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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
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January 17, 2020

The Honorable Elaine L. Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Chao:

Yesterday, the Special Committee to Review the Federal Aviation Administration's Aircraft Certification Process, which you established on March 25, 2019, delivered its final report to the U.S. Department of Transportation and Congress. While I believe the report makes some important recommendations to improve aviation safety, including mandating safety management systems for manufacturers and increasing the Federal Aviation Administration's (FAA's) workforce capabilities, I believe the report falls short in its review of the FAA's certification process. Instead, it defends a system that is in clear need of improvement.

Multiple expert reports, including the final report of the Joint Authorities Technical Review (JATR) and the National Transportation Safety Board's (NTSB's) September 26, 2019 Aviation Safety Recommendation Report on the 737 MAX crashes, identify shortcomings with the current Federal Aviation Administration (FAA) certification process. These problems include a delegation system with limited FAA involvement in the certification of some safety-critical systems, along with evidence of "undue pressure" on employees of manufacturers and a failure to identify risks.

The Special Committee's report found the FAA "acted appropriately" in determining its level of involvement for each element of the certification plan for the 737 MAX. This contradicts the findings of the JATR, which stated, "FAA's involvement in the certification of MCAS would likely have resulted in design changes that would have improved safety." When analyzing such safety-critical systems, closely involving FAA experts in the certification process is vital.

The JATR report also found that "signs were reported of undue pressures on Boeing Organizational Designation Authorization (ODA) engineering unit members (E-UMs) performing certification activities on the 737 MAX program," which "further erodes the level of assurance in this system of delegation." Additionally, the Special Committee's report failed to address Boeing employee communications that were disclosed to Congress, in which employees discussed a motivation to minimize crew training requirements for new systems on the MAX. Yet despite this evidence, the report concludes that controls are in place that protect "against undue pressure on the ODA Unit from the business interests of the company."

The report does make important findings with respect to the challenges the FAA faces to meet personnel demands in an increasingly complex aerospace system. As aviation technologies continue to rapidly advance, the report recognizes that the FAA needs the right people with the right skill set to identify and mitigate safety risks associated with these new technologies. This starts with attracting our best and brightest young minds to the FAA, which is why this week I introduced *The National Air Grant Fellowship Program Act of 2020* to create an aerospace policy fellowship program for graduate and post-graduate students in Congress, at the FAA, and in other federal agencies. I hope the Department will support this effort.

As NTSB Chairman Robert Sumwalt said in an October 29, 2019 hearing before the Senate Commerce Committee, safety management systems (SMS) are also a key part of a risk-based approach to safety. The Special Committee's report recommends the FAA mandate implementation of SMS for design and manufacturing organizations. I introduced legislation in October 2019, *The Aviation Automation and Human Factors Safety Act of 2019*, that would establish those important mandates.

It is time to correct the flaws in the FAA's certification process. I urge you to take actions within your current authority to reform the identified problems with the certification process and adopt the committee's recommendations on SMS and the FAA workforce.

Sincerely,



Maria Cantwell
Ranking Member