

**NOMINATIONS TO THE DEPARTMENT  
OF TRANSPORTATION, THE SURFACE  
TRANSPORTATION BOARD, THE NATIONAL  
TRANSPORTATION SAFETY BOARD, AND THE  
CORPORATION FOR PUBLIC BROADCASTING**

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**HEARING**

BEFORE THE

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

**ONE HUNDRED ELEVENTH CONGRESS**

**FIRST SESSION**

\_\_\_\_\_  
**JULY 29, 2009**  
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Printed for the use of the Committee on Commerce, Science, and Transportation



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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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**WEDNESDAY, JULY 29, 2009**

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

The Committee met, pursuant to notice, at 2:30 p.m. in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV,  
U.S. SENATOR FROM WEST VIRGINIA**

The CHAIRMAN. The hearing will come to order. Good afternoon, everyone. I welcome you.

Are those who are going to introduce our nominees here? No? Well, there's nothing like loyalty.

[Laughter.]

Senator HUTCHISON. Mr. Chairman, I am going to introduce one, but I think we ought to go ahead let them come up.

The CHAIRMAN. Thank you. I appreciate your advice.

We have five very important nominations, and I am very proud of the folks that we are going to be taking a look at. I think it is always spectacular when people give up the opportunity to do other things and come into public service where you are guaranteed to come out 20 years older and 30 years poorer, but you do not care because you want a chance to serve your country. And that is true, I think, in both Democratic and Republican administrations. The sense of public service is very deep and very strong and one that we all honor.

I think with Chris Bertram, the President's nominee to be Assistant Secretary for Budget and Programs and Chief Financial Officer of the United States Department of Transportation, he needs all the encouragement he can possibly get.

[Laughter.]

The CHAIRMAN. He has been such a valuable resource to our Committee that all of this is a little bit bittersweet. He is professionally committed to achieving bipartisan compromise and he is very effective. Chris has a long history of public service in the transportation industry and all kinds of other important matters.

Mr. Daniel Elliott is the President's nominee to serve and lead the Surface Transportation Board. You too, sir, only have a few minutes to reconsider your whole situation.

[Laughter.]

The CHAIRMAN. Being the head of the STB is hard. It is just plain hard. I do not worry about you in any respect.

It is the agency that has the task of overseeing economic regulation of the railroad industry. It also has to keep in mind something called shippers. There are railroads and there are people who put things on railroads that give railroads their profits and their capacity to proceed. It has been sort of a one-sided game in this person's judgment for the last 24 years or so. Everything has been for the railroads. Very little has been for the shippers. I have many, many, many reasons for saying that.

Mr. Elliott comes from the Board of the United Transportation Union, where he served as Associate General Counsel since 1993. So he knows not just our board, but a variety of other railroad boards very, very intimately.

I have had a lot of concern about railroad shippers. It has sort of been the thing I have worked on for 24 consecutive years and made no progress whatsoever. I expect it all to change under you, sir.

Ms. Susan Kurland, the President's nominee to be Assistant Secretary for Transportation for Aviation and International Affairs at the U.S. Department of Transportation, brings critical experience as Director of the Airport Division at the FAA and extensive work with aviation in the private sector. As you are aware, the Committee marked up the FAA reauthorization bill to come before the full Senate. I hope you will discuss your thoughts on all of this and there will be time for that.

Mr. Christopher Hart, the President's nominee to be a Member of the National Transportation Safety Board, of which our Ranking Member was a Member of that Board for a long period of time, that being Senator Hutchison, has a long history at the FAA and was a Member of the NTSB from 1990 to 1993.

Are you looking for an appointment?

[Laughter.]

Senator UDALL. Mr. Chairman, I already have one from the good people of Colorado.

The CHAIRMAN. Oh, you do.

Senator UDALL. Yes, sir.

The CHAIRMAN. So you are here to introduce somebody.

Senator UDALL. I am, Mr. Chairman.

The CHAIRMAN. Well, that is good. OK. We want to keep all the options open here.

Finally, Ms. Patricia Cahill, the President's nominee to be a Member of the Board of Directors of the Corporation for Public Broadcasting and currently serves as General Manager of a public radio station which boasts more than 190,000 listeners weekly. As a CPB Board Member, Ms. Cahill will take on tremendous public trust at a transformative time for broadcast media. It will be your job to make sure that public broadcasting evolves as media consumption moves beyond traditional radio and television and, to be quite frank, is in peril.

It is sort of my bromide that two things in peril in this country are classical music and public broadcasting, and they track each other. They used to be way up there. Now they are down to about 3 percent. Three percent of Americans buy classical CDs. Three percent of Americans watch public television. However, they are some of the most important Americans around, and many of them are in this city.

So I thank you for coming forward. And before I call on those who will introduce the nominees, I obviously call on the Ranking Member, Senator Hutchison.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,  
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Thank you, Mr. Chairman. I hope that means you have taken NASA off your list of imperiled agencies.

Thank you, Mr. Chairman, for having this hearing. We are really well on our way to filling the agencies and Departments that are so important for our country, and I am pleased.

First, I want to talk about Chris Bertram, and this is my introduction of Chris who will be the Assistant Secretary for Budget and Programs at the Department of Transportation. He is a member of our Committee staff, has been since 2003, and has done a wonderful job as our Senior Budget Advisor and Professional Staff Member. He also is a native of Fort Worth, Texas, and he will bring great talent to the Department of Transportation.

He has handled a wide variety of issues over the years, including aviation, surface transportation, auto and highway safety, transportation security, and auto fuel efficiency standards.

Prior to joining our Committee, he was the Assistant Administrator for Financial Services and Chief Financial Officer for the FAA. He also has been a senior aide on the House Committee on Transportation.

Chris has a master's degree in public policy from Harvard University and a bachelor's degree from Trinity University in San Antonio.

I am very pleased that he has been given this chance to contribute to the Department of Transportation.

Susan Kurland, nominated for Assistant Secretary of Aviation and International Affairs at the Department of Transportation, is going to be serving in a very important capacity as we craft a plan to move forward in the next generation air traffic control system. Our Committee, with Senator Rockefeller in the lead, has been working on FAA reauthorization, and we are trying very hard to get NextGen up and going. We are already behind many parts of the world in getting our air traffic control system into the technology of today, and that will be a very important focus for Ms. Kurland.

Daniel Elliott is going to, if confirmed, be designated as Chairman of the Surface Transportation Board. I have been working with Chairman Rockefeller and others to draft a comprehensive STB reauthorization, which we have not had since 1996. And I think that it is very important that this be a balanced consensus measure to address shippers and the rail industry concerns because

both are very important to our economy. So I will look forward to hearing from Mr. Elliott.

I want to welcome Christopher Hart, nominated for the NTSB. As a former Vice Chair of that organization, I know how important the role of safety for our country is in the NTSB. There are several important traffic, airline, and metro investigations going on now. So I hope that we can confirm Mr. Hart to that important Board.

And Ms. Patricia Cahill, as has been said, will be on the Board of Directors of the Corporation for Public Broadcasting. It is very important. I am surprised that the Chairman says 3 percent of our country actually listen to it. I think it is great too, and particularly I think their children's programming on television is the best in the business. So I look forward to her as well.

Thank you, Mr. Chairman. And I think we have a good group of nominees here today.

[The prepared statement of Senator Hutchison follows:]

PREPARED STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Thank you, Chairman Rockefeller, for holding today's hearing to consider several nominees for important positions within the Federal Government.

I think I speak for all Committee members in expressing delight and indeed pride that among today's nominees, we are considering Mr. Chris Bertram, who has been nominated to serve as Assistant Secretary for Budget and Programs at the Department of Transportation (DOT). Chris is a member of my Committee staff and also happens to call Fort Worth, Texas, "home." We are all thrilled that the President recognizes Chris's great talents and professionalism and has reached across the aisle to nominate him for this important position at the Department.

Since 2003, Chris has served as this Committee's Senior Budget Advisor and Professional Staff Member, handling a wide variety of issues over the years, including aviation, surface transportation, auto and highway safety, transportation security, and auto fuel efficiency standards. Prior to joining our Committee, he was the Assistant Administrator for Financial Services and Chief Financial Officer for the Federal Aviation Administration (FAA), where he was the principal advisor to the Administrator on the agency's budget, performance management, and financial management. Chris has also been a senior aide with the House Committee on Transportation and Infrastructure as well as having served in various capacities with the Office of Management and Budget and in the DOT. He has a Master in Public Policy Degree from Harvard University and a Bachelors Degree from Trinity University in San Antonio, Texas.

Today, we will also consider the nomination of Ms. Susan Kurland to be Assistant Secretary for Aviation and International Affairs at the Department of Transportation. If confirmed, Ms. Kurland will play an important role in crafting our national aviation policy. This position is especially important right now as we continue the FAA Reauthorization process and have tried to craft a plan for moving forward in the Next Generation Air Traffic Control system.

We will also consider that nomination of Mr. Daniel Elliot, who has been nominated to serve as a Member of the Surface Transportation Board (STB), and if confirmed, will be designated its Chairman. I have been working with Chairman Rockefeller and others to draft a comprehensive STB reauthorization measure and hope that we can achieve a good, balanced consensus measure to address shippers and rail industry concerns. Despite efforts by many of us to reauthorize and improve the Board over the past years, it has not been reauthorized since its creation in January 1996. I look forward to hearing Mr. Elliot's views on the important issues facing the Board.

I would also like to welcome Mr. Christopher Hart, nominated to be a Member of the National Transportation Safety Board (NTSB). As a former NTSB Vice-Chair, I understand well the important role the Board plays in promoting our Nation's transportation safety. There are several important transportation accident investigations ongoing at the Board—including the investigation of the recent deadly Metro accident—so it is appropriate that we move swiftly on Mr. Hart's confirmation.

And last but not least, the only non-transportation related nominee here today, I would like to welcome Ms. Patricia Cahill. Ms. Cahill has been nominated to serve

on the Board of Directors of the Corporation for Public Broadcasting. Public broadcasting serves an important role in communities. It provides high quality educational programming and news to viewers and the CPB makes significant contributions to our communities through outreach activities. I look forward to hearing Ms. Cahill's vision for public broadcasting today.

Again, thank you, Mr. Chairman. I look forward to hearing from the nominees.

The CHAIRMAN. Thank you very much.

I now call on the distinguished and incredibly powerful Senator from Illinois, a State which I married into.

[Laughter.]

The CHAIRMAN. He is quite marvelous and he is going to introduce Susan Kurland. Senator Durbin?

**STATEMENT OF HON. RICHARD DURBIN,  
U.S. SENATOR FROM ILLINOIS**

Senator DURBIN. Mr. Chairman, thank you very much. From the incredibly powerful State of West Virginia, I appreciate that introduction, and Senator Hutchison, thank you as Ranking Member.

This is an opportunity for me to introduce Susan Kurland for her nomination to the Department of Transportation to serve as Assistant Secretary for Aviation and International Affairs. She has a long record of service in aviation, which I know is important to the Chairman and to all of us, both in Illinois and here as part of the Federal Government. Her experience will certainly serve her well.

She began her public service career with the City of Chicago, where she was General Counsel to one of the Nation's largest aviation systems. She was responsible for overseeing all legal issues at O'Hare Airport, the busiest in our Nation. Her experience in Chicago caught the attention of President Clinton, who asked her to serve as Associate Administrator for Airports at the FAA. Her work at the FAA gave her a keen understanding of the impact airports have on cities large and small. She knows firsthand how crucial airports and reliable air service are to the economic success of our communities.

Commercial air service and modern airports have a direct impact on a city's ability to create and attract businesses, and I know this Committee is committed to that, as it supports and administers the Essential Air Service program, the Federal program created to get all of America connected to our national and international aviation system.

Susan, if confirmed, will be directly responsible for administering this program. With her Midwestern roots and her experience at the local and national level, I am confident she will work with the Committee to breathe new life to Essential Air Service and the many communities who depend on it.

Chairman Rockefeller and Members of the Committee, I want to thank you for the opportunity to introduce Susan Kurland, and as you conduct this hearing and the strong oversight the Committee is known for, I can assure you you will find that she shares your understanding of the critical role of our national aviation system. Thank you.

The CHAIRMAN. Thank you, Senator Durbin.

Now I would call on Senator McCaskill to introduce Patricia Cahill to be a Member of the Corporation for Public Broadcasting.

**STATEMENT OF HON. CLAIRE McCASKILL,  
U.S. SENATOR FROM MISSOURI**

Senator McCASKILL. Thank you, Mr. Chairman.

The CHAIRMAN. You have got an hour, if you want to take it.

Senator McCASKILL. An hour?

The CHAIRMAN. Yes, take an hour.

Senator McCASKILL. I am going to bitterly disappoint you. I am just going to take a few minutes.

I want to thank you, Mr. Chairman, for the opportunity to introduce an outstanding nominee for the Board of the Corporation of Public Broadcasting.

Patty Cahill I have known and been acquainted with her work for many, many years. She has worked in public radio for 40 years, and it has, in fact, been her career.

She is currently the General Manager of KCUR-FM, the public radio station at the University of Missouri in Kansas City. She is also an Assistant Professor at the University, where she teaches broadcast management. Her experience at KCUR, her prior experience at other radio stations, her service on the Board of Directors at National Public Radio, and her previous role at the Corporation for Public Broadcasting make her more than qualified for this position.

The programming provided and administered by the Corporation for Public Broadcasting is the kind of public/private partnership that we can all support. Public broadcasting continually puts out quality programming that is educational, informative, and intellectually stimulating. In an age where viewers and listeners have many choices, public broadcasting standards are at a higher level and provides the public with the in-depth coverage that we just cannot get other places. Patty's experience and leadership will help ensure that the Corporation for Public Broadcasting continues these high standards.

I am very proud to have nominated her to the board, and I certainly urge the Committee and the Senate to confirm her nomination. Let me just tell you I think that there are many things about Patty that will make her good at this job, but from my part of the world, we like to brag on our common sense, and Patty Cahill has a boatload of common sense that she will bring to this work. I think our country will be well-served by it and I know public broadcasting will.

Thank you, Mr. Chairman, and congratulations to you, Patty Cahill. And thank you, Ranking Member, Ms. Hutchison, also.

The CHAIRMAN. Thank you, Senator McCaskill. After that introduction, it may not be necessary even to have her give testimony. We will just vote her right through.

Now I want to call on Senator Sherrod Brown to introduce Daniel Elliott for the Surface Transportation Board.

I have to just tell a very bad joke because his brother is actually here. Charlie Brown is Sherrod Brown's brother. Charlie Brown comes from West Virginia. I have had a very hard time adjusting to the fact that there could be anyone other than Charlie Brown. So I call Sherrod—I call him Charlie. And in return for that elegance on my part, he calls me Nelson.

[Laughter.]

The CHAIRMAN. A true story. And it has worked out very well.

**STATEMENT OF HON. SHERROD BROWN,  
U.S. SENATOR FROM OHIO**

Senator BROWN. Now I call you "Mr. Chairman." Thank you, Mr. Chairman.

Ranking Member Hutchison, thank you, and Senator Thune and Senator McCaskill, thank you. And Jay, thanks very much for that introduction.

I am pleased to offer my strong support for the nomination of my fellow Ohioan, Daniel Elliott III, to serve as Chairman of the Surface Transportation Board. This is an important moment for the STB and for the railroads and the shippers and the consumers that count on the Board's fair and impartial judgment. We must have a smart, competent Chairman at this critical juncture, and I believe and am proud to introduce Dan Elliott as that person.

Before I continue, I should tell you all that Dan Elliott is a distant cousin of mine, but in a world where President Obama and Vice President Cheney are also distant cousins, I think we can agree that a dab of DNA is by no means destiny. So you should not hold that against Dan.

The Committee should also know, however, way more importantly, that Dan's credentials speak for themselves. Dan has practiced law for some 20 years, 16 of those as Associate General Counsel at the United Transportation Union in Cleveland. In his role, Dan has argued cases before several U.S. circuit courts of appeals, before the STB, before the National Mediation Board, and before the National Labor Relations Board. He has worked extensively with the parties involved in both the shipping and the rail business, and he has both the experience and the expertise needed to successfully fulfill the difficult role as STB Chairman.

In addition to his work on behalf of employees, Dan has published numerous articles on the Railway Labor Act, as well as other facets of the railroad industry.

Dan is joined by his parents, Dan Elliott and Carolyn Chad Giltz, who are sitting behind me and behind him.

Over the years, I have witnessed Dan's dedication to his family, his integrity, and his dedication to the task at hand. That is why I am proud of him. I am proud of his public service and I look forward to his service as Chair of the STB. I offer my wholehearted support for the nomination of Dan Elliott III to serve as the Chairman of the Surface Transportation Board.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Udall, before I call on you, I wanted to call on Senator Thune, who wants to speak on behalf of one of our nominees, Mr. Bertram, Chris Bertram, because he has worked diligently on the minority staff, formerly the majority staff. Senator Thune?

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

Senator THUNE. Thank you, Mr. Chairman. I did not mean to preempt the Senator from Colorado. Maybe it is seniority around here or something. Right?

But I do appreciate the opportunity to say congratulations to Chris Bertram and to congratulate all our nominees today for their willingness to serve their country. I think there are a lot of reasons why one would accept the call to public service. I think public service is a very high calling. But it is especially true when we are facing troubled economic times, when our Nation and Government are facing historic challenges that you want to have people involved in public service that are qualified and that are dedicated to their jobs. I congratulate all of our nominees today for their nominations and their willingness to serve.

But I do, in particular, want to welcome Chris Bertram back to the Committee. I first got to know Chris while I served on the House Transportation and Infrastructure Committee and we were working on a highway bill many, many years ago. And I am quite certain that, if there is anything that Chris will not miss about being up here, it is writing another highway bill and working out formulas between donors and donees. He will probably be glad to leave that in the rear view mirror.

But most recently, as the Ranking Member of the Surface Transportation Subcommittee, I have had the pleasure of working with Chris on many of the challenging transportation issues over the past several months. I really commend the President and Secretary LaHood for recognizing Chris with this honor. His skills are going to be a great asset to the DOT, although a great loss to this Committee. But Chris is the consummate professional, Mr. Chairman, as I know you—everybody, I think, who serves on this Committee and the staff, all know. And we look forward to working with him in a new role and continuing to move the issues that are important to transportation and infrastructure development in this country forward.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Thune.

Now, Senator Mark Udall, I call on you to introduce Christopher Hart.

**STATEMENT OF HON. MARK UDALL,  
U.S. SENATOR FROM COLORADO**

Senator UDALL. Thank you, Mr. Chairman.

I enjoyed, I think as everybody did here, the comments you directed at Senator Brown and the ones that he has directed back at you. I know in Arizona, enough Udalls have served in public office that there is an old saying that you cannot spit without hitting a Udall. I do not know, when it comes to the Rockefeller family, what is said in New York and West Virginia and Arkansas. But at some point, you might be able to elaborate further.

The CHAIRMAN. Oh, we are just sort of Eastern elitists.

[Laughter.]

Senator UDALL. On that note, Mr. Chairman, thank you for inviting me here today, and Ranking Member Hutchison, Senator McCaskill, Senator Thune. It is my distinct honor to introduce and recommend for your favorable consideration a very impressive Coloradoan, Christopher Hart. I am sure he would express great affection for West Virginia and Texas and South Dakota and Missouri, if you ask him, as well.

His resume, if you look at it, is a testament to his commitment to and expertise in the area of transportation safety. What gives me the most confidence, Mr. Chairman, is his ability to serve effectively on the NTSB, as he served in that very capacity before. He had an impressive private career which was preceded by the winning of an engineering degree at Princeton and then a law degree at Harvard, and then he went into private practice.

He turned to public service in 1990, and served on the NTSB in that era. And since then, he has served in various roles at the National Highway Traffic Safety Administration, the Federal Aviation Administration, and he was most recently serving as the Deputy Director of the Air Traffic Safety Oversight Service at the FAA.

In addition to being an authority on transportation safety, he is a pilot himself, with almost 3,000 hours. And I am sure that his experience flying will really add to his understanding of transportation safety issues and make him that much more effective in his role at the NTSB.

So it is clear, Mr. Chairman, he is very well qualified, has a remarkable background, and I hope the rest of the Committee will be as impressed with him as I have been. Should he be confirmed, his wealth of experience will ensure that we have a safer transportation system.

Thank you for inviting the Senator from Colorado over here.

The CHAIRMAN. Thank you, Senator. Thank you for taking the time.

Now, we have three chairs, but those are all for Senators. So we have to perform a little identification switch, and then if I could get the nominees all to come and sit at the table and then each give their opening statements, which are already a part of the record, I would be grateful.

Mr. Bertram, in that you have sort of an inside track here, why do you not lead off?

**STATEMENT OF CHRISTOPHER P. BERTRAM,  
ASSISTANT SECRETARY-DESIGNATE FOR BUDGET  
AND PROGRAMS AND CHIEF FINANCIAL OFFICER  
DEPARTMENT OF TRANSPORTATION**

Mr. BERTRAM. Thank you, Mr. Chairman, Senator Hutchison, and Senator Thune. It is a great honor for me to appear before you today as the President's nominee for the position of Assistant Secretary of Budget and Programs and Chief Financial Officer at the Department of Transportation.

The Department of Transportation's annual budget exceeds \$70 billion. This funding supports programs designed to improve transportation safety, modernize the country's infrastructure, and improve the operation of transportation systems. As Assistant Secretary and CFO, one of my top priorities would be to ensure that this funding is managed as effectively as possible so that the taxpayers can be assured that their Government is investing their transportation dollars wisely.

If confirmed, I look forward to working closely with the Congress on many of the important transportation challenges facing our country, including the modernization of the air traffic control sys-

tem, the reauthorization of the Department's surface transportation programs, and improving transportation safety.

Finally, I would like to thank the members and staff of this Committee for the opportunity to have worked with them over the last 6 years on important and interesting issues and legislation. This Committee has improved the Nation's transportation systems and promoted the safety of the traveling public, and I will always appreciate having played a supporting role in your many legislative accomplishments.

I will be happy to respond to any questions. Thank you.

[The prepared statement and biographical information of Mr. Bertram follows:]

PREPARED STATEMENT OF CHRISTOPHER P. BERTRAM, ASSISTANT SECRETARY-DESIGNATE, FOR BUDGET AND PROGRAMS AND CHIEF FINANCIAL OFFICER, DEPARTMENT OF TRANSPORTATION

Thank you, Mr. Chairman, Senator Hutchison and Members of the Committee. It is a great honor for me to appear before you today as the President's nominee for the position of Assistant Secretary of Budget and Programs and Chief Financial Officer (CFO) at the Department of Transportation.

The Department of Transportation's annual budget exceeds \$70 billion. This funding supports programs designed to improve transportation safety, modernize the country's infrastructure, and improve the operation of transportation systems. As Assistant Secretary and CFO, one of my top priorities would be to ensure that this funding is managed as effectively as possible so the taxpayers can be assured that their government is investing their transportation dollars wisely.

If confirmed, I look forward to working closely with the Congress on the many important transportation challenges facing our country including the modernization of the air traffic control system, the reauthorization of the Department's surface transportation programs, and improving transportation safety.

Finally, I would like to thank the members and staff of this Committee for the opportunity to have worked with them over the last 6 years on important and interesting issues and legislation. This Committee has improved the Nation's transportation systems and promoted the safety of the traveling public and I will always appreciate having played a supporting part in your many legislative accomplishments.

I will be happy to respond to any questions.

Thank you.

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A. BIOGRAPHICAL INFORMATION

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

Christopher Patrick Bertram.  
Nickname: Christoph and Chris.

2. Position to which nominated: Assistant Secretary for Budget and Programs, and Chief Financial Officer, Department of Transportation.

3. Date of Nomination: July 9, 2009.

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

Residence: Information not released to the public.

Office: DSOB 560, Washington, D.C. 20515.

5. Date and Place of Birth: January 14, 1964; Heilbronn, West Germany.

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

Spouse: Catherine Drissel Bertram, Attorney, Regan Zambri & Long, PLLC, Suite 350, 1919 M Street, NW, Washington, D.C. 20036.

Children: Paul Manfred Bertram, 16; Anne Jacqueline Bertram, 13.

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

Master in Public Policy, John F. Kennedy School of Government, Harvard University, Cambridge, Massachusetts; 1988.

Bachelor of Arts, Trinity University, San Antonio, Texas; 1985.

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

*Senior Budget Advisor and Professional Staff Member, Committee on Commerce, Science, and Transportation, U.S. Senate, 2003 to present.*

Currently responsible for all budgetary issues affecting programs within the Committee's jurisdiction. Legislative accomplishments include: the Titles in the 2005 multi-year Highway Reauthorization Bill covering highway, auto, truck, and hazardous materials safety; the 2003 Federal Aviation Administration (FAA) and aviation security legislation; the 2004 and 2007 aviation security provisions in legislation implementing the recommendations of the 9/11 Commission; the 2008 Amtrak reauthorization and rail safety legislation; and the 2007 legislation strengthening the Corporate Average Fuel Economy (CAFE) program.

*Assistant Administrator for Financial Services and Chief Financial Officer, Federal Aviation Administration, U.S. Department of Transportation, 2001 to 2003.*

Served as the agency's senior official responsible for the development and implementation of the agency's budget, performance management, accounting and financial management. In this position I had responsibility for the management of a combined operating and capital budget of over \$13 billion for the 50,000-person agency. I was able to obtain and maintain a clean audit of the agency's financial statements. The position required me to serve as the chief liaison for financial issues with the Office of the Secretary of Transportation, the Office of Management and Budget, and the Congressional Appropriations Committees.

*Staff Director, Committee on Transportation and Infrastructure Subcommittee on Highways and Transit, U.S. House of Representatives, 1996 to 2001.*

In this position I served as the senior staff member overseeing the activities and staff of the Subcommittee on Highways and Transit. I was responsible for drafting major legislation including the Transportation Equity Act for the 21st Century (TEA 21), the Aviation Investment and Reform Act (AIR 21) and the Motor Carrier Safety Act of 1999.

*Budget Examiner, Transportation Branch, Office of Management and Budget 1990 to 1994 and 1995 to 1996.*

As a budget examiner, my areas of responsibility included the Federal aviation, highway, transit, and Coast Guard programs.

Project Manager, Budget Office, City of Dallas, 1995.

Budget Specialist, Dallas Public Schools, 1995.

*Program Analyst, Office of Programs and Evaluation, U.S. Department of Transportation, 1988 to 1990.*

I served as analyst in the Office of the Secretary on policy and budget issues related to transportation programs.

Transportation Planner, Maryland Department of Transportation, 1988.

Teaching Assistant, Harvard University, 1987 to 1988.

Loan Analyst, Colonial Savings, Fort Worth, TX, 1986.

Clerk, L&M Bookstore, San Antonio, TX, 1985 to 1986.

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

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

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years: None.

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

Bethesda Chevy Chase Isaak Walton League, 2008 to present.

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

Candidate for County Surveyor, Bexar County Texas 1986, there is no outstanding campaign debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

No contribution over \$500.

2006—Volunteered in Ohio for Senator Mike DeWine.

2008—Volunteered during South Carolina Presidential Primary for Senator John McCain.

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

Presidential Management Intern—1988 to 1990.

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

In my positions for the Senate Commerce Committee and the House Transportation and Infrastructure Committee I have frequently appeared on panels before groups to describe the legislation work of the Committees. These were not prepared remarks.

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

House Committee on Transportation and Infrastructure hearing on the Status of the Highway Trust, 1996.

House Committee on Transportation and Infrastructure hearing on the Woodrow Wilson Bridge, 1999.

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

I believe that my professional experience in Federal budgeting and finance in both the executive and legislative branches of the Federal Government is a good background for the position of Assistance Secretary for Budget and Programs, and Chief Financial Officer. I have over 20 years of experience in the area of transportation policy and budgeting involving all major modes of transportation.

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

Proper management and accounting controls are critical to the success of any large organization, and I am committed to ensuring that such controls are in place and maintained at the Department of Transportation. In 1990, the Congress passed, and the President signed into law, the Chief Financial Officers (CFO) Act. This act established a CFO in each cabinet department and at major agencies and required improved financial controls and reporting. Implementing the requirements of the CFO Act at the Department of Transportation is one of the most important responsibilities of the position I am being nominated for. As the CFO for the Federal Aviation Administration (FAA) I had a similar role. As CFO, I was responsible for managing over 100 employees and advised the Administrator on management issues affecting the whole agency.

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

*Reauthorization of Aviation and Surface Transportation Programs:* The authorization act governing the Department's surface transportation programs expire at the end of this Fiscal Year. The aviation authorization has already expired and the FAA's programs are operating under short-term extensions. The reau-

thorization process is necessary to resolve many complicated and contentious issues.

*Financial Viability of Transportation Trust Funds:* The highway trust fund faced a shortfall in funds East year that required an emergency infusion of \$8 billion from the general fund. A further infusion will be required this before this August. The balance in aviation trust fund has recently reached historic lows. The majority of the Department's infrastructure programs are funded from these two trust funds. The financial condition of the trust funds puts these programs in peril. The Department will have to work with the Office of Management and Budget and the Congress to develop long term financing solutions that will ensure the viability of these important infrastructure programs.

*Oversight of ARRA Funding:* The Department of Transportation received \$48.1 billion in Recovery Act funds. Although much of it was appropriated for established transportation programs, a significant amount was appropriated for new programs, such as high speed rail. The Department will have to carefully Monitor the Expenditure of These Funds.

#### B. POTENTIAL CONFLICTS OF INTEREST

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

I am vested in the Federal Employee Retirement System (FERS) and have a Federal Thrift Savings Plan.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In my professional positions in the House of Representatives, the U.S. Senate, and at the Federal Aviation Administration I have engaged in crafting legislation and advocated that legislation be crafted in certain ways. I have worked on legislation in following areas: the Highway Bill, the FAA authorization, transportation security, transportation safety, Amtrak, auto fuel economy, and appropriations.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

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

Even though I was not named as a party, there was one case against the Department of Transportation that included claims about my actions as the Assistant Administrator for Financial Services and Chief Financial Officer of the Federal Aviation Administration (FAA). In *Patrick J. Heidenthal vs. Secretary*, Mr. Heidenthal claimed I did not select him for a position because of his age. I maintained that he was not the most qualified person for the position. The case was settled after I left the FAA with Mr. Heidenthal agreeing to retire and to a payment to cover his legal fees.

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

#### D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

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#### RESUME OF CHRIS BERTRAM

##### **Work Experience**

U.S. Senate, Committee on Commerce, Science, and Transportation, Senior Budget Advisor and Professional Staff Member/Staff Director of Subcommittee on Surface Transportation and Merchant Marine, 2003 to Present.

Advised Committee members on the development and execution of an aggressive legislative agenda on all aviation issues, including aviation security and safety.

Legislative accomplishments include the 2003 aviation and aviation security legislation, the Century of Aviation Reauthorization Act, and the 2004 and 2007 aviation security provisions in legislation implementing the recommendations of the 9/11 Commission.

Staff Director of Subcommittee responsible advising Committee members on all surface transportation issues under the jurisdiction of the Committee, including highway and auto safety, auto fuel efficiency standards (CAFE), freight rail safety and economics, Amtrak, pipeline safety, maritime programs, and hazardous materials safety.

Legislative accomplishments include the Committee's Safety Title to the Multi-year Highway Reauthorization Bill covering highway, auto, truck, and hazardous materials safety.

Responsible for all budgetary issues affecting programs within the Committee's jurisdiction.

Represented Committee Members in meetings with Members of Congress, the Executive Branch representatives and outside groups.

Organized Committee hearings, including identifying expert witnesses, preparing background material, and developing lines of questioning and advised and assisted Committee Members during floor debates.

Federal Aviation Administration, Assistant Administrator for Financial Services and Chief Financial Officer, 2001–2003.

Senior official responsible for the development and implementation of the agency's budget, performance management, accounting and financial management. Daily and long-term responsibility for management of a combined operating and capital budget of over \$13 billion for the 50,000-person agency.

Obtained and maintained a clean audit of the agency's financial statements.

Liaison for financial issues with the Office of the Secretary of Transportation, and the Office of Management and Budget.

Negotiated final funding levels for FAA programs and other budgetary issues with Congressional Appropriations Committees.

Supervised and managed CFO Office with almost 200 employees and annual budget of \$60 million.

U.S. House of Representatives, Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, Staff Director—Majority, 1996–2001.

Served as the senior staff member overseeing the activities and staff of the Subcommittee on I Highways and Transit.

Drafted major legislation including the Transportation Equity Act for the 21st century (TEA 21), the Aviation Investment and Reform Act (AIR 21) and the Motor Carrier Safety Act of 1999.

Policy expert on the effect of the Federal budget process on transportation programs.

Expertise in the Federal highway, transit, highway safety, pipeline safety and trucking safety programs.

Office of Management and Budget, Budget Examiner, 1990–1996.

Areas of responsibility included the Federal aviation, highway, transit, and Coast Guard programs.

Supervised team of OMB analysts during the reauthorization of surface transportation legislation.

Responsible for developing Administration policy proposal on innovative financing for transportation.

Twice awarded professional achievement awards.

Took one-year sabbatical to work in the finance offices of City and School System of Dallas.

U.S. Department of Transportation, Office of Budget and Programs, Budget and Program Analyst, 1988–1990.

Served as analyst in the Office of the Secretary on policy and budget issues related to transportation programs.

Developed cost estimates for the implementation of the Americans with Disabilities Act (ADA).

#### **Education**

Harvard University, Cambridge, MA., 1986–1988.

Master in Public Policy.

Selected as Presidential Management intern.

Trinity University, San Antonio, TX., 1982–1985.

Bachelor of Art—History and European Studies.

The CHAIRMAN. Thank you, Mr. Bertram.

Now we turn to Susan Kurland.

#### **STATEMENT OF SUSAN L. KURLAND, ASSISTANT SECRETARY- DESIGNATE OF AVIATION AND INTERNATIONAL AFFAIRS, DEPARTMENT OF TRANSPORTATION**

Ms. KURLAND. Thank you, Chairman Rockefeller, Ranking Member Hutchison, and Senator Thune, for the opportunity to appear before you today. I am deeply honored to be here as President

Obama's nominee for Assistant Secretary for Aviation and International Affairs for the Department of Transportation and greatly appreciate the confidence and support of Secretary LaHood. If confirmed, I look forward to working closely with the Members of this Committee and your staffs.

Before I would begin, I would like to take the opportunity to introduce some of my family who are here with me today: my sister, Judy Biber; my brother and sister-in-law, Jacob and Audrey Kurland; and my niece and nephew, Rebecca and Marshall Kurland. I would also like to thank my late parents, Milton and Pearl Kurland, whose love and support encouraged me along the path which brought me here today.

By way of background, I have over 20 years of experience in senior level government and private sector aviation roles, including airport, airline, local government, Federal Government, and airport infrastructure financing. I spent the first several years of my career as an Attorney, both in government and private practice and later as General Counsel for one of the country's major airport systems. There I saw firsthand the vital economic role that aviation plays not only nationally but also in our local and regional economies. From there, I was honored to serve as Associate Administrator for the Federal Aviation Administration, leading the FAA's national airport program. I later worked in-house as Deputy General Counsel at an airline on a broad range of issues. In my current position in public finance, I deal with airport infrastructure financing and municipal finance.

These positions have given me a unique combination of aviation experience from several different perspectives and many opportunities to see and work through different viewpoints. I have learned firsthand the importance of cooperation and working with stakeholders, and if confirmed, I would bring the benefit of these experiences and an open mind to this position.

As the Committee knows well, there are many challenges and opportunities that face us both in the domestic and international aviation arenas, as well as in the areas of international transportation policy crossing all the modes of transportation. The safety of all the facets of our national aviation system continues to be the Department of Transportation's number one aviation priority. Also key is the modernization of the air traffic control system and delivery of the NextGen initiatives in order to reduce congestion and increase the efficiency of our aviation system.

Among other critical issues that we face are ensuring that consumers have the benefits of vigorous air carrier competition, services, and fares. This is especially so during these very difficult economic times. It is important to work to preserve and improve air service to small and rural communities through programs such as the Essential Air Service program. With respect to international aviation, working to enhance the competitiveness of our Nation's air carriers, other transportation providers and manufacturers globally is essential. Continuing the Open Skies policy and maximizing new opportunities is vital to continuing opening up foreign markets to U.S. carriers and improving air service for travelers, shippers, and our communities.

If confirmed, I look forward to working with the Members of this Committee and your staffs regarding these and other critical issues that are before us.

Mr. Chairman, thank you again for scheduling this hearing and I would be pleased to answer any questions that you may have. Thank you.

[The prepared statement and biographical information of Ms. Kurland follows:]

PREPARED STATEMENT OF SUSAN L. KURLAND, ASSISTANT SECRETARY-DESIGNATE OF AVIATION AND INTERNATIONAL AFFAIRS, DEPARTMENT OF TRANSPORTATION

Thank you Chairman Rockefeller, Ranking Member Hutchison, and Members of the Committee for the opportunity to appear before you today. I am deeply honored to be here as President Obama's nominee for Assistant Secretary for Aviation and International Affairs for the Department of Transportation, and greatly appreciate Secretary LaHood's confidence and support. If confirmed, I look forward to working closely with the Members of this Committee and your staffs.

Before I begin I would like to introduce some of my family who are here with me today, my sister Judy Biber, my brother and sister-in-law Jacob and Audrey Kurland and my niece and nephew, Rebecca and Marshall Kurland. I would also like to thank my late parents, Milton and Pearl Kurland whose love and support encouraged me along the path that has brought me here today.

By way of background, I have over twenty years of experience in senior level government and private sector aviation roles—including airport, airline, local government, Federal Government, and airport infrastructure financing. I spent the first several years of my career as an Attorney both in government and private practice, and later as general counsel for one of the country's major airport systems. There I saw firsthand the vital economic role that aviation plays, not only nationally but also in our local and regional economies. From there I was honored to serve as Associate Administrator for Airports for the Federal Aviation Administration, leading the FAA's national airport program. I later worked in-house as Deputy General Counsel at an airline on a broad range of issues. In my current position in public finance, I deal with airport infrastructure financing and municipal finance. These positions have given me a unique combination of aviation experience from several perspectives and many opportunities to see and work through different viewpoints. I have learned first-hand the importance of cooperation and working with stakeholders. If confirmed, I would bring the benefit of these experiences and an open mind to this position.

As the Committee knows well, there are many challenges and opportunities facing us in both the domestic and international aviation arenas, as well as in the areas of international transportation policy involving all modes of transportation. The safety of all facets of our national aviation system continues to be the Department's number one aviation priority. Also key is the modernization of the air traffic control system through delivery of NextGen initiatives in order to reduce congestion and increase the efficiency of our aviation system.

Among other critical issues that we face are ensuring that consumers have the benefits of vigorous air carrier competition, services and fares. This is especially so during these difficult economic times. It is important to work to preserve and improve air service to small and rural communities through programs such as the Essential Air Service program. With respect to international aviation, working to enhance the competitiveness of our Nation's air carriers, other transportation providers and manufacturers globally is essential. Continuing the Open Skies policy and maximizing new opportunities is vital to continue opening up foreign markets to U.S. carriers and improving air service for travelers, shippers and our communities.

If confirmed, I look forward to working with the Members of this Committee and your staffs regarding these and the other critical issues before us. Mr. Chairman, thank you again for scheduling this hearing and I would be pleased to answer any questions you and the Committee may have.

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A. BIOGRAPHICAL INFORMATION

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

Position to which nominated: Assistant Secretary for Aviation and International Affairs, U.S. Department of Transportation.

3. Date of Nomination: July 7, 2009.

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

Residence: Information not released to the public.

Office: 55 W. Monroe, Ste. 3500, Chicago, IL 60603.

5. Date and Place of Birth: East Chicago, IN; November 18, 1951.

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

Single; no children.

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

B.A.—Brandeis University—1969–1973.

JD—Boston University School of Law—1973–1976

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

Jefferies and Company, Inc. (3/2009 to present), *Managing Director, Municipal Securities Group*.

DEPFA First Albany Securities (2004–3/2009), *Head of Chicago Group, Public Finance*.

Kurland Associates, LLC (2002–2004), *President (Aviation Consulting Firm)*.

USAirways, Inc. (1999–2001), *Vice President and Deputy General Counsel*.

Federal Aviation Administration (1996–1999), *Associate Administrator for Airports*.

City of Chicago, Department of Law (1987–1996), *Deputy Corporation Counsel—Aviation, Contracts and Finance; Chief Assistant Corporation Counsel—Contracts; Senior Attorney Supervisor—Contracts*.

Ancel, Glink, Diamond, Murphy & Cope, P.C. (1982–1987), *Attorney Specializing in Municipal Law*.

City of Newton Law Department (1976–1982), *Assistant City Solicitor for City Departments and the Newton School Committee*.

Solomon, Rosenfeld, Eliot & Stiefel (Summer 1974, 1975), *Summer law clerk*.

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

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

Transportation Research Board (TRB)—Committee on Aviation Economics and Forecasting (2007–2008).

TRB Airport Cooperative Research Program (ACRP) Review Panel regarding the Impact of Jet Fuel Price Uncertainty on Airport Planning and Development (2008–2009).

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Airports Council International—North America (2004–present), *Vice-Chairman of Associates Board (2007), Chairman of Associates Board (2008), Immediate Past Chairman of Associates Board and Associates Board Liaison to Board of Directors (2009)*.

Jefferies & Company, Inc.—Chicago, IL, *Managing Director, Municipal Securities Group (3/2009–present)*.

DEPFA First Albany Securities—Chicago, IL, *Head of Chicago Group, Public Finance, Director, Senior Vice President (First Albany Capital) (2004–3/2009)*.

Kurland Associates, LLC—Washington, D.C., *President (Aviation Consulting Firm) (2002–2004)*.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fra-

ternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Airports Council International—North America (2004–present), Vice-Chairman of Associates Board (2007), Chairman of Associates Board (2008), Immediate Past Chairman of Associates Board and Associates Board Liaison to Board of Directors (2009), Represented City of Chicago on the Legal Committee (1990–1996), Chairman of the Legal Committee from January–April 1996, does not restrict membership.

American Association of Airport Executives—Member (2002–2007), does not restrict membership.

Air Transport Association by virtue of my employment by U.S. Airways, served on chief legal officers' and litigation committees (1999–2001), does not restrict membership.

ABA Air and Space Forum Governing Committee (2002–2004), does not restrict membership.

Aero Club of Washington, D.C. (late 1998 and early 2000). Also served as Federal Government liaison during part of my tenure at FAA; does not restrict membership.

International Women in Aviation (2004–2008), restricts membership based on gender.

Lake Shore Drive Synagogue—(mid-1980s to late-1990s)—member and member of Board of Directors part of the time, restricts membership based on religion. City Club of Chicago (2007–present), does not restrict membership.

Women in Public Finance (2006–present), does not restrict membership.

I've also been a member of the American Bar Association, the Chicago Bar Association and the National Association of Bond Lawyers, none of which restricts membership.

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

I ran for and was elected as a town meeting member in Brookline, MA, from 1979–1981. I have no outstanding campaign debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

*2000*

DNC Services Corporation/Democratic National Committee	\$1,000
Gore/Lieberman General Election Legal and Accounting Compliance Fund	\$750
Committee to Re-elect Tony Williams	\$500

*2007*

Obama for America	\$1,000
Obama for America	\$1,300

*2008*

Obama Victory Fund	\$2,300
Obama Victory Fund	\$2,300

I volunteered for the Obama campaign as a member of the Transportation Policy Committee and Chair of the Aviation Subcommittee. I canvassed door-to-door in Iowa and Indiana; phone-banked in Chicago and Virginia; accompanied a friend who was speaking on behalf of the Campaign in Florida; and monitored a poll in Indiana on Election Day. I also spoke at the National Business Travel Association conference in July 2008 as a surrogate for the Campaign.

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

Graduated Phi Beta Kappa from Brandeis University.

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

*Publications*

“Annexation and Annexation Agreements”, Stewart H. Diamond, co-author, Chapter 11 in *Illinois Municipal Law* (Illinois Institute for Continuing Legal Education, 1987).

“Council Practices and Procedures”, Louis Ancel and Stewart H. Diamond, co-authors, Chapter 2 in *Illinois Municipal Law 1984 Supplement* (Illinois Institute for Continuing Legal Education, 1984).

“A Guide for Loss Reduction for Elected Officials and Managerial Personnel”, John B. Murphey and Stewart H. Diamond, co-authors (Handbook prepared for the Intergovernmental Risk Management Agency, 1984).

“Notice of Injury Forms—What Are They? What do you Do With Them?”, *Illinois Municipal Review* (September, 1983).

“Democratization in Concord: A Political History, 1750–1850”, in Concord, ed. by David Hackett Fischer (Waltham, 1983); and in *Chronos, A Journal of Social History* (Brandeis University, Fall, 1983).

*Speaker/Panelist Appearances—Airports/Airport Finance*

In my capacity as an employee for the City of Chicago, FAA, Kurland & Associates, U.S. Airways, and Jefferies and Company, from 1987 to present. I have delivered numerous speeches and presentations to various groups and organizations such as ACI-NA, ABA—Air and Space Forum, AAAE, NASAO and TRB on topics such as airport legal issues, airport improvement grants, passenger facility charges, and municipal markets and their impact on airport infrastructure finance.

Below are a few examples of my recent appearances:

May 2009—at the ACI-NA Legal Committee meeting I spoke about the current municipal market and its impact on airport financings.

April 2009—at the ACI-NA Commissioners’ Conference I spoke about the current municipal market and its impact on airport financings.

July 2008—I spoke at the National Business Travel Association conference as a surrogate for the Obama campaign. Topic involved talking about potential aviation issues that would be facing a new Administration.

January 2007—I moderated a panel regarding airport finance at the TRB annual conference.

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

*Committee:* Senate Commerce, Science, and Transportation.

*Date:* May 14, 1996.

*Testimony:* David R. Hinson, Administrator, FAA.

*Topic:* FAA and AIP Reauthorization.

*Role:* Technical Assistance.

*Committee:* Senate Appropriations.

*Date:* April 16, 1997.

*Testimony:* Barry L. Valentine, Acting Administrator, FAA.

*Topic:* Transportation And Related Agencies FY98, Transportation Appropriations.

*Role:* Technical Assistance.

*Committee:* Senate Commerce, Science, and Transportation.

*Date:* July 21, 1998.

*Testimony:* Kenneth R. Wykle, Administrator, FHWA.

*Topic:* Discretionary Spending At Commerce, Transportation Depts.

*Role:* Technical Assistance.

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

I believe in public service. With over twenty years of senior level government and private sector aviation roles, I have a unique combination of aviation experience from many different perspectives—including airline, airport, local government, Federal Government, and airport infrastructure financing. In addition, I believe I have strong leadership and management skills, and am a consensus builder. I wish to

serve in the position of Assistant Secretary for Aviation and International Affairs because I believe that my background and skill set fits well with the programs and responsibilities under the purview of this position. If confirmed, I believe that I could contribute to the important efforts of President Obama, Secretary LaHood, and Congress in these areas.

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

I believe proper management and accounting controls are critical and, if I am confirmed, I will review existing procedures and institute any changes as appropriate. I have experience managing large and diverse organizations. As FAA Associate Administrator for Airports, I led FAA's airport line of business, managing a 500-person nationwide staff. At U.S. Airways I managed day-to-day affairs of a nine-attorney in-house law department of a major U.S. airline. As general counsel for the City of Chicago's Airport System, I managed the attorneys (including outside counsel) providing legal services for the City's airports.

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

(1) Safety of the Nation's aviation system continues to be the number one aviation and departmental priority. This includes the regulation and oversight of air carrier operations, maintenance and repairs, and runway safety.

(2) Ensuring that consumers reap the benefits of robust air carrier competition, service and fares. Two important components are service to rural communities and international service through open skies agreements to ensure global competition.

(3) Modernization of the air traffic control system through delivery of NextGen initiatives in order to reduce congestion and delays within our aviation system.

#### B. POTENTIAL CONFLICTS OF INTEREST

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

Pursuant to an April 2009 agreement, I will receive deferred compensation in the amount of \$17,000 from Jefferies & Company in February, 2010.

On June 24, I became eligible under Jefferies & Company's policies to participate in the firm's 401K program, which is supposed to take effect on my last paycheck in July. If confirmed, I would roll over the 401K.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

I formed the Coalition of American-Owned Security Companies, an informal group of four companies that sought implementation of the airport screening opt-out pro-

gram under the Aviation and Transportation Security Act. The coalition ceased activities in early 2004.

I volunteered for the Obama campaign as a member of the Transportation Policy Committee and Chair of the Aviation Subcommittee. I also spoke at the National Business Travel Association conference in July 2008 as a surrogate for the campaign.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

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

In 1997, I filed an action to dissolve a business relationship with Sandra Roberts in the Circuit Court of Cook County, IL. In 2000, the relationship was dissolved and the real estate owned by the partners was sold.

In 2002, the Estate of Thomas Jordan filed suit in the Circuit Court of Cook County to recover on three promissory notes allegedly executed by Sandra Roberts and allegedly guaranteed by Brewster Creek Kennels, Inc., Brewster Creek Associates (the Partnership), Sandra Roberts individually and as a partner in the Partnership, and Susan Kurland, as a partner in the Partnership. The trial court ruled in my favor. The Estate of Thomas Jordan appealed the decision and the Appellate Court of Illinois, First Judicial Circuit, affirmed the circuit court's ruling in my favor.

Given the regulated nature of their work, First Albany Capital (after acquisition of the municipal finance group of First Albany, the remaining firm became Broadpoint Capital), DEPPFA First Albany Securities, U.S. Airways, and the FAA have been involved in a number of litigation and regulatory matters. I do not believe I was ever named in any of the suits while I was a senior official at these organizations, with the exception of *city of Los Angeles v. United States FAA*, 239 F.3d 1033, where I was named in my official capacity while Associate Administrator for Airports of FAA (I was unaware of this case until a public records search was done).

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

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

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

#### D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

**Professional Experience**

Jefferies & Company, Inc.—Chicago, Illinois, Managing Director, Municipal Securities Group, 3/2009–present.

DEPFA First Albany Securities—Chicago, Illinois, Head of Chicago Group, Public Finance, 2004–3/2009.

Kurland Associates, LLC—Washington, D.C., President (Aviation Consulting Firm), 2002–2004.

US Airways, Inc.—Arlington, Virginia, Vice President and Deputy General Counsel, 1999–2001.

Federal Aviation Administration—Washington, D.C., Associate Administrator for Airports (White House Appointment), 1996–1999.

City of Chicago Department of Law—Chicago, Illinois, Deputy Corporation Counsel—Aviation, Contracts and Finance; Chief Assistant Corporation Counsel—Contracts; Senior Attorney Supervisor—Contracts, 1987–1996.

Ancl, Glink, Diamond, Murphy & Cope, P.C.—Chicago, Illinois, Attorney Specializing In Municipal Law, 1982–1987.

City of Newton Law Department—Newton, Massachusetts, Assistant City Solicitor for City Departments and the Newton School Committee, 1976–1982.

**Selected Achievements***Leadership and Management*

Head of DEPFA First Albany and now Jefferies' Chicago municipal finance practice: clients include the City of Chicago, Chicago Public Schools, and Illinois Housing Development Authority. Also serve as a senior member of firm's airport finance group and have led various airport financing assignments for firm clients including Denver International Airport, Tucson Airport and Jacksonville Airport Authority.

Formed the Coalition of American-Owned Security Companies (CASC). CASC sought implementation of the airport screening opt-out program under the Aviation and Transportation Security Act.

Managed day-to-day affairs of nine-attorney in-house law department of major U.S. airline with approximately \$8.0 billion in operating revenues and 44,000 employees. Managed outside counsel, litigation, budgetary and personnel matters, and supervised director of security department.

Led Federal Aviation Administration's (FAA) national airport program, managing approximately 500 person nationwide staff, with annual operating budget exceeding \$43 million. Administered \$1.95 billion annual airport grant and \$1.4 billion annual passenger facility charge (PFCs) programs that provide funding for airport capital improvements including security, airside, and other capacity infrastructure. Directed staff responsible for formulating the national airport systems plan.

As General Counsel for the City of Chicago's Airport System, supervised attorneys (including outside counsel) providing regulatory, legislative, contract, finance, real estate and bankruptcy counsel; included dealing with Midway Airlines bankruptcy and negotiating Midway Airport Use and Lease agreement with Southwest Airlines.

*Policy and Strategic Planning*

Active in expanding DEPFA First Albany and now Jefferies' Chicago area municipal practice and responsible for strategic development of national airport client base.

Directed and coordinated CASC strategy regarding airports, Transportation Security Administration (TSA) Congress and media.

Oversaw design and execution of FAA airport policies and strategies for achieving legislative and regulatory goals and requirements. Examples included FAA Airport Revenue Use Policy and Program Guidance for Letters of Intent (LOIs).

Directed development and issuance of FAA pilot program guidelines for Congressionally enacted airport privatization program. Conducted individual and

public meetings with airports, airlines, and other stakeholders; and public comment period regarding proposed program guidelines.

Directed design and implementation of innovative FAA pilot grant finance programs, such as allowing pilot airport projects to use certain finance options otherwise unavailable on federally funded projects.

Partnered with other departments in the development of U.S. Airways' Customer Commitment program addressing Congressional concerns regarding airline/passenger relationships.

Key member of Chicago's team in the creation and implementation of the Chicago-Gary Regional Airport Authority.

*Government and Industry Affairs—Federal, State, Local*

Represented airport and security-related clients with TSA, FAA and Congress. Frequently interacted on behalf of FAA with Federal, state and local government officials in both executive and legislative branches. Examples included testifying at Congressional hearings regarding FAA reauthorization and discretionary grant programs.

Briefed Senators, Congressmen and their staffs regarding FAA programs and issues involving individual airports. Met regularly with airports, airlines, community groups and other stakeholders regarding particular airport developments and issues.

Representing FAA, frequent speaker at industry conferences.

Represented U.S. Airways on the Air Transport Association chief legal officer and litigation committees.

Frequent speaker at airport industry conferences regarding airport finance issues.

*Public Finance/Commercial Transactions*

At DEPFA First Albany and now at Jefferies, serve as an investment banker specializing in municipal and airport financing. The firm's clients include a wide variety of public sector entities throughout the country, such as the City of Chicago and Denver International Airport.

Negotiated airline use and other commercial airport agreements and leases for the City of Chicago. Airline use agreements govern airport/airline relationships, including financing of airport capital improvements, such as cargo facilities, and domestic and international terminals.

Served as issuer's counsel on more than \$1.4 billion of airport revenue bonds, including general airport revenue bonds, and special facility financings.

*Regulatory*

Managed FAA national airport program with responsibilities for issuing airport improvement grants, PFC approvals, and national airport systems plan. Directed staff responsible for airport compliance with grant assurances, safety, inspections, and design and technical standards.

Counseled U.S. Airways on a broad range of Federal regulatory matters, including safety, security, customer service and airport issues.

Advised Chicago on Federal, state and city regulatory issues concerning aviation, finance, and contracts.

**Education**

Boston University School of Law, Juris Doctor, 1976.

Brandeis University, Bachelor of Arts, 1973.

Phi Beta Kappa, Magna Cum Laude, Junior Year at University College, University of London, London, England

**Professional Associations (recent)**

American Bar Association Air and Space Forum, Governing Committee (2002–2004).

Airports Council International—North America

Associates Representative to ACI–NA Board of Directors (2009).

Chairman, Associates Board of Directors (2008), Vice-Chairman (2007), Board Member (2005–2008).

Economic Committee Steering Committee (2005).

Transportation Research Board, Member—Committee on Aviation Economics and Forecasting (2007–2008).

The CHAIRMAN. Thank you very much, Ms. Kurland.  
Mr. Elliott, we look forward to what you have to say.

**STATEMENT OF DANIEL R. ELLIOTT, III, MEMBER-DESIGNATE,  
SURFACE TRANSPORTATION BOARD**

Mr. ELLIOTT. Chairman Rockefeller, Ranking Member Hutchison, Senator Thune, it is truly a privilege to be here before you today as President Obama's nominee to the Surface Transportation Board. It is a great honor to be considered for such an important position, and I would like to thank Senator Brown for his kind words of introduction, even though he is no longer here.

If confirmed, I intend to bring an open-minded, fair, and impartial decisionmaker to the Surface Transportation Board. I understand, as I heard in the Chairman's remarks, that there are contentious issues between the shippers and the railroads, and I want to assure the Committee, as I am before you here today, that I come here with no preconceived notions of who is right and who is wrong. I believe that I will look at the facts and law of each case and apply them in a just manner.

I have worked for the last 16 years handling cases before the Surface Transportation Board relating to the United Transportation Union, which has helped me understand many of the issues that come before the Board, many of its procedures, and some of its problems. I have also litigated cases, as mentioned earlier, in the Federal courts at the circuit court and district court level across this country. I believe, if confirmed, that this experience will be a nice complement to the present membership of the Board.

Also, if confirmed, I look forward to working with this Committee on the reauthorization of the STB. I intend to be as responsive and accessible as possible and will work with you to reach a balanced solution to these contentious issues between shippers and rail. I will also make myself accessible to the board's stakeholders and hopefully all of us together can create the best possible rail transportation system for all involved.

Thank you for your consideration, and I would be happy to answer any questions at the appropriate time.

[The prepared statement and biographical information of Mr. Elliott follows:]

PREPARED STATEMENT OF DANIEL R. ELLIOTT, III, MEMBER-DESIGNATE,  
SURFACE TRANSPORTATION BOARD

Thank you, Chairman Rockefeller, Ranking Member Hutchison and distinguished Members of the Committee for the privilege of appearing before you today as a nominee for the Surface Transportation Board.

Mr. Chairman, I applaud your long-standing interest and efforts in making the Board's processes fair to both shippers and railroads. I share your belief that the STB should always be impartial, balanced and open-minded in carrying out the law.

I appear today as President Obama's nominee to the Board, a decisionally independent agency with significant adjudicative, regulatory and policy-making responsibilities. The President, through his historic proposed investment in high-speed rail, has acknowledged the economic and environmental benefits of rail transportation to our Nation. Rail is "green" technology that takes vehicles off our congested

highway system and reduces our dependence on imported oil. Moving goods efficiently and cheaply by rail should be an option for as many shippers as possible.

If the Committee and the Senate gives me the honor of serving on the Board, I pledge to use my position to bring more harmony to the often contentious relationship between shippers, who need to compete in an increasingly competitive global marketplace, and railroads, which need the necessary revenues to maintain our Nation's vital rail infrastructure.

For 16 years I have litigated cases before the Surface Transportation Board representing members of the United Transportation Union. This has given me valuable experience in working through issues specific to the Federal statutes interpreted by the Board and exposed me to shipper, worker and railroad concerns. I believe my litigation and other experience would complement that of the current Board members.

I graduated from the University of Michigan with a degree in political science and earned my law degree from Ohio State University. I have practiced at firms in Washington and in Cleveland before coming to the UTU as Associate General Counsel.

In my extensive dealings with the STB, I have seen up-close the dedication and professionalism of Board members and staff, but I have also seen areas where the process can be improved. I will look for ways to improve the agency's overall level of customer service and efficiency, starting with providing parties with a clearer understanding of where matters stand and increasing transparency in the Board's activities.

If confirmed, I would focus the Board's resources on bringing shippers and railroads together to promote more collaborative, less formal, efforts to provide better rail service.

I would allow more light to shine on the Board's work by improving communications and public outreach.

I also am eager to implement Congress's charge to monitor and improve Amtrak's passenger service. And I look forward to working closely and cooperatively with Congressional efforts on reauthorization of the STB.

If given the honor of being confirmed, I pledge to be open, fair and judicious to all parties who come before the Board. I will bring an open mind to the task, partial to neither railroads nor shippers. And I will try to live up to the trust put in me by President Obama and the members of this Committee by fostering a more open and harmonious approach to improving the Nation's rail system.

Thank you very much for your time and consideration. I look forward to answering any questions you might have.

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#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):  
Daniel Robert Elliott, III
2. Position to which nominated: Member of the Surface Transportation Board (if confirmed, will be designated Chairman upon appointment).
3. Date of Nomination: July 20, 2009.
4. Address (List current place of residence and office addresses):  
Residence: Information not released to the public.  
Office: United Transportation Union, 14600 Detroit Avenue, Lakewood, OH 44107.
5. Date and Place of Birth: December 1, 1962; Ann Arbor, MI.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage): None.
7. List all college and graduate degrees. Provide year and school attended.  
Ohio State College of Law, J.D., 1989.  
University of Michigan, B.A., 1985.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
Climaco, Climaco, Lefkowitz, Seminatore & Garofoli, Summer Associate, Cleveland, OH; 1987.  
Duvn, Cahn & Barnard, Summer Associate, Cleveland, OH; 1988.

Bishop, Cook, Purcell & Reynolds (now Winston Strawn), Associate, Washington, D.C.; 1989–1990.

Marshman, Snyder, Berkley & Kapp, Associate, Cleveland, OH; 1990–1991.

Chester Giltz & Associates, Associate, Cleveland, OH; 1991–1992.

United Transportation Union, Associate General Counsel, Lakewood, OH; 1993–present, one of my responsibilities in this position has been to monitor and handle cases at the Surface Transportation Board.

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

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

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Cleveland Tenants Organization, Board Member, 1997–present.

Christian Legal Services, Board Member, 2006.

DRE RE, LLC, Owner, 2007–present.

United Transportation Union, Associate General Counsel, 1993–present.

Murray Hill Galleries, Attorney, 2006–2007.

Fairmount Presbyterian Church, Elder, 2007–present.

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

Cleveland Tenants Organization, Board Member, 1997–present.

Mayfield Country Club, 2000–2002.

Fairmount Presbyterian Church, 1995 to present, Deacon, Trustee, Elder (While there are no stated restrictions, it is presumed that one would follow the Presbyterian faith).

Christian Legal Services, Board Member, 2006.

American Bar Association, Member, 2008–present.

American Bar Association Railway and Airline Committee, 2008–present.

Supreme Court of Ohio, 1989–present.

National Mediation Board Liaison Committee, 2007–2008.

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

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Barack Obama, President, 2008, \$2,000. Also, as a volunteer, I helped to raise money in 2008 for the general election campaign.

Sherrod Brown, U.S. Senate, 2006, \$1,250.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements: None.

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

The Railway Labor Act, Senior Editor (BNA 2d ed. 2005 & Supps. 2006–2007).

The Railway Labor Act Cumulative Supplement, Contributing Editor (BNA 1998, 2000 and 2001).

The Shore Line Status Quo Requirement, Cleveland State Law Review Volume 46 (1998).

The Railway Labor Act Bargaining Dilemma, *Journal of Transportation Law, Logistics and Policy* Volume 74 (2007).

In 2000, I spoke before the Surface Transportation Board Office of Proceedings regarding a labor organization's perspective on bringing cases before the STB.

For the last 4 years at the American Bar Association Railway and Airline Committee mid-winter meeting, I have spoken on various matters regarding the Railway Labor Act.

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

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

I have practiced before the Surface Transportation Board in my capacity as an attorney for the United Transportation Union for the last fifteen years. As a result, I am familiar with many of the issues and matters which come before the Board. Also, I have practiced law since 1989, which will be helpful in handling matters before the Board. I wish to serve in this position to help my country and the new administration during these difficult economic times. If confirmed, I will bring fair decision-making to the Board and work diligently to improve the industries regulated by the Board. I believe my work ethic and experience will be a strong asset to the Board in this work.

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

I believe I will have responsibility for the proper management and operation of the agency. As a result, it will be my responsibility to develop and utilize the expert staff to fulfill these duties. I have worked for the past fifteen years for the largest rail union in the United States as an attorney. In that role, I have learned how to work effectively with other staff and accomplish complex tasks.

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

The first challenge that faces the agency is to establish better communications between shippers and railroads. A stronger relationship between these parties would help to establish reasonable rates and to attract capital to maintain and improve the rail system.

The second challenge is to review the size of the Board staff. I believe the agency requires sufficient staff to provide for the expeditious handling and resolution of all proceedings before the Board in order to properly serve the public.

The third challenge that faces the Board is to ensure that interstate commerce flows smoothly and efficiently during these difficult economic times. Meeting this challenge will help to ensure the development and continuation of a sound rail transportation system in order to meet the needs of the public and national defense.

#### B. POTENTIAL CONFLICTS OF INTEREST

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

I presently have a defined benefit pension at the United Transportation Union. Upon my appointment to the Board, I will resign my position with the UTU and request a lump sum payout of my interest in the UTU Supplemental Pension Plan.

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

I am the sole owner of the currently inactive DRE RE, LLC, which was formed for the purpose of holding my two real estate investment properties. It is possible that the LLC may be activated while I am a Member of the Surface Transportation Board if confirmed. As I have stated in my Ethics Agreement letter to the Board's Designated Agency Ethics Official, if the LLC is activated, I will acquire no additional investment properties, and I will undertake only those investment activities that are needed to manage the assets in a prudent manner (such as maintaining the properties and advertising for tenants) and required to comply with all legal re-

quirements (such as signing tax returns). As a Member of the Surface Transportation Board, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of DRE RE, LLC, unless I first obtain a written waiver pursuant to 18 U.S.C. §208(b)(1).

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the STB's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Board's ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the STB's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Board's ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

I appeared before State of Minnesota legislative committees 1 day in March of 2005 to speak in support of a rail safety bill on the issue of Federal preemption. Also, as Associate General Counsel, I have advocated on behalf of the United Transportation Union before the Surface Transportation Board, National Mediation Board, Department of Labor, National Labor Relations Board and in the Federal courts in numerous cases.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the STB's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Board's ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

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

I was arrested once in late 1986 or early 1987 in Columbus, Ohio for disorderly conduct and open container in a vehicle (not driving). I pled guilty to these two minor misdemeanors and paid a fine.

I was charged with two separate housing violation actions in 2008 in Shaker Heights, Ohio, at the rental property I own there. One violation involved a bed in the basement which was removed the next day. The other violation involved various items, which needed to be fixed when I bought the house. I fixed these items. Both cases were dismissed after I took these corrective actions.

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

I was involved in two separate eviction cases as a plaintiff in 2006 in Shaker Heights, Ohio. Neither tenant had paid her rent for two to 3 months. Both cases were decided in my favor plus back rent.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: Please see answer to C.2.

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

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

#### D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

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#### RESUME OF DANIEL R. ELLIOTT, III

Objective: To become a member of the Surface Transportation Board.

#### Professional Experience

Associate General Counsel, United Transportation Union, Cleveland, Ohio, October 1993–present.

Federal Agency matters: experienced in Surface Transportation Board, National Mediation Board, National Labor Relations Board, and Department of Labor Federal grant employee protective arrangement proceedings. Emphasis in handling Surface Transportation Board cases under 49 U.S.C. §§ 10901, 10902, 10903 and 11323, including all major mergers from 1993 to present. Also, handled Federal appellate cases regarding Surface Transportation Board decisions. Labor and employment litigation and counseling on behalf of union and union members.

Review state legislation on labor and transportation matters for lobbying purposes.

“Served as sole counsel on *United Transportation Union v. Gateway Western Ry. Co.*, 284 F.3d 710 (7th Cir. 2002); *Ryan v. Union Pacific R. Co.*, 286 F.3d 456 (7th Cir. 2002); and *Adirondack Transit Lines, Inc. V. United Tramp. Union, Local 1582*, 305 F.3d 82 (2d Cir. 2002).

Associate, Chester Giltz & Associates, Cleveland, Ohio, 1991–1992.

Commercial and residential real estate appraisal.

Associate, Marshman, Snyder, Berkley & Kapp, Cleveland, Ohio, 1990–1991.

Research and drafting memoranda and motions for general litigation practice.

Associate, Bishop, Cook, Purcell & Reynolds, Washington, D.C., 1989–1990.

Research and drafting memoranda for general litigation practice.

#### Education

Ohio State College of Law, Columbus, Ohio.

Juris Doctor, May 1989.

University of Michigan, Ann Arbor, MI.

Bachelor of Arts, Political Science, May 1985.

Varsity track letterman 1982–1983.

#### Professional Publications

*Senior Editor*, The Railway Labor Act (BNA 2d ed. 2005 and Supps. 2006–2007).

*Contributing Editor*, The Railway Labor Act Cumulative Supplement (BNA 1998, 2000 and 2001).

The *Shore Line* Status Quo Requirement, *Cleveland State Law Review* Volume 46 (1998).

The Railway Labor Act Bargaining Dilemma, *Journal of Transportation Law, Logistics and Policy* Volume 74 (2007).

#### **Memberships and Admissions**

Member, Ohio Supreme Court.

Admitted to practice before Northern District of Ohio, and the Second, Third, Fourth, Sixth, Seventh, Eighth, Ninth and D.C. United States Courts of Appeals.

National Mediation Board Liaison Committee.

American Bar Association Rail and Airline Committee.

#### **Other**

Fairmont Presbyterian Church, Elder.

The CHAIRMAN. Thank you, Mr. Elliott.  
Now, Mr. Christopher Hart.

#### **STATEMENT OF HON. CHRISTOPHER A. HART, MEMBER-DESIGNATE, NATIONAL TRANSPORTATION SAFETY BOARD**

Mr. HART. Thank you, Mr. Chairman, Ranking Member Hutchison, and Senator Thune of this Committee for the opportunity to appear before you today in relation to my nomination by President Obama to serve as a member of the National Transportation Safety Board. I would like to thank Senator Udall for introducing me to this Committee this afternoon.

Being nominated by President Obama for this important position, one that has such a tremendous influence on transportation safety, is certainly a privilege and an honor.

Congress, it is wisdom, created the NTSB as an independent agency to conduct objective, impartial investigations of transportation mishaps in all modes of transportation, determine the causes, and make recommendations to avoid recurrences, all with a singular focus on improving safety. This process has resulted in innumerable safety improvements over the years. Indeed, the NTSB has performed its functions so well that it is viewed around the world as the gold standard in accident investigation.

Although the NTSB's perspective is obviously different than that of the regulatory agencies, by Congress' design, the ultimate goals are the same: improving transportation safety. In creating this type of relationship between the NTSB and the regulatory agencies, Congress developed a structure for improving safety that has been admired both by other industries in the United States and by governments all over the world.

Having previously had the honor of serving at the NTSB and having also been in transportation safety regulatory agencies since 1994, first at the National Highway Traffic Safety Administration, and then at the Federal Aviation Administration, I have acquired a strong base of knowledge and experience upon which to help assure that the relationship between the NTSB and the regulatory agencies, while always reflecting their inherently different roles and missions, is optimal for the purpose of the ultimate goal of improving transportation safety.

Over the last 20 years, there have been many technology and process improvements in transportation. As an attorney with a

master's degree in aerospace engineering, as well as a 3,000-hour pilot, one of the areas that I hope to explore, if confirmed, is how these advances can be more effectively employed to help prevent transportation mishaps.

Before closing, I would like to thank my coworkers and other friends who are here today to share this experience with me. And I would also like to thank my biggest supporters, my wife, LeeAnn; and my daughter, Brooke, who are here today; and my son, Adam, who was not able to join us today, for all that they have done to help me be in a position to take advantage of this opportunity to serve the American people.

Thank you again for the privilege of appearing before you today. If confirmed, I look forward to working with this committee on the important transportation safety issues before the NTSB. And I would be pleased to answer any questions you may have.

[The prepared statement and biographical information of Mr. Hart follows:]

PREPARED STATEMENT BY HON. CHRISTOPHER A. HART, MEMBER-DESIGNATE,  
NATIONAL TRANSPORTATION SAFETY BOARD

Thank you, Mr. Chairman, Ranking Member Hutchison, and other Members of this Committee for the opportunity to appear before you today in relation to my nomination by President Obama to serve as a Member of the National Transportation Safety Board. Being nominated by President Obama for this important position, one that has such a tremendous influence on transportation safety, is certainly a privilege and an honor.

Congress, in its wisdom, created the NTSB as an independent agency to conduct objective, impartial investigations of transportation mishaps in all modes of transportation, determine the causes, and make recommendations to avoid recurrences—all with a singular focus on improving safety. This process has resulted in innumerable safety improvements over the years. Indeed, the NTSB has performed its functions so well that it is viewed around the world as the gold standard in accident investigation.

Although the NTSB's perspective is obviously different than that of regulatory agencies, by Congress' design, the ultimate goals are the same—improving transportation safety. In creating this type of relationship between the NTSB and the regulatory agencies, Congress developed a structure for improving safety that has been admired both by other industries in the United States and by governments all over the world.

Having previously had the honor of serving at the NTSB, and having also been in transportation safety regulatory agencies since 1994—first at the National Highway Traffic Safety Administration, and then at the Federal Aviation Administration—I have acquired a strong base of knowledge and experience upon which to help assure that the relationship between the NTSB and the regulatory agencies, while always reflecting their inherently different roles and missions, is optimal for the purpose of the ultimate goal of improving transportation safety.

Over the last 20 years, there have been many technology and process improvements in transportation. As an Attorney with a Master's Degree in Aerospace Engineering, as well as a 3,000-hour pilot, one of the areas that I hope to explore, if confirmed, is how these advances can be more effectively employed to help prevent transportation mishaps.

Before closing, I would like to thank my co-workers and other friends who are here today to share this experience with me, and I would also like to thank my biggest supporters, my wife, LeeAnn, my daughter, Brooke, and my son, Adam, who was not able to join us today, for all they have done to help me be in a position to take advantage of this opportunity to serve the American people.

Thank you again for the privilege of appearing before you today. If confirmed, I look forward to working with this Committee on the important transportation safety issues before the NTSB. I would be pleased to answer any questions you may have.

## A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Christopher Alvin Hart.
2. Position to which nominated: 1Member, National Transportation Safety Board.
3. Date of Nomination: June 25, 2009.
4. Address (List current place of residence and office addresses):

Residence: Information is not released to the public.

Office: Air Traffic Safety Oversight Service Federal Aviation Administration, Room 1026, 800 Independence Avenue, SW, Washington, D.C. 20591.

5. Date and Place of Birth: June 18, 1947; Denver, Colorado.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: LeeAnn M. Hart, International Aviation Operations Specialist, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; Children: Adam C. Hart, Age 21; Brooke C. Hart, Age 6.

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

Harvard Law School, J.D., 1973.

Princeton University, M.S.E. (Aerospace Engineering), 1971.

Princeton University, B.S.E. (Aerospace Engineering), 1969.

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

*2005–present—Deputy Director, Air Traffic Safety Oversight Service, Federal Aviation Administration, Washington, D.C.*

*1995–2005—Assistant Administrator for System Safety, Federal Aviation Administration, Washington, D.C.*

*1994–1995—Deputy Administrator, National Highway Traffic Safety Administration, Washington, D.C.*

*1990–1993—Member, National Transportation Safety Board, Washington, D.C.*

*1981–1990—Managing Partner, Hart & Chavers, Washington, D.C.*

*1979–1981—Associate Attorney, Dickstein, Shapiro & Morin, Washington, D.C.*

*1977–1979—Deputy Assistant General Counsel for Environmental, Civil Rights, and General Law, U.S. Department of Transportation, Washington, D.C.*

*1976–1977—Attorney, General Counsel's Office, Air Transport Association of America, Washington, D.C.*

*1973–1976—Associate Attorney, Peabody, Rivlin, Lambert & Meyers, Washington, D.C.*

*1972—Summer Associate, Fish & Neave, New York, NY.*

*1971—Summer Associate, Davis, Graham & Stubbs, Denver, CO.*

*1969—Summer Engineering Intern, MRI Associates, Los Angeles, CA.*

9. Attach a copy of your resume. A copy is attached.
10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.
11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

*1998–2008—National Sleep Foundation, Secretary and Director.*

*2002–present—Invited by International Association of Fire Chiefs to be on Near-Miss Reporting Task Force to help develop firefighter near-miss reporting system.*

*2003–present—Invited by National Academy of Sciences/Institute of Medicine to be safety risk assessment expert on Institute of Medicine Committee on Review of NASA's Bioastronautics Critical Path Roadmap regarding long-duration (Moon and Mars) space travel.*

*2008—I filed Articles of Organization in February 2008 to create AvMed Solutions, LLC, a Washington, DC, limited liability company. Plans did not proceed.*

as anticipated, so I filed Articles of Dissolution in September 2008. The company did not conduct any business, did not appoint any officers or directors, and did not open a bank account.

2009–present—Lowell School, Washington, DC, Trustee (where my 6-year old daughter is a student)

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

1969–present—Phi Beta Kappa.

1969–present—Sigma Xi.

1969–present—Association of Black Princeton Alumni.

1971–present—Association of Princeton Graduate Alumni.

1973–present—Aircraft Owners and Pilots Association.

1973–present—Lawyer-Pilots Bar Association.

1973–present—District of Columbia Bar.

1973–present—Harvard Club of Washington.

1973–present—Harvard Law School Association.

1973–present—Princeton Club of Washington.

1998–2008—National Sleep Foundation, Secretary and Director.

Late 1990s–present—East (Denver) High School Alumni Association.

Early 2000s–present—Royal Aeronautical Society, Washington, D.C. Branch.

2005–present—Georgia Tech Parents Association.

To the best of my knowledge, none of the above organizations restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

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

1990—Nominated by the President and confirmed by the Senate to be a Member of the National Transportation Safety Board, Washington, D.C.

1994—Appointed by the President to be Deputy Administrator of the National Highway Traffic Safety Administration, Washington, D.C.

No campaigns or campaign debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period

Contributions to Obama for America:

9/22/2008: \$300

10/17/2008: \$250.

I have not held offices in or rendered services to any political party or election committee.

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

1969—Graduated magna cum laude, Princeton University.

1969–present—Phi Beta Kappa.

1969–present—Sigma Xi.

1971—Master's Thesis selected to be published as Princeton University Report No. 942.

1971—Howard Hughes Foundation Scholarship.

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

*Publications*

- “Aviation Industry Provides Roadmap to Improve Patient Safety,” *Biomedical Instrumentation & Technology*, Vol. 38, No. 6 (Nov/Dec 2004).
- “Obtaining Investment Capital Through Securities Offerings,” *Spectrum* (Journal of the National Association of Black Accountants, Fall, 1984).
- “State Action Antitrust Immunity for Airport Operators,” *Transportation Law Journal*, Vol. 12, No. 1 (1981).
- “An Antitrust Analysis of Oil Company Ownership of Deepwater Ports,” *Transportation Law Journal*, Vol. 10, No. 1 (1978).

*Speeches*

I have given numerous speeches since coming to the FAA in 1995 in conferences in several countries in many industries regarding:

- Collecting, analyzing, and sharing safety information for proactive use in preventing aviation mishaps.
- Application of aviation safety process lessons learned to other industries, including other transportation modes, chemical manufacturing, petroleum refining, nuclear power, healthcare, and the financial industries.
- Lessons learned from aviation safety experience regarding improving productivity while improving safety.

Recently most of my speeches have been by invitation from other industries that are looking to aviation for safety lessons learned. To the best of my recollection, those speeches in the last few years include the following:

July 21, 2009	Institute of Nuclear Power Operations (INPO), Engineering Human Performance Workshop, Phoenix, AZ.
Mar. 30, 2009	High Reliability Organization Conference, Berkeley, CA.
Aug. 28, 2008	Idaho National Labs, Idaho Falls, ID.
Aug. 22, 2008	DOE Nuclear Executive Leadership Training, Bethesda, MD.
July 23, 2008	Fluor Corporation Safety Meeting, Atlanta, GA.
June 17, 2008	Savannah River Safety Conference, Aiken, SC.
Mar. 11, 2008	Risk Management Assn. Conference, New York, NY.
Feb. 26, 2008	Savannah River Safety Workshop, Aiken, SC.
Feb. 12, 2008	Institute for Healthcare Improvement, Boston, MA.
Jan. 13, 2008	Transportation Research Board, Washington, D.C.
Dec. 12, 2007	Johns Hopkins Hospital Safety Committee, Baltimore, MD.
Nov. 28, 2007	Brookhaven National Labs, Brookhaven, Upton, NY.
Aug. 2, 2007	Lawyer-Pilots Bar Assn, Park City, UT.
July 25, 2007	High Reliability Organization Conference, Washington, D.C.
May 29, 2007	High Reliability Organization Conference, Deauville, FR.
Mar. 13, 2007	Safety Across High Consequence Industries, St. Louis, MO.
Jan. 23, 2007	Institute for Healthcare Improvement Roundtable, Chicago, IL.
Jan. 11, 2007	Massachusetts General Hospital Grand Rounds, Boston, MA.
Nov. 10, 2006	University of Illinois at Chicago Medical School, Chicago, IL.
Oct. 28, 2006	Assn of American Medical Colleges, Seattle, WA.
April 2, 2006	High Reliability Organization Conference, Ontario, CA.
Mar. 22, 2006	St. Lawrence Hospital, Lansing, MI.
Oct. 25, 2005	Chemical Process Safety Conference, College Station, TX.
Sept. 28, 2005	Intl Helicopter Safety Symposium, Montreal, CA.
June 6, 2005	Healthcare Safety Conference, Providence, RI.
Various dates:	Intl. Assn. of Fire Chiefs Near Miss Reporting Task Force
	Aug. 14, 2008, Denver, CO
	Feb. 10–12, 2008, San Diego, CA
	Apr. 22–23, 2007, Indianapolis, IN
	Apr. 20–21, 2006, Novato, CA
	Sept. 14–15, 2006, Dallas, TX
	Aug. 11, 2005, Reston, VA

My speeches have accompanied PowerPoint presentations, as opposed to being from text, and I can provide samples of the PowerPoint presentations if requested to do so.

In addition, I gave several speeches, including testimony to legislatures in Idaho and South Carolina, as the Deputy and/or Acting Administrator of NHTSA, in 1994–1995, and as an NTSB Member, from 1990–1993, on a variety of topics relating generally to transportation safety. I do not have copies or a list of these speeches.

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

June 28, 1990, Senate Committee on Commerce; Science, and Transportation. Christopher A. Hart to be a Member of the National Transportation Safety Board.

April 1, 1992, Government Activities and Transportation Subcommittee of the Committee on Government Operations, House of Representatives. Aviation Safety Issues.

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

I wish to serve as a Member of the NTSB because I would be honored and privileged to have the opportunity, if confirmed, to apply my skills and experiences to the benefit of this Administration and the American public. With both technical and legal backgrounds, as well as being a pilot, I believe I am well-qualified to be a Member of the NTSB.

On the technical side, I have extensive experience developing effective and efficient ways to improve safety in complex, tightly-coupled systems such as transportation systems. This experience has been enhanced by my work with other industries, such as chemical manufacturing, nuclear power, petroleum refining, the financial industries, and healthcare, to help them benefit from very successful aviation safety lessons learned.

My legal background will help me address the many legal issues associated with improving transportation safety, as well as the legal issues that are routinely addressed by the NTSB in its appellate function.

In addition, I can apply my previous experience at the NTSB and FAA to help structure optimal relationships between the NTSB and regulatory agencies that will allow them to perform their respective functions most effectively.

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

Proper management and accounting controls are clearly essential to an organization of any size, and as highlighted in my answer to Question 8, I have acquired management experience in a variety of jobs. The largest organization I have managed is the National Highway Traffic Safety Administration, which is larger than the NTSB.

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

I believe the NTSB faces several challenges as a result of the rapidly increasing pace of technological development and operational enhancement in most transportation industries:

First, the NTSB must always strive to provide the most effective safety recommendations possible.

Second, the NTSB must ensure that staff have the time and resources to remain up to date in their training as technology and business processes continue to develop and advance.

Third, the NTSB has an opportunity to apply more robust systems approaches to help ensure that its recommendations, when implemented, will be beneficial not only to the specific problem being addressed, but also to the overall system in which the problem arises.

#### B. POTENTIAL CONFLICTS OF INTEREST

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

I have been a Federal employee since 1990, with the exception of a few months in 1993-1994 between NTSB and NHTSA, and I have no financial arrangements, compensation agreements, or other continuing dealings with business associates, clients, or customers. My retirement funds are invested in: (a) the Federal Thrift Savings Plan, (b) a Vanguard Individual Retirement Account, (c) Vanguard Variable Annuities, and (d) Social Security.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the NTSB's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Board's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the NTSB's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Board's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In the last 10 years I have been extensively involved in developing tools and processes to help the aviation community collect, analyze, and use data and information proactively to improve safety. As part of developing those tools and processes, I have been addressing related legal issues about public disclosure, regulatory enforcement, and criminal and civil liability.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the NTSB's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Board's designated agency ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

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

In 2008, I sued an employment services firm in DC Superior Court for breach of contract (nonperformance), and obtained a default judgment against the firm for \$12,777 plus interest (*Hart v. Byron Associates*, Civil Action No. 2008 CA 006624B (D.C. Superior Court, 2008))

During my tenure as FAA Assistant Administrator for System Safety, from 1995 until 2005, three racial and/or age discrimination claims were brought regarding selections or other decisions made by managers who reported to me, and one racial and age discrimination claim was brought regarding a selection that I made. Two of the claims regarding the managers were settled at the administrative level (*In re Blazy*, DOT Complaint No. 2-01-2114 (2001); *In re Randall*, FAA Informal Case No. AWA-FY2004-0059 (2004)), and the third was settled while it was in the DC Federal District Court (*McIntyre v. Mineta*, Civil Action No. 05-0664 (ESH) (D.C.D.C. 2006)). My office prevailed at the Equal Employment Opportunity Commission on the merits in the claim regarding the selection that I made (*McIntyre v. Mineta*, EEOC Case No. 100-A2-7049X, Washington Field Office, 2003).

In 2001, in order to enable my son to attend high school in Washington, DC, I sought to re-open the custody determination from my divorce litigation (described below) that gave my ex-wife custody of our son in Florida. The DC Superior Court dismissed my reopening efforts, on the grounds that the Florida courts should decide the issue (*Hart v. Hart*, Civil Action No. DR-0897-91d (D.C. Superior Court,

2001)), so I commenced litigation in Florida (*Hart v. Hart*, Civil Action No. FL-01-00046 (2nd Cir., Leon County, FL, 2001)). My ex-wife and I settled the Florida case, with the result that I obtained custody and my son attended high school in DC.

Sometime in the mid-1990s, I commenced litigation in DC Superior Court against the condominium association in which I am an owner to repair damages that resulted from repair work that was done by the condominium. We settled the case.

In 1991, I sued my wife for divorce in the DC Superior Court. I obtained the divorce but was not awarded custody of our son (*Hart v. Hart*, Civil Action No. DR-0897-91d (D.C. Superior Court, 1992), *aff d.*, Civil No. DR-897-91 (D.C.Ct.App. 1996)). During this process, our house went into foreclosure, and I commenced a separate action in DC Superior Court to delay the foreclosure. The foreclosure sale was deferred, and I purchased the house in the foreclosure sale.

The law firm of which I was a founder was sued for rent by its landlord in DC Superior Court in the late 1980s. The lawsuit was settled while it was under appeal (*Hart v. Vermont Investment Limited Partnership*, No. 94-CV-426 (D.C.Ct.App. 1995)).

I own three investment properties, and those have resulted in three or four lawsuits in DC Superior (Small Claims) Court between my tenants and me over the years regarding amounts claimed to be owed. The most recent one for which I could find any records occurred in 1997. All such suits were settled.

In the mid 1970s, a partnership in which I was a partner sued a lessee of a partnership airplane for nonperformance in the local courts of Virginia. The lessee prevailed in that lawsuit.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain.

Please see my answer in Question 3, above, regarding a discrimination claim that was filed at the EEOC, and decided on the merits in my favor.

In 2000, while I was FAA Assistant Administrator for System Safety, a confidential complaint was filed with the FAA's Accountability Board, alleging that I allowed a contractor for a division of my office to hire only petite females. The complaint was investigated by the FAA's normal process for such complaints (which uses investigators who are not from the FAA) and found to be without merit (FAA File No. AB 99-0176 (2000)).

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

#### D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

#### RESUME OF CHRISTOPHER A. HART

##### Employment

2005-present—*Deputy Director, Air Traffic Safety Oversight Service, Federal Aviation Administration*, Washington, D.C., 202-267-5205.

Oversee safety of the FAA air traffic organization.

1995-2005—*Assistant Administrator for System Safety, Federal Aviation Administration*, Washington, D.C.

Reporting directly to the FAA Administrator, the Office of System Safety provided data, analytical tools and processes, safety risk assessments, and other assistance to support FAA and worldwide aviation community safety programs; spearheaded industry-wide safety activities such as the Global Aviation Information Network (GAIN); and helped identify safety issues and emerging safety trends.

1994–1995—*Deputy Administrator, National Highway Traffic Safety Administration* (appointed by the President), Washington, D.C.

NHTSA regulates the safety of motor vehicles and helps states with safety belt, drinking and driving, child safety seat, and other programs.

1990–1993—*Member, National Transportation Safety Board* (nominated by the President and confirmed by the Senate), Washington, D.C.

The NTSB investigates and determines the probable cause of transportation accidents, issues reports and recommendations to improve safety, and decides appeals in enforcement proceedings against airmen and seamen.

1981–1990—*Managing Partner, Hart & Chavers*, general civil practice law firm, Washington, D.C.

1979–1981—*Associate Attorney, Dickstein, Shapiro & Morin*, general civil practice law firm, Washington, D.C.

1977 to 1979—*Deputy Assistant General Counsel for Environmental, Civil Rights, and General Law, U.S. Department of Transportation*, Washington, D.C.

1976–1977—*Attorney, General Counsel's Office, Air Transport Association of America*, Washington, D.C.

1973–1976—*Associate Attorney, Peabody, Rivlin, Lambert & Meyers*, general civil practice law firm, Washington, D.C.

#### **Education**

J.D., Harvard Law School, 1973.

M.S.E. and B.S.E., aerospace and mechanical sciences, Princeton University, 1971 and 1969, respectively.

#### **Publications**

“Aviation Industry Provides Roadmap to Improve Patient Safety,” *Biomedical Instrumentation & Technology*, Vol. 38, No. 6 (Nov/Dec 2004).

“Obtaining Investment Capital Through Securities Offerings,” *Spectrum* (Journal of the National Association of Black Accountants, Fall, 1984).

“State Action Antitrust Immunity for Airport Operators,” *Transportation Law Journal*, Vol. 12, No. 1 (1981).

“An Antitrust Analysis of Oil Company Ownership of Deepwater Ports,” *Transportation Law Journal*, Vol. 10, No. 1 (1978).

#### **Honors**

Invited by National Academy of Sciences to be safety risk assessment expert on Institute of Medicine Committee on Review of NASA's Bioastronautics Critical Path Roadmap re long-duration (Mars) space travel, 2003–.

Invited by International Association of Fire Chiefs to be on Near-Miss Reporting Task Force to help develop firefighter near-miss reporting system, 2002–.

Director, National Sleep Foundation, 1998–2008.

Member, District of Columbia Bar Board of Professional Responsibility, 1993–1995.

Board of Governors, District of Columbia Bar, 1983–1989.

Member, Legal Ethics Committee of District of Columbia Bar, 1983–1989.

Board of Directors of WPFW-FM station, 1983–1990.

Governing Council, Princeton Club of Washington, 1983–1989.

Admitted to District of Columbia Bar, 1973.

Graduated magna cum laude, Princeton University, June 1969.

#### **Other**

Commercial/Multi-Engine/Instrument pilot, more than 2900 hours.

The CHAIRMAN. Thank you, Mr. Hart.  
Ms. Cahill?

**STATEMENT OF PATRICIA D. CAHILL,  
MEMBER-DESIGNATE, BOARD OF DIRECTORS,  
CORPORATION FOR PUBLIC BROADCASTING**

Ms. CAHILL. Chairman Rockefeller, Senator Hutchison, and Members of the Commerce Committee, thank you for the opportunity to appear before you to discuss my nomination to the Board of Directors of the Corporation for Public Broadcasting. I also want to thank President Obama for nominating me and Senator McCaskill for her strong support for me during this process.

As a public radio station manager, when I am behind a microphone, it is not usually to testify before the Senate. Instead, I am thanking listeners and encouraging them to support public radio. My first words on the radio were in 1965 at the student-operated station at the University of Kansas when I said, "What's this red light doing on?"

[Laughter.]

Ms. CAHILL. I started working full time in public radio during graduate school as a receptionist at an educational station. National Public Radio would not be created for 2 more years. I continued my early career as a public radio producer-reporter, news director, and program director.

I became General Manager of a public radio station in 1976 and I am currently General Manager of KCUR in Kansas City and Assistant Professor in Communication Studies at the University of Missouri-Kansas City. During my tenure, KCUR's listening audience has quadrupled and listener contributions have increased dramatically, as have the hours and the depth of programming we provide to our community.

I have been elected twice to the Board of Directors of National Public Radio, which produces and distributes programming to hundreds of public radio stations across the country. On the NPR Board, I served as Chairman of the Technology Distribution Committee, overseeing the satellite interconnection system, which matches the quality of our signals to the quality of our programming. I also served as Chairman of the Membership Committee, ensuring service to member stations and expanding NPR membership to more stations. And I served as the first Chairman of the Development Committee, overseeing NPR's corporate and foundation support.

I was elected three times as President of Public Radio in Mid America, which represents the unique needs of our region to the public radio system.

Now, I am on the air only during membership drives. Contributions from our community provide 88 percent of our funding. This level of support demonstrates the value of our programming to our community.

But the Federal contribution to public broadcasting is also essential. At my station, CPB funds make up approximately 9 percent of our budget. In addition to these funds, which go toward my station's programming expenses, Federal funding from CPB has helped my station and many others with purchasing and installing digital equipment and with periodic upgrades to the public radio interconnection system.

I have a life-long commitment and passion for public radio and its service to local communities, and I believe my 40 years of work in the industry will make me an asset on the CPB Board as it sets the policies governing the distribution of Federal funds to the system. Public radio can provide information and education that can help people change their lives and the lives of people around them. Our product is the content we provide: over the air, over cable, on the web, on the phone, on multiple platforms. The purpose of commercial broadcasting is to connect advertisers with their audiences. The purpose of public broadcasting is to connect people with one another and to the wider world. Public broadcasting expands the horizons of Americans, demonstrating how we are different and how we are the same.

I believe all my experiences, my education, my teaching, and my work in public radio on the local and national levels have led me here today. If confirmed to the Board of Directors of the Corporation for Public Broadcasting, I will work tirelessly on behalf of the American people to advance the mission of public broadcasting.

Thank you again for your consideration, and I would be happy to answer any questions you have.

[The prepared statement and biographical information of Ms. Cahill follows:]

PREPARED STATEMENT OF PATRICIA D. CAHILL, MEMBER-DESIGNATE,  
BOARD OF DIRECTORS, CORPORATION FOR PUBLIC BROADCASTING

Chairman Rockefeller, Senator Hutchison and Members of the Commerce Committee, thank you for the opportunity to appear before you to discuss my nomination to the Board of Directors of the Corporation for Public Broadcasting. I also want to thank President Obama for nominating me and Senator McCaskill for her strong support for me during this process.

As a public radio station manager, when I am behind a microphone it's not usually to testify before the Senate. Instead, I am thanking listeners and encouraging them to support public radio. My first words on the radio were in 1965 at the student-operated station at the University of Kansas when I said, "What's this red light doing on?"

I started working full time in public radio during graduate school as a receptionist at an educational station. National Public Radio would not be created for two more years. I continued my early career as a Public Radio Producer-Reporter, News Director and Program Director.

I became General Manager of a public radio station in 1976 and I am currently General Manager of KCUR Radio in Kansas City and Assistant Professor in Communication Studies at the University of Missouri-Kansas City. During my tenure, KCUR's listening audience has quadrupled and listener contributions have increased dramatically, as have the hours and the depth of programming we provide to our community.

I have been elected twice to the Board of Directors of National Public Radio, which produces and distributes programming to hundreds of public radio stations across the country. On the NPR Board, I served as Chairman of the Technology/Distribution Committee, overseeing the satellite interconnection system, which matched the quality of our signals to the quality of our programming. I also served as Chairman of the Membership Committee, ensuring service to member stations and expanding NPR membership to more stations, and as the first Chairman of the Development Committee, overseeing NPR's corporate and foundation support.

I was elected three times as President of Public Radio in Mid America, which represents the unique needs of our region in the public radio system.

Now I am on the air only during membership drives. Contributions from our community provide 88 percent of our funding. This level of support demonstrates the value of our programming to our community.

But the federal contribution to public broadcasting is also essential. CPB funds, provided by Congress, are the lifeblood of the system, and are the irreplaceable foundation for everything that local stations do. At my station, CPB funds make up

approximately 9 percent of our budget. In addition to these funds, which go toward my station's programming expenses, Federal funding from CPB has helped my station and many others with purchasing and installing digital equipment and with periodic upgrades to the public radio interconnection system.

I have a life-long commitment to and passion for public radio and its service to local communities, and I believe my 40 years of work in the industry will make me an asset on the CPB Board of Directors as it sets the policies governing the distribution of Federal funding to the system. Public radio and television can provide information and education that can help people change their lives and the lives of people around them. Our product is the content we provide: over the air, over cable, on the web, on the phone, on multiple platforms. The purpose of commercial broadcasting is to connect advertisers with their audiences. The purpose of public broadcasting is to connect people with one other and to the wider world. Public broadcasting expands the horizons of Americans, demonstrating how we are different and how we are the same.

I believe that all my experiences, my education, my teaching, and my work in public radio at the local and national levels, have led me here today. If confirmed to the CPB Board of Directors, I will work tirelessly on behalf of the American people to advance the mission of public broadcasting.

Thank you again for your consideration. I would be happy to answer any questions you may have.

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#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):  
 Patricia Deal Cahill.  
 Nickname: Patty.
2. Position to which nominated: Corporation for Public Broadcasting, Board of Directors.
3. Date of Nomination: July 6, 2009.
4. Address (List current place of residence and office addresses):  
 Residence: Information not released to the public.  
 Office: KCUR Radio, University of Missouri-Kansas City, 4825 Troost Ave., Suite 202, Kansas City, MO 64110.
5. Date and Place of Birth: October 9, 1947; St. Louis, Missouri.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
 Lindsay Cahill Crump, 29; Jessica Cahill Ford, 26.
7. List all college and graduate degrees. Provide year and school attended.  
 Master of Arts, University of Kansas, 1971.  
 Bachelor of Arts, University of Kansas, 1969.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
 General Manager of KCUR Radio and Assistant Professor of Communication Studies, University of Missouri-Kansas City, 1987–Present.  
 General Manager of KMUW Radio and Instructor in Journalism and Communications, Wichita State University, 1976–1987.  
 Program Director of KMUW, 1976–1976.  
 News Director of KMUW, 1975–1976.  
 Reporter/Producer at KCUR Radio and Instructor in Communication Studies, University of Missouri-Kansas City, 1973–1975.  
 Public Relations Speaker, Project Concern's Walk for Mankind, 1972.  
 Director of Audio-Reader, KANU University of Kansas, 1971–1972.  
 Record and Tape Librarian, KANU Radio, University of Kansas, 1970.  
 Receptionist, KANU Radio, University of Kansas, 1969.
9. Attach a copy of your resume. A copy is attached.

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

Grant Reviewer, U.S. Department of Commerce, Public Telecommunications Facilities Program.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

KCUR General Manager and Assistant Professor, University of Missouri-Kansas City, 1987–present.

Secretary of the Board of Directors, Women's 12-Step Recovery Center, Inc (Friendship House and Catherine's Place) 2008–present.

Jackson County Court Appointed Special Advocate (CASA), 2007–2008.

Authorized representative ("A-Rep") from KCUR Radio to National Public Radio, 1987–present.

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

Unity Temple on the Plaza Church, 1996–present, member.

Public Radio in Mid America, 1987–present, former President and Vice President and member, Board of Directors.

Women's 12-Step Recovery Center, Inc., Secretary of Board of Directors, 2008–present.

Authorized representative ("A-Rep") from KCUR Radio to National Public Radio, 1987–present.

I am also a regular donor to organizations which consider their donors "members," including: The Nelson-Atkins Museum of Art, KKFI-FM, Community Radio, KCUR Radio, KCUR Watts Society (endowment), and the American Association of Retired People.

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

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period: Not applicable.

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

Wichita Chapter, Women in Communications, Inc., Outstanding Woman, 1987.

Alpha Epsilon Rho, Outstanding Faculty Member, 1979.

Alumini Citation Honor, Radio-Television, University of Kansas, 1992–1993.

Patricia Deal Cahill Appreciation Day, Wichita, Kansas, 1987.

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

Master's Thesis: Joe McCarthy and Television.

I write a short letter to KCUR's listeners and supporters in our annual Year in Review.

I have given hundreds of speeches concerning public radio to educational, social and service organizations from 1969 to the present, including the following:

From 1987 to the present, I have spoken on a reoccurring basis at the University of Missouri-Kansas City to graduate social work classes, alumni, public relations classes, management classes, new faculty and new student orientations, and KCUR Radio underwriters and major contributors. During this time I have also spoken to

classes at Avila College, Rockhurst University, Park College, Webster University, Center High School, Center Middle School, and Stuckey Middle School.

From 1975 to 1987, I spoke on a reoccurring basis at Wichita State University to journalism classes, broadcasting classes, the student government association, alumni, the Women in Communication student group, a luncheon for the New Radio Building, student orientations, and the accreditation committee. I also spoke at an assembly at Friends University in 1980.

I have also spoken to a variety of groups. For example, in 1978, I spoke to the Carnegie Commission on the Future of Public Broadcasting. From 1983 to 1988, I spoke at National Public Radio Conferences and in 2006 I spoke at its New Realities meeting. From 1976 to 1987, I spoke on a few occasions to the Wichita and Hutchinson chapters of Women in Communications; I spoke to the Kansas City chapter once in the early 1990s. I have spoken a handful of times to chapters of the Public Relations Society (Wichita from 1976 to 1987 and Kansas City from 1987 to the present). Sometime between 1976 and 1987, I spoke once to the National Association of Women in Construction. In the late 1980s, I spoke to the Sertoma Club in Johnson County. In 1987, I spoke at the Village Presbyterian Church in Kansas City. Finally, since 1970, I have spoken on occasion to Kiwanis and Rotary Clubs in Lawrence, Kansas, Wichita, and Kansas City, as well as to Sheppard's Center and other senior groups and nursing homes.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: Not applicable.

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

My education and 40 years of experience working in public radio, 33 of them managing public radio stations and teaching broadcasting courses, qualifies me for a position on the Board of Directors of the Corporation for Public Broadcasting. My experience on the Board of Directors of National Public Radio has also helped me understand the significance and importance of this organization as well as the responsibilities and duties of a Board of Directors. My experience at the local level helps in understanding the significance and value of Board policies and planning for public radio and television stations.

I want to serve in this position because my passion for public radio and all my experiences in public radio have led me here.

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

As a former member of the Board of Directors of National Public Radio, I have experience in working with a large organization. I have taken a graduate level accounting course, taught financial management to my broadcast management course and prepared all the financial paperwork for the radio station's outside auditors for a couple of years. I currently oversee all income and expenses of the public radio station. As a manager, I understand the importance of proper management and accounting controls. Without them, there is no viable organization.

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

Responding to the changing social and economic structure of the country, which provides new ways for public radio to reach a broader audience.

Finding new ways of financing programming on a variety of different platforms to build financial capacity for the industry.

Expanding the audience for public broadcasting, thereby providing a valuable service to people who are now unserved.

#### B. POTENTIAL CONFLICTS OF INTEREST

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

Under the University of Missouri's defined benefit retirement program, upon retirement I will receive benefits in the amount of 2.2 percent of my final average salary, multiplied by the number of years of service. Under this program, I expect to receive a retirement income from the University of Missouri in the amount of about \$47,000 a year.

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

I expect to remain General Manager of KCUR Radio and Assistant Professor of Communication Studies at the University of Missouri-Kansas City.

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

I manage a public radio station that receives yearly Community Service Grants from the Corporation for Public Broadcasting. In connection with the nomination process, I have consulted with the Office of Government Ethics and the CPB's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the CPB's ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the CPB's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the CPB's ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

I went to Jefferson City, MO and met with state legislators regarding state funding for public radio about 8 or 9 years ago.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the CPB's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the CPB's ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: Not applicable.

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

In 1996, I was found in violation of a Kansas City municipal ordinance when a pet defecated in a neighbor's yard. I was ultimately given 6 months probation.

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

I was one of the defendants in *Robert Barrientos v. The Curators of the University of Missouri, Radio Station KCUR, Patricia Cahill and James Costin*, Case No. 16CV95-15377, which was filed in the Circuit Court of Jackson County, Missouri on July 26, 1995. After I asked him to resign, Mr. Barrientos alleged violations of state and Federal laws prohibiting discrimination on the basis of sex and national origin, and a breach of an employment contract that provided he would be paid a commission on certain sales. On June 24, 1996, the case was dismissed with prejudice after the parties reached a settlement. Under the terms of the settlement, the defendants expressly denied liability, but the University of Missouri agreed to pay plaintiff \$10,000 in exchange for a stipulated dismissal with prejudice.

I have also been involved in three divorce proceedings, one in 1974 (from Michael Allen Spencer); one in 1985 (from Stephen Crump); and one in 1997 (from Claus Peter Wawrzinek).

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: Please see my answer to #2 above.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: Please see my answer to #3 above.

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

#### D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

#### RESUME OF PATRICIA DEAL CAHILL

##### Experience

1987–Present, University of Missouri-Kansas City, General Manager, KCUR Radio, Assistant Professor, Communication Studies.

Listening audience tripled to over 190,000 weekly.

From \$150,000 deficit to over \$3,000,000 fund balance.

1976–1987, The Wichita State University, General Manager, KMUW Radio; Instructor, Speech Communications and Journalism.

Increased power from 10,000 to 100,000 watts stereo.

Moved from farm house to remodeled store building.

1969–1976, Program Director, KMUW Radio; News Director, KMUW Radio; Reporter/Producer, KCUR Radio; First Director, Audio-Reader, Radio Service for the Blind; Record and Tape Librarian, KANU, University of Kansas; Receptionist, KANU.

##### Education

M.A. Radio, Television, Film University of Kansas.

B.A. Speech and Drama & Geography, University of Kansas

##### Selected Service and Honors

National Public Radio Board of Directors, 1982–1988

Executive Committee

Chair, Development Committee.

Chair, Distribution/Interconnection Committee.

Chair, Membership Committee.

Public Radio in Mid America.

President, 1978–1980, 1989–1993.

Committee/Review work includes:

Department of Commerce, Public Telecommunications Facility Program.

National Public Radio.

Corporation for Public Broadcasting.

Kansas Arts Association.

Missouri Arts Council.

Wichita State University.

University of Missouri-Kansas City.

Women in Communications, Inc.

Outstanding Wichita Woman  
 City of Wichita, Kansas  
 Patricia Deal Cahill Appreciation Day.  
 University of Kansas.  
 Alumni Honor Citation, Radio-Television.  
 Alpha Epsilon Rho.  
 Outstanding Faculty Member  
 Women's 12-Step Recovery Center, Inc.  
 Secretary, Board of Directors.  
 Court Appointed Special Advocate, Jackson County, MO.

The CHAIRMAN. Thank you. Your statement that the purpose of commercial radio is to connect advertisers with people I am sure would bear some discussion, but no argument from me.

Mr. Elliott, let me start. You said an interesting thing. You said I do not come into this with a sense of who is right or who is wrong or maybe it is what is right or what is wrong. I am not sure what it was. But it surprised me because it seems to me, number one, that is not usually the legal approach. In other words, there is a feeling of who is right and who is wrong. I think what you were trying to do was to bypass—incidentally, after I ask you this question, I am going to ask each of you to introduce your family members, but they may not want to get up. I do not know.

[Laughter.]

The CHAIRMAN. The question about captive shippers and railroads is—I mean, there are points that are right. There are points that are wrong. There are annual reports that talk about railroads making profits of such and such. There are questions that Senator Hutchison certainly knows about and captive shippers throughout the land about being blackmailed, being held up, being threatened, being cutoff, having their prices raised because there was only one rail going into that particular farm or steel mill or coal mine or whatever it is.

As we all know, the Staggers Act said if there are two rails, then let the free market set the price, but if it is one rail, the STB sets the price. That has been roundly ignored by the railroads and inadequately addressed by captive shippers. I think that represents two wrongs, clear wrongs. The captive shippers do not have the money or they fear they are going to lose or they are going to get drawn out because they are not big.

So I am just interested that you do come to this with, I assume, some points of view.

Mr. ELLIOTT. In response, thank you for the question, Chairman.

I do, obviously, have a grasp of legally speaking—that is one side of the coin of what is right and what is wrong, I guess, based on the statute and precedent which I will do my best to look at and apply appropriately.

With respect to what is right and what is wrong with respect to the shippers, what I think I intended there was that I come from neither one side or the other side and that my viewpoint would not be slanted one way or another coming in. I know from some of my meetings before the hearing that there were some concerns about

the board, and I just wanted to make sure that I was viewed coming from a neutral background.

The CHAIRMAN. Well, maybe we better have people introduce their families, and I will come back on that. It concerns me what you say. Would that be all right? So who would like to introduce? We are going to start with public broadcasting.

Ms. CAHILL. I would like to introduce my youngest daughter, Jessica Ford, who is my comfort during this time.

Mr. HART. Thank you, Mr. Chairman. I would like to introduce my boss with a little B, LeeAnn Hart, who is my wife, and my boss with a big B, Brooke Hart, who is my 6-and-three-fourths-year-old daughter.

[Laughter.]

Mr. HART. She is enthralled with this, as you can see.

The CHAIRMAN. Mr. Elliott?

Mr. ELLIOTT. I would like to introduce my father, my best friend from college, and my mother and her husband, my step-father.

The CHAIRMAN. OK, good.

Ms. KURLAND. And Mr. Chairman, I would like to introduce my brother, Jacob; my sister, Judy; my sister-in-law, Audrey; my niece, Rebecca; and my nephew, Marshall Kurland. Thank you.

The CHAIRMAN. Good, all right.

Mr. Bertram?

Mr. BERTRAM. Mr. Chairman, I will introduce my wife, Katie, my son, Paul, who is a page in the Senate this summer; and my daughter, Ann; as well as my wife's aunt, Marie; and uncle, Roger.

The CHAIRMAN. Good, all right.

My time has expired, and I will continue our conversation and have other questions. I turn now to the Ranking Member, Senator Hutchison.

Senator HUTCHISON. Thank you. I want to start by asking each of you to just give me a "yes" or "no" answer. We on the Committee, both sides of the aisle, rely on technical advice and help from all the agencies that we oversee. I want to ask if you and your staff will be open to working with us as we fulfill our oversight responsibilities with the information that you have in your agencies. Mr. Bertram?

Mr. BERTRAM. Yes.

Ms. KURLAND. Yes.

Mr. ELLIOTT. Yes.

Mr. HART. Yes.

Ms. CAHILL. Definitely.

Senator HUTCHISON. Thank you very much.

I want to start with Ms. Kurland. Antitrust immunity has been in the purview of the Department of Transportation when alliances are proposed between U.S. and foreign carriers. That has been a very important role that the Department of Transportation has played because, as I am sure you know, many mergers have been avoided by having agreements for code-sharing and alliances with international carriers.

My question is, sometimes the Department of Justice has weighed in with different views, but I believe that the Department of Transportation understands that competition in the aviation

area depends on having alliances that will avoid mergers that will then equate to higher costs to consumers.

My question to you is, will you support the policies of the past where the Department of Transportation is the premier antitrust determiner in these types of cases?

Ms. KURLAND. Thank you, Senator Hutchison.

I understand that the Department of Transportation views that the statutory responsibility that they have to administer and process applications for antitrust immunity has been very useful in enhancing strong benefits to consumers in global transportation. I do understand that there have been differences of opinion with the Department of Justice. And if I am confirmed, I will follow the statutory requirements carefully, work with the Department of Transportation, work with this Committee, and talk with the Department of Justice.

Senator HUTCHISON. Does that mean that you believe that it is the proper role for the Department of Transportation to make these determinations in that particular area when it is between U.S. and foreign air carriers?

Ms. KURLAND. I do believe that the statutory responsibilities that have been granted to the Department of Transportation—I agree with those responsibilities, and I will carry them out to the best of my abilities, yes.

Senator HUTCHISON. That is a yes then to the question.

I will just say that the Department recently determined that the Continental alliance would be approved even though the Department of Justice had concerns, and I think it was the right decision that Secretary LaHood made. But there are others still pending, and I would hope that you would follow through with the chairman's philosophy that the more airlines we can keep whole and competitive, the better off consumers are in our aviation field.

I would like to turn to Mr. Elliott. I think that the Chairman was concerned, and I would like to follow-up somewhat on his question, and that is, what would be your guiding philosophy in this very important area between railroads and shippers?

We all want rails to be able to have the capital infrastructure and to be safe and also profitable. We also want shippers to be able to have affordable options when they are captive and also a forum that is as simple as possible for small shippers to be able to come to the STB. So how would you handle your responsibility, if you are the Chairman of STB, to deal with the balance that is so necessary in those issues?

Mr. ELLIOTT. Thank you for the question, Ranking Member Hutchison.

I guess the key word that you used is "balance." I think the statutory—with respect, the statute is set up in such a way to balance those concerns between adequate revenue for the railroads and the shippers having reasonable rates. So there is a balancing act. Obviously, these two groups need one another. The railroads obviously need their customers and the shippers obviously, especially the shippers who only have the railroads as their only means of transportation, need the railroads to transport that. So there has to be a balancing act between those two groups.

I have heard a lot of concerns regarding this issue and I certainly would make it, if confirmed, one of my—my number one priority to look into those issues.

Senator HUTCHISON. Thank you. My time is up. Are you sure?

The CHAIRMAN. Yes.

Senator HUTCHISON. Mr. Bertram, there is a growing interest in our country in high-speed rail, and as you know, the stimulus package put \$8 billion into trying to foster more areas to be able to have high-speed rail. The Administration is going to be looking at another billion on top of the \$8 billion. But that is not going to build any rail line. That is not enough.

So my question is, this is seed money, but how would you look for ways, and do you have ideas about ways, that high-speed rail could be financed so that we can augment that part of our multimodal transportation in this country which really needs to have a more equal rail involvement if we are going to have real choices for transportation modes?

Mr. BERTRAM. Sure, Senator. As you know, any large infrastructure project, especially transportation infrastructure project, rarely relies on just one source of funding. There are Federal sources. There are State sources. States can borrow money. I think one of the models to maybe look at is the State of California that actually issued a very large bond issue to start their high-speed rail project. So I really think they are going to have to look at—just like major highway projects and major transit projects, State and local governments, working with the Federal Government, are going to have to look at pulling together sources of funds from different programs not just one large Federal program.

Senator HUTCHISON. Would you ever look at Federal bonds that might be payable from future revenue?

Mr. BERTRAM. Sure. I think one of the ideas that the Administration is working on is the concept of a national infrastructure bank, which would make funds available where states could borrow money from that bank and then repay that with future revenue sources either through taxes or through the actual receipts of running the system.

Senator HUTCHISON. Thank you, Mr. Chairman. I have a few others, but I really would like for you to take your turn and I will just maybe have a couple of others.

The CHAIRMAN. All right.

Mr. Elliott, getting back to you, I understand the concept of neutrality and it is quite possible that the Obama Administration told you to appear to be strictly neutral. You know, be neutral. And that is fair enough. But the problem is that when you get to the problem of captive shippers, nothing is neutral. So if you are confirmed, as I expect that you will be—hope that you will be, you have to be fair, but there is a difference between being fair and being neutral.

What is that difference?

Mr. ELLIOTT. I think I understand what you are saying now. I think, obviously, as a decisionmaker at the Board, I have to be neutral and apply the law as it is.

The CHAIRMAN. But if I could interrupt you.

Mr. ELLIOTT. Sure.

The CHAIRMAN. If there is anything that stands out in the history of captive shippers—that is why it has been an issue for so long—the 1984 Staggers Act has not been applied fairly. It has been applied to the advantage of the railroads, to the disadvantage of the shippers who often cannot bring suit because they do not have the money or it will take them too much time and they get worn down by the bigger railroads.

When I came here 24 years ago, there were 50 class A railroads. Today there are 4. Maybe it is 5. Who knows? But they have got the power. And the law says that if there is only one line into a source of loading, that you set the rates, so to speak. And that is not a neutral act. Well, it has been very unneutral 24 years. That is, I guess, the way I want to put it.

And I want you to be reasoned and fair and all the rest of that, but I do not want you to be somehow disengaged from this whole thing. You have been head of a union. Unions generally are not disengaged. So describe to me your temperament as you face what has been really kind of a war of the roses.

Mr. ELLIOTT. My temperament is to be very engaged with this committee, with the stakeholders, and to stay involved as much as possible. I, obviously, have heard the concerns with respect to the captive shippers, and their concerns are loud and clear.

Obviously, the Staggers Act was set up during a time where the railroads were suffering, and it was to help them get back on their feet. Obviously, the railroads have gotten back on their feet. And there was also a concern about competition with respect to the shippers, and I take that aspect of the act very seriously and I intend to take a very careful look at it and be proactive.

The CHAIRMAN. OK.

Susan Kurland, I was very happy about the fiscal 2010 budget because of a parochial yet nationwide reason, and that is the Essential Air Service. There is nothing more frustrating—and I am sure it is true in Texas, in some of the rural parts of Texas where there are—you know, it is not Dallas or Fort Worth, but there are people that are trying to carry on business that need to connect into the international marketplace. And so you have a lot of airports where there is just simply no air service, but there can be air service if there is some small degree of subsidy and, subsequent to that, if there is the robust, as they say, usage of that flight so that it is full, so that it can be justified.

How do you see the importance of the Essential Air Service?

Ms. KURLAND. Well, I think, Mr. Chairman, it is a very important program, and I know that it is one that is very important to the Administration. In fact, you mentioned the 2010 budget. The Administration in their budget increased the amount that they were budgeting for. I think it is expected to be at \$175 million.

The CHAIRMAN. An enormous increase.

Ms. KURLAND. Yes. I think, though, the program has faced some of the same stresses and pressures that we have seen in the larger aviation program in that we have a world-wide recession, we have seen demand go down, we have seen more cuts in capacity, we have seen prices go up, and we have also seen, with respect to a number of the carriers that provide essential air service, a number

of them have left the markets. So the program has faced some pressure.

My goal or my objective, should I be confirmed, is to work closely with you, with your staff, with the members of the Committee. I think it is a very important program and I will work with you on this program.

The CHAIRMAN. That is good.

[Laughter.]

The CHAIRMAN. No. For those of you who do not come from rural States, the Essential Air Service is the difference between being connected to the world or not, being able to do business in Europe or not because you can get a connection. And Senator Hutchison knows that as well as I do.

So beyond increasing the spending, what has to happen with the Essential Air Service to make it work? I mentioned that there is a big responsibility on the part of airports to market themselves. People think that airports are just sort of like a highway on top of a mountain or something like that. They are not. They are commodities. They are like a Baby Ruth candy bar. They are commodities to be marketed so people will go buy them.

And we had that experience in West Virginia where people were driving all the way to Cincinnati so they could get the lower fares of Southwest Airlines, not taking into account the overnight expenses of staying in a motel, the gas, and all the rest of it. So this particular airport, Charleston, went about marketing itself as an airport, as a commodity, as a Baby Ruth candy bar. That is not the most elegant solution, but I like that brand, so I use it. But it is a commodity and you cannot expect people to just sort of wander up there and say, I want to go to Albuquerque. You have to fight for their loyalty, and that means marketing yourself through television, through the business community, through every single possible mechanism.

What are some of your ideas about promoting these airports? Or add on to what I have to say or just say that what I said was ample and you would prefer to go on to something else.

Ms. KURLAND. Well, I do believe that what you have said was very eloquent, but I do think that one of the points that you raised could be amplified on and that is the business community. I think that communities really need to get their local business community, their Rotary Clubs, the folks to buy into it, to view it as a resource for the community and that it is important for them to stand behind it so that they have it and they can bring the prices down. So I think working with the business community is also key.

The CHAIRMAN. We have had in West Virginia examples in the 45 years that I have been there of, for example, sort of fairly contiguous parts of the State and their airports looking upon each other as enemies. Who is going to get a bigger share? And as a result, they sort of hunker down and prepare for the best or the worst or whatever life deals them.

I do not buy that philosophy. It seems to me that if you are fairly contiguous to other airports that you work as a unit and that you sell yourself as a region. That is very hard in rural states that have a tradition of county direction and county loyalty. I mean, Huntington and Charleston and Parkersburg just would not speak to

each other, but they all need each other. They all need each other desperately. Now, none of them are using Essential Air Service, but they have got people from Parkersburg wanting to come to Charleston to catch a flight because they do not have that flight at Parkersburg, or vice versa.

I mean, it is a major state obligation or state's people obligation or a business community or a travelers' obligation to be aggressive about using airports regardless of where they might be, you know, being reasonable about that, and not wait till somebody decides or does not decide to come to your particular airport.

Ms. KURLAND. I agree with you, and should I be confirmed, these are conversations I would love to have further with you and talk about other ideas.

The CHAIRMAN. OK. I think my time is out, but I will run over with one question. That is also on antitrust immunity.

It is important to me that the DOT maintain its authority in evaluating applications for antitrust immunity in order to balance the competing need of competition, the health of the industry, and consumer interests. Do you expect DOT to maintain its authority in this area?

Ms. KURLAND. It is my understanding that the authority is with DOT, and I think that DOT has viewed it as a very useful tool in enhancing competition, in providing benefits to our consumers. And should I be confirmed, I look forward to participating and being a part of the antitrust immunity application process and review process.

The CHAIRMAN. Thank you very much.

Senator Hutchison?

Senator HUTCHISON. Thank you, Mr. Chairman.

Let me ask you, Mr. Hart, what do you think are the most critical issues that have not been addressed by agencies that have received recommendations from the NTSB?

Mr. HART. Thank you, Senator Hutchison. That is a question I have certainly been looking at during my many years in transportation safety.

I think one of the most generic issues that I am seeing across the modes is fatigue, because all these businesses are 24/7 businesses. The science that underlies fatigue is not well understood, which is one of the reasons it is so difficult to come to an objective conclusion on the best way to do it.

In addition to that, in aviation we have the complication that we can cross many time zones in a short period of time. So in addition to the fatigue that mariners, truckers, and railroaders experience, aviation has the additional complication of sometimes crossing multiple time zones in a short period of time.

So I think that the issue that most concerns us is fatigue, to all of the modes generically is fatigue.

Senator HUTCHISON. Thank you.

Now, Ms. Cahill, I think all of us support the Corporation for Public Broadcasting and the difference of the type of programming that they have had in the past that was not being done by the mainstream television networks.

I want to ask you, though, now that there are so many other outlets with cable and so many different types of programming, if the

Corporation for Public Broadcasting or especially public television is doing enough in in-depth programming which has been one of the things it could do that mainstream media could not because maybe it would not be as profitable or have as quick of a return. Do you think that public television is doing enough in-depth programming, or would you look for ways to make any changes?

Ms. CAHILL. Senator Hutchison, as a public radio manager, I appreciate the amount of in-depth news and information programming that we are able to provide to the community, and I think that public television could do that as well. We need more of that.

Senator HUTCHISON. I think your point is well taken, that really radio does do that, but are you saying you think there could be more investment in in-depth programming than is being done today?

Ms. CAHILL. Certainly a lot more investment.

Senator HUTCHISON. And last but not least, do you think that the programming on NPR, as well as public television, is fair and balanced as it relates to different views and philosophies, and is that something that you will watch carefully as a member of the Corporation for Public Broadcasting?

Ms. CAHILL. Senator Hutchison, I understand that the Corporation for Public Broadcasting is responsible for balanced and objective programming, and I will make every effort to make sure that radio and television continue to do that.

Senator HUTCHISON. Thank you.

I think, Mr. Chairman, I have a few other questions that I can certainly submit for the record, but that would be all that I would need for today.

The CHAIRMAN. That is it? All right.

Ms. Cahill, let me try another aspect of this. Senator Hutchison was a little aghast when I talked about the 3 percent viewership, and I am a little aghast when I think about only 3 percent of Americans, when they go down to buy a CD in music, buy classical music. I find that perplexing or, in other days, I would call it horrifying. But life is what life is.

It strikes me—and I am sure that Senator Hutchison shares this. I mean, being fair and balanced is tremendously important, but frankly, getting news out there—the public increasingly—I have spent the last either 6 weeks or 60 years—I am not sure which it is. It has gone by so quickly—working on the health care reform bill. We had that very interesting statistic and, of course, commercial and public television were carrying the President's remarks. When he gave remarks on an evening news conference, which was only his fourth, the viewership went down to 2 million people, which was terrifying to me that people want to be entertained. But if you are in a democracy, people have to be informed. Some people do not want to be informed because they think they have the right idea, and if somebody comes with another point of view, they say, well, that person is a liberal or a conservative or irresponsible or hyperactive or whatever it is.

The point is making sure that the public gets news to help make good public policy. That is what we try to do here. I recognize that Congress is not doing very well in the public polls and it never has and it never will. But what we do is important. What State legisla-

tures do is important. And it is only public television that gives them a fair shake. They do not usually have the resources to do it, but they are determined to do it and they do it.

I have sort of come to the feeling that if I want to get information about what is going on in this country or in this world, I have got two places to go. I can go to public television or radio, or I can go to newspapers.

I mean, I was really thrilled yesterday when I did two long interviews on an intricate aspect of health care reform with two fairly rural newspapers in West Virginia. Now, that interview may be put in the third section of the paper, but I frankly do not care. There were reporters on the other end who were interested in what I had to say and wanted to get it right and saw that there was some connection with what I was talking about with the problems that they themselves or their families or the neighbors are dealing with.

And we have lost that because it is what Michael Jackson did for all of us. I guess I have no idea. You know, it is scandal. It is corruption. It is who is in trouble, nannygate, and all the rest of it. We have become less deep as a society, even as our needs have deepened in their seriousness, and that, therefore, it is asking a lot.

I think it is just basically Washington, New York, and Boston which are the main production stations. Am I right about that?

Ms. CAHILL. I believe so for television.

The CHAIRMAN. But you do not have to be a production station to do extraordinary coverage. I think that you all do, and I think commercial television, for the most part, does not. That is another discussion for another day.

But I just want to encourage you, not ask you a question, but to encourage you in your work that you are doing what this country needs more than ever.

Ms. CAHILL. Thank you.

The CHAIRMAN. And it is easy to get angry about a war or to be happy about a war or to be neutral about a war, but it is very hard to get embroiled in public policy that involves health care reform or that involves transportation or things of this sort which are just flat-out basic to the American people but they do not want to hear about it.

So part of the trick is that it is hard for you because you have got to raise the money and foundations are not giving money like they used to. But that will change and you have just got to stick with it. And you will have money that you can allocate to stations, and I hope that you will do that—well, you will do that. I am confident of it. I care very much about the medium, and I am just very grateful to people who write the news and occasionally grateful to people who report the news visibly.

Ms. CAHILL. Thank you.

Senator HUTCHISON. I do want to ask one more question and it would be for Mr. Elliott.

The General Accounting Office reported that the STB commissioned a comprehensive study of competition in the freight rail industry, and the final report was released in 2008, commonly referred to as the Christiansen Report. It has recently come to the Committee's attention that the Board determined that some of the

data the Board supplied to the authors of the study was flawed and that in some cases the data overstated railroad rates.

What would be your plans, as leader of the Board, for revising the study to take into account or correct the record on the data, and should the Board take any action relying on the report that you would be cognizant of and get the most accurate data before you did any action based on it?

Mr. ELLIOTT. Obviously, that occurred previously, and I did hear something about it and I had read the executive summary of the Christiansen Report.

If confirmed, my understanding is that the numbers are being looked at again and there is a process going on to make them correct. That is my understanding. Obviously, if confirmed, I would encourage that process to make those numbers correct. Obviously, you do not want to rely on a flawed report.

Senator HUTCHISON. Thank you, Mr. Chairman.

The CHAIRMAN. In my final question, I would just take the personal liberty of saying that I hope that you will charge right into the middle of that hornets' nest and really go after it, really deal with it because it is not going to settle itself. You will do that.

Mr. ELLIOTT. I will.

The CHAIRMAN. Thank you.

Are there any other questions? I see no other members other than the two of us.

So I thank you all again. This business about public service is to me emotional, particularly when you have to give up what you have to give up to come do it. I am not saying that Kay Bailey and I do not have to give up certain things, but we choose it. We choose it and we like it. It is harder for you, all of you. And I really respect—

Senator HUTCHISON. There is, however, a difference between your vow of poverty and mine, with all due respect, Mr. Chairman.

[Laughter.]

The CHAIRMAN. And on that note, the hearing is adjourned.

[Whereupon, at 3:49 p.m., the hearing was adjourned.]

## A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO  
CHRISTOPHER BERTRAM

*Question 1.* Senator Rockefeller and I have introduced a national surface transportation policy bill that would create more performance-based, data-driven surface transportation programs. How could our surface transportation programs be improved by using more performance-based measures?

Answer. A key challenge for those who craft the Nation's transportation programs will be to link decision-making to performance at all levels. This will require a new commitment to measure performance, as called for in the legislation that you have sponsored. Performance-based measurement is key to ensuring that new transportation funding is invested wisely, and that the public has enough confidence in our work to support continued investment. Some other possible benefits of performance-based decision-making include improved safety, increased energy efficiency, environmental sustainability, greater accessibility, and more livable communities. Going forward, the balance of funding among the surface transportation modes will be fundamental to the best investment of our Federal transportation resources.

*Question 2.* The eight billion dollars for high-speed rail in the Recovery Act, along with President Obama's budget request of one billion dollars annually over the next 5 years, are strong first steps in developing a comprehensive high-speed rail network. But the demands to build a national network will exceed these resources. What can the Department of Transportation do to get the greatest return possible on these high-speed rail investments?

Answer. President Obama has directed that program decisions under the Recovery Act, including the development and implementation of the new high-speed rail program be based upon merit. From my review of the high-speed rail strategic plan and interim guidance to applicants and my discussion with executives of the Department, I am confident that the Department's approach to implementing that program aligns well with the President's directive and will result in a significant return to the public. While on the staff of the Senate Commerce Committee, I participated in the drafting of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) which will be the foundation of the high-speed and intercity passenger rail funding for the programs that will begin with funding under the Recovery Act. Sections 301 and 501 of that Act lay out a number of specific considerations to be used by the Secretary in awarding grants but they have the common theme of selecting projects that are both feasible and result in significant benefits in passenger mobility and the public at large. The Recovery Act and the Department's implementation of that Act are building on the PRIIA requirements in a number of ways to direct investments to projects and programs that accomplish the Administration's strategic transportation goals: Ensure safe and efficient transportation choices; build a foundation for economic competitiveness; promote energy efficiency and environmental quality; and support interconnected, livable communities. The Department's strategy is also to establish processes and procedures to address the need to minimize and mitigate risk so that the project is implemented as planned and generates the benefits intended. But processes are only part of the equation. There must also be vigilant oversight of the implementation of these processes. I see that as an important responsibility of mine and, should I be confirmed, look forward to taking on that challenge.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
SUSAN KURLAND

*Question 1.* Ms. Kurland, the Essential Air Service program currently ensures that there is commercial air service for five small communities in my state. While I agree that the program could probably be more efficient, could you tell me more about what changes, if any, DOT proposes for Essential Air Service?

Answer. As you are aware, this Administration has proposed a substantial increase in funding for EAS for FY 2010 to \$175 million. It is my understanding that that funding level will allow the DOT to run the program for the upcoming Fiscal Year. In his FY 2010 budget submission, President Obama committed to working with Congress on developing a more sustainable program model and I know the importance of EAS to the state of New Mexico given you have Alamogordo, Carlsbad, Clovis, and Silver City participating in the program (Hobbs was taken off subsidy on May 31, 2009). Should I be confirmed, I look forward to working with all stakeholders to achieve the President's goal.

*Question 2.* What steps would you take to provide a better foundation for the Essential Air Service program and otherwise ensure that small communities depending on it—especially in the current economic climate—continue to benefit from airline transportation?

Answer. I understand the Obama Administration is committed to maintaining small communities' access to the national air transportation system, and the primary tool to ensure that is the Essential Air Service (EAS) program. Most agree, including the GAO which recently released a report on EAS, that the program is not designed as efficiently as it can be, and should I be confirmed, I will work with you, members of this Committee, and others to better implement the program while still delivering the services to the eligible communities.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON TO  
SUSAN KURLAND

*Question 1.* Ms. Kurland, I apologize for missing you when you were in my office last week, but I did want to raise an issue that is of importance to me and I hope will be of importance to you in your new job if you are confirmed. As you know on May 8th of this year 23 Senators, nearly one quarter of the Senate, sent a letter to Secretaries LaHood and Clinton regarding the negotiations of an Open Skies agreement with Japan and access to Haneda Airport in Tokyo. This access will allow for a very limited amount of international service, tied to an artificial Intra-Asia perimeter, or for service outside the perimeter during late night hours.

I, and the colleagues of mine that signed this letter, wanted to be able to have input with DOT and State prior to the July negotiations. That is why we sent our letter in May and asked them to respond.

Our letter simply stated that U.S. policy calls for an open skies agreement, and we urge DOT to insist on strong assurances from Japan that it will not artificially restrict any U.S. carrier access to or use of major international gateways in Japan like Haneda in a manner inconsistent with longstanding open skies policy. Over two and a half months have passed, and we have had no response from DOT at all.

As you know if Haneda is further internationalized to serve the U.S., airlines like Delta (that use Narita airport in Tokyo as a hub) that have made a major investment in Narita will be competitively disadvantaged. These airlines were required to do this in the 1970s.

I understand that, according to your meeting with my staff, you haven't reviewed the case, but humor me if you will. You were formerly counsel at U.S. Airways, so I know you have a better understand than most of airline economics and business decisions. Given the facts as I have presented them to you, what do you think about this?

Answer. While not involved in the airline's international business efforts, I did have an opportunity to experience many of the issues that affect the airline industry. As you note, I have not yet had the opportunity to familiarize myself with the case. If confirmed, I assure you that I will work with the Department, Congress, and all stakeholders to develop an agreement that will fairly address these concerns.

*Question 1a.* Can you give me any estimate as to when we might receive a response from DOT as to our May 8th letter? State wrote us back 6 weeks ago.

Answer. I do not have an estimate on a response to your letter. However, if I am confirmed, I would be happy to look into the matter. More generally, I can assure you that, if I am confirmed, I will work with staff at the Department to ensure that Congressional inquiries are answered in a timely fashion.

*Question 1b.* As you know, as part of the check and balance system of government. Congress, through title 49 section 40101 of the U.S. Code, set the negotiating criteria for DOT and State. The section starts by saying:

In formulating United States international air transportation policy, the Secretaries of State and Transportation shall develop a negotiating policy emphasizing

the greatest degree of competition compatible with a well-functioning international air transportation system, including the following . . . .  
 . . . and then goes on to mention the numerous criteria put in place by Congress. What philosophy do you have about keeping Congress informed and responding to Congressional inquiries?

Answer. I feel very strongly about keeping Congress informed. If I am confirmed, I intend to work closely with Congress and keep Congress well informed of our negotiations.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO DANIEL ELLIOTT

*Question 1.* Mr. Elliott, over the past 25 years the Class I railroads have reduced their investment in rail cars. Currently, it is estimated that about 60 percent of rail cars are [owned] by shippers and leasing companies. It is my understanding that railroads may be encouraging shippers to own or lease rail cars in exchange for reduced rail rates—which may cause this trend to accelerate. As you know, the railroads' interchange rules are established by the Association of American Railroads (AAR) and these rules essentially establish the costs of car operation and maintenance for third parties.

Given the shift in ownership in rail cars from the railroads to third parties over the past several years, to what extent do you believe the STB should review the AAR process for amending its interchange rules and entertain complaints about the process from car owners, lessors, or their designated agents? Should the STB look at balancing the interests of car owners and car users? And if you believe the STB should look at balancing these interests, do you believe the Board has all the statutory authority it requires to achieve this?

Answer. Rail freight cannot move without rail cars, so issues related to the supply of rail cars and rules governing their use are of critical importance to the entire railroad industry. I am generally aware of these issues but I have not been directly involved because of the nature of my responsibilities in my current job. If confirmed, I will approach these issues with an open mind and will seek to find a fair and workable balance between all of the stakeholders—shippers, railroads, car owners, lessors and lessees. I am generally aware that the STB has broad authority over equipment issues. If I become aware of any area in which more authority is needed, I would not hesitate to bring that to the attention of the Congress.

*Question 2.* Mr. Elliott, for decades the Interstate Commerce Commission (ICC) prescribed car hire rates, establishing the price paid to the owner of cars by the user railroad. As you know, in the 1990s, the ICC de-prescribed car hire rates, effectively shifting the responsibility to the AAR. Under current law, "The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation the (Surface Transportation) Board shall consider the transportation use of each type of freight car, and other factors that affect the adequacy of the national freight car supply."

Do you believe that railroads have implemented the de-prescription methodology in a manner consistent with the statute (49 U.S.C. 11122(b)) described above? Does the STB currently have the authority to remedy any market distortion or complaints with respect to car hire rates or would a clearer directive from Congress be helpful?

Answer. The compensation that is paid to a rail car's owner for use of the car is an important motivator for stakeholders to invest in the national rail car fleet. This area of car compensation and car hire is not one with which I have been directly involved, but I am generally aware of the issues. If confirmed, I will get a better understanding of these issues promptly. My goal will be to ask "what's working?" and "what's not?" If I conclude that there are aspects of the current approach to car compensation that are not working effectively, I would not hesitate to explore avenues for change. Any change would need to reflect a fair balance between car owners and car users. I understand that the STB has broad authority in this area.

If I become aware at any point that additional authority would be desirable, I would not hesitate to bring that to the attention of the Congress.

*Question 3.* Mr. Elliott, my understanding is that the STB has a duty under the National Environmental Policy Act (NEPA) "to ensure adequate consideration of environmental factors in the STB's decision-making process. Under NEPA, the STB must take into account in its decision-making the environmental impacts of its actions, including direct, indirect and cumulative impacts. The STB must consider these impacts before making its final decision in a case." Do you believe STB can

deny a merger or acquisition application based on the severity of environmental impacts to surrounding communities? Based on what you know today, are you satisfied with the process the STB has in place to assess the environmental impacts of rail mergers?

Answer. I share your understanding that the STB has a duty under NEPA to ensure adequate consideration of environmental factors in its decisionmaking process. This duty obligates the agency to consider the direct and indirect environmental impacts of its action before making its final decision in many types of cases.

It is my understanding that the Board has authority to require parties to agree to conditions that will mitigate environmental impacts, and has used that power in recent mergers and acquisitions. To my knowledge, however, neither the Board nor any Federal court has provided guidance on the circumstances when the STB can deny an application based on the severity of environmental impacts. If confirmed, I will review the Board's authority and, if congressional clarification is needed, I will work with Congress to resolve this important issue.

Based on what I know today, the STB has a process in place that is designed to provide interested communities or parties with an opportunity to offer views on the environmental impact of a proposed merger. This entails having hearings in or near the affected communities to offer members of the public a chance to discuss their concerns face-to-face with the environmental staff of the STB. If confirmed, I will address concerns that stakeholders have over this process and explore ways to improve the existing environmental procedures of the agency.

*Question 4.* Mr. Elliott, my understanding is that one of the ways that the STB has historically handled mitigating community impacts is to urge railroads and communities to negotiate an agreement that then becomes part of the official decision. Quite often this approach disadvantages impacted communities that lack the experience, knowledge and/or resources to understand what they can or should expect from the railroads. What type of policy or STB operational changes could be made to overcome any disadvantage communities may have? Could the STB provide technical assistance to communities that request it? Overall, do you have a sense where the STB should strike the balance between efficient rail operations and community impact concerns?

Answer. It is my understanding that the STB attempts to mitigate community impacts by conducting an analysis of the potential impacts and possible mitigation measures, and then imposes mitigation conditions designed to minimize those impacts. This entails meeting with local communities to hear their concerns, as well as other Federal and state agencies and local officials. It is also my understanding that the STB does encourage local communities to negotiate with the railroads to reach an agreement that would impose mitigation conditions beyond the scope of those the agency can impose itself. During this process, I have been informed that local communities often ask STB staff about the kinds of negotiated agreements other communities have reached in similar circumstances, and STB staff will make available to them typical agreements filed at the agency that provide general information about the kinds of mitigation provisions agreed to. Should I be confirmed, I would listen carefully to any concerns that a community is being treated unfairly or otherwise disadvantaged by the agency's environmental review process and seek to address those concerns.

It is my sense that the STB must attempt to strike a reasonable balance between efficient rail operations and community impact concerns. This entails finding a harmonious balance between the public benefits of a strong national rail network and protecting the health and safety of local communities affected by the transaction. If confirmed, I will do my best to balance these competing concerns in a fair manner.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO DANIEL ELLIOTT

*Question.* My 2008 Clean Railroads law stops unscrupulous solid waste operators from avoiding environmental protection laws by loading their trash along railways. How will you enforce this law to end the evasion of our environmental protection laws?

Answer. If confirmed, it will be my responsibility to enforce laws passed by Congress in a manner fully consistent with congressional intent. I am aware of the problems created by trash companies seeking to hide behind the preemption provisions of the Interstate Commerce Act to circumvent state and local environmental protection laws. If confirmed, I will review the details of the 2008 Clean Railroads law and make every effort to actively enforce the law as was intended by Congress

and protect the public from any misconduct or abuses of the preemption protections provided to legitimate railroad activities.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TOM UDALL TO  
DANIEL ELLIOTT

*Question.* Mr. Elliott, some estimate that intercity freight traffic will grow by 70 percent by the year 2025. Given the energy efficiency and environmental advantages of rail freight transportation, how do you see the Surface Transportation Board's role in supporting the railroad industry's growth in the years to come?

*Answer.* I am aware that many analysts predict that freight traffic on the railroads will increase in the future. The railroad's ability to meet this demand in an efficient and environmentally friendly way is critical to our Nation's economy. To meet increasing demand for their services, railroads must generate revenues to be able to invest in expanding their capacity and maintaining their infrastructure. Under current law, the STB must take into account the railroad's revenue needs in considering the reasonableness of rail rates. But no railroad can lawfully charge an unreasonably high rate on captive traffic. The STB must therefore carefully balance the revenue needs of the railroads to continue to meet demand with the requirement that their rates be reasonable. If confirmed, I intend to make sure that the STB strikes this balance.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO  
DANIEL ELLIOTT

*Question 1.* Based on a recommendation from General Accounting Office in a report requested by this Committee, the STB commissioned a comprehensive study of competition in the freight railroad industry. The final report was released in 2008 and is commonly referred to as the "Christensen Report." It has recently come to the Committee's attention that the Board has determined that some of the data the Board supplied to the authors of the study was flawed and that the data overstated railroads rates. This is very likely to have resulted in flawed findings.

On July 30, 2009, the Board announced that it had contracted with Christensen Associates to update its report based on 2007 and 2008 data. The Board announcement, however, was silent on the issue of the flawed data in the original study. I am concerned that adding new data from two additional years while simultaneously correcting the original errors will obscure the extent of the problems with the original report. Can you assure the Committee that the Board will correct the original report in a manner that allows users of the report to clearly see how the analysis conclusions of the original report were faulty?

*Answer.* If confirmed, I assure you that the Board will provide a transparent final report that details how any conclusions in the original report are affected by the revised data.

*Question 2.* What, if any, action has the Board taken, or will the Board take, to ensure that anyone relying on the report is made aware of the flawed findings?

*Answer.* I am aware that the Board issued a press release and placed a notice on its website to alert interested parties that the report is being updated. If confirmed, I will commit to taking any additional steps needed to ensure that no party is relying on a flawed report.

*Question 3.* The Board's announcement stated that the "update will cost the Board"—in other words, the taxpayers—\$125,000. How much did the original study cost? Would the Board be spending all this money if the original data it provided to Christensen had been accurate? After all, the study was just released last November. Do you plan to have continuous report updates, and if so, do you expect they will occur so soon after a report is issued—in this case, a mere 8 months?

*Answer.* It is my understanding that the original study cost \$1 million. I do not know how much of the \$125,000 cost of the updated study is attributable to the flawed data. If confirmed, I would review whether any further updates would be necessary.

*Question 4.* The announcement indicates that, "the update will also make some technical corrections to the report." What, specifically, are the technical changes and why are they needed? Do these technical changes in anyway impact the findings of the November report? If so, how?

*Answer.* I do not know what the technical changes are that were referred to in the press statement, nor can I predict the impact on the findings of the November report. However, if confirmed, I will ensure that the updated report will provide suf-

ficient information so the public can clearly see how the findings of the November report changed.

*Question 5.* When, exactly, did the Board learn that some of the data it had provided to Christensen was flawed? What action has the Board taken regarding this matter since that time and the July 30 announcement?

Answer. I do not know when the Board learned that some of the data it had provided to Christensen was flawed, or what actions were taken before the July 30 announcement.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO  
DANIEL ELLIOTT

*Question 1.* What do you consider to be the most important management needs at the Board, and how do you hope to address those needs as Chairman?

Answer. I consider one of the most important management objectives for the Chairman to be to assure the prompt resolution of disputes brought to the agency. It has been my experience, having represented the UTU in many matters before the agency, that at times the process is very slow and the final decision comes so late that resolution of the dispute may no longer be relevant. I believe active supervision of staff, as well as clear communication of the goals, needs and objectives of the Board, will facilitate prompt resolution of disputes brought to the agency. If confirmed, I intend to clearly communicate my objectives to staff and to take active steps to remove any internal obstacles to the prompt resolution of matters brought to the agency.

*Question 2.* What are your views regarding the role arbitration can or should play in resolving conflicts between shippers and railroads?

Answer. If confirmed, working to resolve conflicts between shippers and railroads will be a priority for me. In my experience, arbitration can be a successful tool in facilitating the resolution of disputes. While arbitration may not be suitable for all kinds of disputes, I believe arbitration or mediation can play a role in resolving disputes between shippers and railroads.

*Question 3.* What are your views on proposals to impose strict antitrust law to all matters currently under the auspices of the STB? How would the role of the STB be impacted?

Answer. I am aware of recent legislation to remove antitrust immunities afforded the railroad industry. In general, I believe the antitrust laws are important to the proper functioning of competitive markets, so that any exceptions from those laws should be periodically reviewed and justified. However, my experience has not focused on rail antitrust issues, so I am unfamiliar with the full scope of antitrust immunities provided the railroads. As such, I cannot offer my views on specific legislative proposals at this time. If confirmed, I will carefully analyze the antitrust immunities in question and the potential impact of the proposed legislation and, if requested, provide my views to Congress.

*Question 4.* Do you believe Agriculture shippers have adequate recourse available through the Board's current policies, guidelines, and regulations?

Answer. It is important that all shippers have adequate recourse to the agency to have their disputes heard and resolved in a fair and prompt fashion. It has been my experience that at times the process can take far too long, and that these delays may discourage shippers, including agricultural shippers, from enforcing their rights under Federal law. If confirmed, it is my intent to listen carefully to concerns that the Board's processes are inadequate and take all reasonable measures to ensure that all shippers have adequate and prompt recourse to the Board.

*Question 5.* What, if anything, would you recommend to ensure the Board's processes for bringing rate complaints or concerns about service are assessable to small shippers?

Answer. As an attorney, I am aware of the high cost of litigating disputes, whether before the STB, other Federal agencies, or the court system. When litigation costs are high, small shippers with genuine disputes may be unable to feasibly bring the matter to the agency's attention. In my experience, agency delay breeds litigation costs and discourages small shippers with disputes from bringing those matters to the STB. If confirmed, I will make it a priority to improve small-shipper access to the Board.

*Question 6.* In regard to freight rail transportation, what in your judgment is the more serious problem: inadequate rail capacity or inadequate rail competition? What are your views on how both issues affect the economic well-being of railroads and shippers?

Answer. Asked to select which of these situations is the more serious problem is to be caught between two important competing interests. Both are problems, as inadequate rail capacity and inadequate rail competition are both likely to translate into higher transportation rates and poor service. The Board must carefully navigate a course between these two very important competing considerations.

*Question 7.* Do you understand and have an appreciation for the important role that short line railroads play in the national railroad network and will you support the continued creation of those railroads?

Answer. I do understand the important role that short line railroads play in the national railroad network. More than 25 percent of all rail traffic either originates or terminates on a short line railroad. If confirmed and called upon to review a new proposed short line, I would keep in mind the important role these smaller railroads can play in the national railroad network in deciding whether to approve the transaction as in the public interest.

*Question 8.* The Small Rate Case decision at the STB established a cap of benefits to any challenging shipper at \$1,000,000 over 5 years, or \$200,000 per year. Evidence has been presented that such a low cap would make any small rate case not economically justifiable beyond a business shipping much more than 100 rail cars per year. This is a very low level of shipping. Is there an answer to this problem? As Stand-alone rate cases may cost upwards of \$5 million, what happens to the vast majority of shippers who fall between those that can justify a SAC case and those that must live within small rate case guidelines?

Answer. It is my understanding that in the Small Rate Case decision, the Board established two caps on the relief available to a shipper that pursues relief under its simplified guidelines: a limit of \$1 million over 5 years if the shipper seeks relief under a test called the "Three Benchmark" approach, or \$5 million over 5 years if the shipper seeks relief under a test called "Simplified-SAC." It is further my understanding that when the agency established those limits, it stated it may revisit those limits to assure they have been set at the proper level. If confirmed, I will make it a priority to monitor the effectiveness of these rate relief processes.

*Question 9.* In response to shipper concerns that railroads were overcharging through fuel surcharges relative to actual added fuel charges incurred by carriers, are you aware that the STB stopped short of having carriers report data that would allow shippers in major categories (coal, ag, chemicals, etc) to compare their fuel surcharge to actual increase in fuel cost related to that particular shipping sector? As shippers are generally seeking equity across sectors being served by carriers, would you be willing to revisit this matter if and when you become Chairman of STB?

Answer. I am only generally aware of what was done in regard to fuel surcharges. If confirmed, I will quickly look into this matter. I have no preconceived notions about whether or not the current reporting requirements imposed by the Board on the Class I railroads could be improved to provide better transparency of their fuel surcharge practices.

*Question 10.* There are now only two major carriers in the eastern United States and two in the West. What do you see happening as a process if there is another serious proposal for a merger of any of the remaining carriers? What would be your standard for deciding whether such merger makes sense from a commercial or national policy standpoint?

Answer. If a merger were proposed between any major carriers, I envision that the agency would take a hard look at the proposed transaction to determine whether the merger is in the public interest. The agency would apply its current merger guidelines, which impose heightened reporting and substantive standards on any such proposal and require the applicant to demonstrate how the transaction will enhance competition. If confirmed, I would ensure that the agency hears the views of all interested parties, including state and local officials, as well as other Federal agencies, such as the Antitrust Division of the Department of Justice and the Department of Transportation. I would also expect a robust environmental review process to assess the impact of the proposed transaction on the health and safety of local communities.

If confirmed, I will enforce the public interest standard in the statute, applicable environmental laws and the merger review standard described in the agency's rules for major rail mergers.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHNNY ISAKSON TO  
DANIEL ELLIOTT

*Question.* Mr. Elliott, when your nomination was announced by President Obama, the United Transportation Union, your employer, released the following statement about your appointment. Here is a portion of that statement:

“The selection by President Obama of Dan Elliott and Joe Szabo to head major transportation regulatory agencies is tribute to the political influence of the UTU, which flows from the UTU PAC,” said UTU International President Mike Futhey. “We have good reason to expect President Obama to reach into the UTU ranks for other appointments in the near future.” Do you believe that your appointment was the result of campaign contributions and influence with the Administration, as the president of the UTU has said? What are your thoughts on recusing yourself while on the STB from issues involving the UTU? Do you think you should hear matters involving them before the Board?

*Answer.* It is truly an honor to have been nominated by President Obama to serve the public as a board member at the STB. I believe I have been nominated because of my 16 years of experience as an attorney in the transportation area. I also hope my experience provides a useful complement to the existing makeup of the Board.

I take very seriously my ethical obligations under Federal ethics laws and the ethics rules of my bar. If confirmed, I will recuse myself from any matter where required in order to avoid conflicts of interest or the appearance of impropriety so that the public can have confidence in the neutrality of the agency. In addition, under the terms of my ethics agreement, I have agreed to sign and be bound by the Ethics Pledge (Exec. Order No. 13490) which provides that I will recuse myself from any particular matter involving specific parties that is directly or substantially related to UTU for a period of 2 years.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. SAM BROWNBACK TO  
DANIEL ELLIOTT

*Question.* Mr. Elliott, on October 16, 2008, the Clean Railroads Act of 2008 became law. If you have studied the history of this issue you will know Senator Lautenberg and the members of this committee worked very hard to craft an acceptable compromise to both protect public health and the environment, as well as to protect interstate commerce and the environmentally sound transportation of waste by rail. It is my understanding that this statute was intended to be widely inclusive of the preexisting facilities that were to be both regulated as well as protected. It is also my understanding that the legislation encompasses preexisting solid waste transfer facilities operated by a rail carrier, or on property owned by a rail carrier, or operating on behalf of a rail carrier for the purpose of loading waste onto rail cars. Is it also your understanding that this statute is to be widely applied to all such waste facilities existing on the date of enactment?

*Answer.* I am aware of the problems created by trash companies seeking to hide behind the preemption provisions of the Interstate Commerce Act to circumvent state and local environmental protection laws, and the efforts of the Committee to craft an acceptable compromise to protect the public health and environment as well as interstate commerce. However, my practice and experience at the UTU has not exposed me to all the details of the 2008 Clean Railroads Act. It is the STB's responsibility to enforce laws passed by Congress in a manner fully consistent with the congressional intent. If confirmed, I will review the details of the 2008 Clean Railroads law and make every effort to understand the intended scope of that provision, to actively enforce the law as was intended by Congress, and to protect the public from any misconduct or abuses of the preemption protections provided to legitimate railroad activities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
HON. CHRISTOPHER HART

*Question 1.* Last year, drunk drivers killed nearly 12,000 people on our Nation's roads. Each one of these deaths should be 100 per cent preventable. Yet despite Federal, state, and local efforts—drunk driving still accounted for thirty-two percent of deaths in fatal car crashes in 2008.

New Mexico, which once led the Nation in drunk driving statistics, has made significant progress in reducing drunk driving through a combination of enforcement and education efforts. New Mexico also has a statewide drunk driving coordinator—our “DWI czarina”—to better combat drunk driving.

Although NTSB has issued reports and safety recommendations in the past, I would like to know how NTSB can do more to help prevent drunk driving. How can NTSB best help efforts to reduce drunk driving? Do you support research and development efforts for advanced ignition interlock technologies to prevent drunk driving? Do you support the efforts of states like New Mexico that require ignition interlocks for convicted drink drivers?

Answer. Although I am interested as a citizen and a driver in reducing drunk driving, I have not been involved in drunk driving issues as a regulator since I was the Deputy Administrator at the National Highway Traffic Safety Administration in 1994. If confirmed, I will work with NTSB staff and Members to look at what measures and programs have helped to reduce drunk driving, as well as what measures and programs have not been so effective, in order to determine how the NTSB can most effectively address this serious safety problem. If confirmed, I would welcome the opportunity to work with you on this critical issue.

*Question 2.* The fatal Metro accident last month here in Washington is a reminder to us all that the work of ensuring public safety is never finished. One concern that I have is that NTSB recommendations to transportation agencies are voluntary. When you identify specific safety concerns, transit authorities are not required to implement your recommendations. How will you help ensure that NTSB recommendations are implemented instead of ignored?

Answer. I believe it is very important that NTSB recommendations not be ignored. Congress created the NTSB as an independent agency with a singular focus—improving transportation safety—and wisely did not give it the authority to regulate or mandate. Although NTSB recommendations are not mandatory, they have commanded considerable respect in the industry, and have historically enjoyed a high compliance rate by regulatory agencies and by industry—more than 80 percent overall. The fact that the rate is more than 80 percent demonstrates that the recommendations have been sound, effective, and realistic for improving safety. In more than 16 years at the National Highway Traffic Safety Administration and the Federal Aviation Administration, I saw firsthand that NTSB recommendations were given very serious consideration. Nevertheless, I understand your concern and I believe the NTSB should continually strive for higher compliance rates. If confirmed, I will work with NTSB staff and Members to assure that its recommendations continue to be as sound, effective, and realistic as possible for improving safety. I will do my best to help NTSB obtain the highest possible compliance rate.

*Question 3.* Mr. Hart, you state that NTSB must remain a nimble agency in a “fast moving environment.” The agency was formed over 40 years ago yet the transportation landscape we face today is significantly different. Have you identified areas where this Committee should assist NTSB in meeting the Nation’s 21st century transportation safety needs?

Answer. Although I was a Member of the NTSB from 1990 to 1993, many technological and process changes have occurred since then, both at the NTSB and in the transportation systems that are in its bailiwick. While I have been involved to some degree in many of these changes over the years, ranging from process changes resulting from information technology advances, to substantive changes such as advances in human factors research, I am not sufficiently knowledgeable about what the NTSB currently needs to be able to describe in any detail how Congress or the Senate Commerce Committee might help the NTSB be more effective. If confirmed, I will work with NTSB staff and other Members to determine in general how the NTSB can fulfill its mission more effectively, and to determine in particular how the Committee and Congress can help.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO  
PATRICIA CAHILL

*Question 1.* During the last Administration, public broadcasting’s objectivity was under assault. An Inspector General report found that CPB’s then-Chairman hired consultants to rate the political leanings of PBS shows and hired lobbyists with taxpayer funds. As a member of CPB’s Board, how will you detect, stop, and expose any attempt at political meddling?

Answer. I am aware that, in the wake of the 2005 CPB Inspector General report, CPB’s Board adopted comprehensive governance reforms that clearly define the roles of the Board and management. I understand that, among other things, those reforms forbid any political tests in hiring, and prevent the Chairman or other Board members from entering into contracts without the approval of the full Board. If confirmed, I will enthusiastically support those policies and the general principle of transparency to ensure that the issues you mention do not arise again.

*Question 2.* As the General Manager of a public radio station, you know that public broadcasters are facing a crisis because of state budget cuts and steep decreases in individual and corporate giving. If confirmed, what will you do to help struggling public television and radio stations across the country?

Answer. I am aware that the economic situation in our country has resulted in revenue declines from all non-Federal sources of income for public television and radio stations. This is true for stations from every region of our country, and of every size and license type. If confirmed, a top priority for me will be to ensure that no American loses access to free, over-the-air public television and radio during this time. I believe CPB should be focused on ensuring universal service and fortifying the health of the public broadcasting system.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TOM UDALL TO  
PATRICIA CAHILL

*Question.* Ms. Cahill, you have an impressive background in public radio. I would like to ask though how you will approach issues affecting public television. For example, in New Mexico the digital transition has not yet taken place everywhere in the state, and our public TV broadcasters face challenges related to converting rural TV translators to digital signals. How will you as a CPB board member work to ensure the health of public broadcasting for both TV and radio? How can this committee support your efforts?

Answer. As you noted, this is a tough time financially for public broadcasters. The economic situation in our country has resulted in revenue declines from all non-Federal sources of income for public television and radio stations. This is true for stations from every region of our country, and of every size and license type. If confirmed, a top priority for me will be to ensure that no American loses access to free, over-the-air public television and radio service. I believe CPB should be focused on helping to ensure universal service and fortifying the health of the public broadcasting system.

With regard to digital translators, I understand that New Mexico depends on a large number of television translators which have not yet been converted to digital. Across the country, public television and radio stations have significant need for funding to replace the more than 1,500 television and radio analog translators providing service to mostly rural areas. In fact, a CPB study of the costs to construct digital translators for public television and radio produced an estimate of \$63.5 million. A portion of CPB's \$40 million FY 2010 digital conversion request to Congress would help to meet these costs.

The Senate Commerce Committee plays a critical role with regard to CPB and the public broadcasting system, acting as its authorizing and oversight committee. Of course, while the annual appropriations provided by Congress are indispensable, this committee will play a key role—from a legislative and oversight standpoint—in guiding the system from the broadcast-only model to the “Public Media 2.0” envisioned by President Obama.