leading edge of UAS integration. We will provide more information on how those communities can participate when the program is finalized.