

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

Nominations

Wednesday, July 23, 2025, at 10:00 A.M.

**DEMOCRATIC QUESTIONS FOR THE RECORD**

**COVER PAGE**

**Mr. Zerzan**

## **RANKING MEMBER MARIA CANTWELL (D-WA)**

***DOT's proposed new enforcement procedure.*** On May 16, 2025, the Transportation Department issued a proposed rule, "Administrative Rulemaking, Guidance, and Enforcement Procedures," which I believe significantly chills enforcement actions. This proposed rule creates a new process that would allow a company being investigated by the Department to accuse DOT inspectors of misconduct and then petition you, if confirmed as General Counsel, to intervene on the company's behalf. Alarming, the rule would authorize you to pursue disciplinary action against DOT investigators and other employees, such as suspensions, demotions, or even terminations. I have serious concerns that this new process may be used to retaliate against DOT inspectors and discourage robust enforcement of our safety laws.

I understand my staff raised this proposed rule during your staff interview on July 21, 2025, so you are familiar with it.

*Question 1:* Yes or No: Do you think this new process creates a chilling effect on enforcement?

***Answer: Because I am not at the Department I am not familiar with the policy discussions that led to this proposal. In addition, because the rulemaking remains in the proposal stage it may appear predecisional for a nominee with potential policy or enforcement authority to comment on matters which may come under the purview of the office to which the person is nominated. However, if I am confirmed I commit to doing whatever is within my power to ensure the law is followed without fear or favor, partiality or prejudice.***

*Question 2:* Do you think exposing DOT safety officials to new personal liability like this will encourage them to pursue robust enforcement actions?

***Answer: Because I am not at the Department I am not familiar with the policy discussions that led to this proposal. In addition, because the rulemaking remains in the proposal stage it may appear predecisional for a nominee with potential policy or enforcement authority to comment on matters which may come under the purview of the office to which the person is nominated. However, if I am confirmed I commit to doing whatever is within my power to ensure the law is followed without fear or favor, partiality or prejudice.***

*Question 3:* Yes or No: If confirmed, will you publicly disclose any petition a company files pursuant to this new process asking you to intervene in an enforcement matter?

***Answer: Because I am not at the Department I am not familiar with the policy discussions that led to this proposal. In addition, because the rulemaking remains in the proposal stage it may appear predecisional for a nominee with potential policy or enforcement authority to comment on matters which may come under the purview of the office to which the person is nominated. However, if I am confirmed I commit to doing whatever is within my power to ensure the law is followed without fear or favor, partiality or prejudice.***

*Question 4:* Yes or No: If confirmed and this rule is finalized, will you publicly release detailed guidance on how you will enforce this new process?

***Answer: Because I am not at the Department I am not familiar with the policy discussions that led to this proposal. In addition, because the rulemaking remains in the proposal stage it may appear predecisional for a nominee with potential policy or enforcement authority to comment***

***on matters which may come under the purview of the office to which the person is nominated. However, if I am confirmed I commit to doing whatever is within my power to ensure the law is followed without fear or favor, partiality or prejudice.***

***10 for 1 deregulatory requirement.*** In President Trump's first term, the requirement to repeal two federal requirements for every new requirement delayed or obstructed DOT from completing important safety requirements. For instance, a requirement for aviation manufacturers to have mandatory Safety Management Systems to prevent safety risks languished on the previous General Counsel's desk despite its clear relevance to the Boeing 737 Max crashes.

Now, this Administration is looking to repeal 10 safety requirements for every new one. There are a number of important bipartisan transportation safety requirements in the recent FAA reauthorization and the Bipartisan Infrastructure Law that would prevent crashes, save lives, and protect consumers.

This includes common sense requirements like overhauling safety standards to prevent helicopter air tour crashes like the April Hudson River tragedy, automatic emergency brakes for large trucks, and preventing families from being charged extra fees to sit together on flights.

*Question 1:* Should the 10 for 1 requirement apply to bipartisan life-saving safety requirements?

***Answer: I am not at the Department but it is my understanding that Secretary Duffy and the President are committed to ensuring the safety of the American people.***

*Question 2:* Will you commit to exempting congressionally mandated safety requirements from the 10-for-1 mandate?

***Answer: I commit to seeking to ensure that all rulemakings are consistent with the law as passed by Congress.***

*Question 3:* Please name 10 transportation safety requirements that you think should be repealed?

***Answer: Because I am not at the Department I am not aware of what role, if any, the General Counsel will have in determining the appropriateness of individual safety standards, which may be a task best reserved for the relevant subject matter experts; however, it is my understanding that safety requirements are a priority for Secretary Duffy and the President.***

***DOT workforce cuts and infrastructure investments.*** Politico recently reported that over 20 percent of the Federal Highway Administration and over 30 percent of the Federal Transit Administration have taken deferred resignation offers. These are the workers who approve NEPA documents, prepare grant agreements, and oversee grants to prevent waste, fraud, and abuse of taxpayer dollars.

*Question 1:* Mr. Zerzan, as General Counsel, you will be responsible for approving grant agreements. I have heard from constituents who were concerned that the process to receive federal funds was too slow before, how do you plan to ensure the efficient distribution of funding with this reduced workforce?

***Answer: If I am so fortunate as to be confirmed I will endeavor to ensure that funding is efficiently distributed consistent with the law and the direction of the Secretary.***

*Question 2:* The Bipartisan Infrastructure Law provided \$350 billion for transportation projects – how will you work to prevent waste, fraud, and abuse of taxpayer dollars with a drastically reduced workforce to oversee these funds?

*Answer: If I am so fortunate as to be confirmed I will endeavor to ensure that funding is efficiently distributed consistent with the law and the direction of the Secretary.*

**FAA Reauthorization Aviation Consumer Protections.** After hearing directly from my constituents who had their travel plans ruined during the Southwest Airlines’ meltdown, I knew we needed to make sure the flying public was not left holding the bag wondering if they would ever be made whole after getting their flight cancelled or delayed.

Thanks to the FAA law, we ensured passengers are entitled to hassle-free refunds when their flights are cancelled or significantly delayed by an airline – no matter the cause. And we empower the DOT to be a strong cop on the beat by establishing a new Office of Aviation Consumer Protection and tripling fines for consumer protection violations.

But I’m concerned that DOT will revert back to a 2020 Trump Administration rule that weakened airline oversight. We cannot afford a light-touch approach to consumer protections when Americans have experienced so many widespread travel disruptions in the past three years.

*Question 1:* DOT must show they are committed to upholding and enforcing protections for everyday travelers. Yes or No: If confirmed, will you make protecting passenger rights a priority under your leadership?

*Answer: I will make protecting passenger rights a priority consistent with law and in accordance with the policy directions of the Secretary.*

*Question 2:* Our 2024 FAA law requires a stronger DOT approach to consumer protection. Yes or No: Do you commit to ensuring the Office of Aviation Consumer Protection gets fully stood up to protect passenger rights as required by the law?

*Answer: I commit to following the law as passed by Congress.*

*Question 3:* If confirmed, how would you leverage DOT’s enforcement authorities to act on behalf of consumers who have had their rights violated by airlines?

*Answer: I will seek to ensure that all authorities are used to protect the rights of consumers, consistent with the law and the policy direction of Secretary Duffy. It is my understanding that Secretary Duffy and the President are committed to ensuring the rights of consumers are protected.*

**Grant Review.** The Trump Administration is in the process of reviewing 3,200 projects went through a rigorous selection process and were in the final stages of execution during the Biden Administration. Many of them were ready to go, but on day one, President Trump put a historic pause all 3,200 of those projects and created a new step in the grant approve process, requiring grants to be re-evaluated to make sure were not funding “woke” roads. As a result, grants that were selected under a fair and competitive process have been delayed.

*Question 1:* Yes or No: Do you think it is fair to change the rules of the game and re-evaluate grants that have already been selected and announced based on criteria that weren’t even part of the original application process?

*Answer: I believe it is the duty of the Department to follow all applicable laws.*

*Question 2:* Yes or No: Do you commit to improving the transparency of the Department's grant review process and working with recipients to get remaining grants obligated as soon as possible so that funds can start to benefit our communities?

*Answer: I believe it is important to follow the law as passed by Congress, including with respect to transparency.*

*Question 3:* Yes or No: Do you commit to making sure that DOT grant programs remain free from political bias and that projects under this Administration are selected based on merit?

*Answer: I believe it is important to follow the law as passed by Congress, including with respect to political bias.*

***Immigration Cooperation to Receive Federal Transportation Funds.*** DOT sends billions of dollars every year to States and local communities for highways, airports, transit, ports, and all sorts of critical transportation projects.

On April 24, 2025, Secretary Duffy issued a "Follow the Law" letter to recipients of DOT funding stating that they are obligated to comply with all Federal laws, including cooperating with ICE in the enforcement of immigration law.

Failure to follow those requirements could result in federal transportation funding being terminated. I see this as just creating more red tape for construction projects.

*Question 1:* As DOT General Counsel you will be providing legal advice to Secretary Duffy and your office will have final authority on questions of law for the Department. Do you believe the Federal government has the legal authority to compel States to cooperate with Federal immigration enforcement in order to receive critical transportation funding?

*Answer: It may be premature to discuss analysis related to legal authorities with respect to matters in which the United States may become a party to litigation.*

***Department of the Interior "M-Opinions."*** Mr. Zerzan, as the acting DOI Solicitor, you issued a memo on February 28, 2025, that placed every legal opinion by the Solicitor's office (known as "M-Opinions") issued under the Biden Administration under a "Suspension Review." Twenty legal opinions were suspended, ranging from issues on migratory bird protections, mineral ownership in North Dakota, and land trusts for Alaska Natives. While previous solicitors in new Administrations have suspended or withdrawn certain M-Opinions, they had done so on a case-by-case basis.

*Question 1:* What criteria, if any, did you apply when deciding which M-Opinions to suspend?

*Answer: I must respectfully demur with respect to questions related to the internal legal deliberations of the Department of the Interior.*

*Question 2:* Yes or No: If confirmed, do you plan on rescinding or otherwise targeting DOT legal decisions simply because they were issued during the Biden Administration?

*Answer: I commit to exercising legal judgments based on the substantive merits and applicable law and facts.*

*Question 3:* You also reinstated one M-opinion that a federal district court ruled unlawful and vacated. Yes or No: Do you agree that an executive order does not give an agency the authority to violate a binding court order?

*Answer: Executive orders do not generally override court orders.*

***Impartial Legal Advice.*** I understand you have held a personal friendship with Secretary Duffy for at least 15 years.

*Question 1:* Please detail your relationship with Secretary Duffy, including when and how you become friends.

*Answer: I have known Secretary Duffy since he was a candidate for Congress. I consider him to be a patriot and a great American.*

*Question 2:* Yes or No: Do you agree that the role of DOT General Counsel is to provide sound legal guidance to advance the Department's interests, not any individual's personal interests?

*Answer: It is a fundamental principle of legal ethics that the duty of a lawyer is to uphold the interests of the lawyer's client, consistent with the law.*

*Question 3:* Will you commit to always providing impartial legal advice if confirmed?

*Answer: If I am so fortunate as to be confirmed I commit to upholding laws, rules and best ethical practices.*

## **SENATOR AMY KLOBUCHAR (D-MN)**

***1. Oversight Cooperation.*** In previous administrations, the General Counsel has supervised Congressional oversight requests related to the Department of Transportation. The Department's cooperation is crucial to this Committee's work, including in investigating and working to prevent recent plane collisions and near-misses.

If confirmed, will you work in good faith to provide prompt responses to congressional oversight as required by law? ***Yes***

## SENATOR TAMMY DUCKWORTH (D-IL)

1. Steven Bradbury was Department of Transportation (DOT) General Counsel during Congressional 737 MAX investigations, DOT did not cooperate with this committee's requests for documents and information.

Chair Wicker's final report on our committee's investigation concluded, "The level of cooperation by the FAA and DOT has been unacceptable and at times has bordered on obstructive."

The report specifically called out Bradbury's failure to produce relevant documents requested by Chair Wicker.

If you are confirmed, Mr. Bradbury will be your boss at DOT.

- A. Why should this committee trust that you will be any more cooperative than Mr. Bradbury was with requests for documents and information? **I cannot speak to the facts of the particular matter you mention, but I commit to work in good faith to provide prompt responses to congressional oversight as required by law.**
- B. If confirmed, will you provide this committee with a breakdown of the number of Department of Transportation employees – by mode and job category – who have left or are scheduled to leave DOT employment, so far, this year? This is not a request for names or personal identifying information. **I commit to work in good faith to provide prompt responses to congressional oversight as required by law**

2. As you know, the Office of Aviation Consumer Protection (OACP) sits within the Office of General Counsel. The OACP handles complaints filed by flying passengers, including passengers with disabilities, who might want recourse when – for example – their wheelchair gets broken. Many of my priorities included in the FAA Reauthorization Act that was signed into law last year were intended to improve the travel experience for passengers with disabilities and would be implemented under the OACP. Please answer the following yes-or-no questions:

- A. If confirmed, will you ensure the various rulemaking requirements and issuance of sub-regulatory guidance required by the FAA Reauthorization Act, particularly under title V, will be published in the Federal Register on time? For any deadlines that may already have been missed, please list the date upon which we can expect to see these published. **I commit to endeavoring to follow the law as passed by Congress.**
- B. With respect to Sec. 549, which was a priority of Senator Baldwin and me, I am concerned about your past efforts to deregulate industries at other departments. If confirmed, will you ensure DOT will investigate disability-related complaints within 120 days of receiving the complaint, and notify the complainant and relevant airline of the facts underlying the complaint and any action DOT is taking in response to the investigation?  
**I commit to endeavoring to follow the law as passed by Congress.**



## **SENATOR BEN RAY LUJÁN (D-NM)**

1. The purpose of the Department of Transportation is to ensure that every form of transportation is safe for Americans. Yes or No: Would you take an action that is in conflict with those goals due to political pressure?

**I commit to follow the law as passed by Congress.**

2. Yes or No: Would you go against a direct order from the President or his cabinet if you believed it put lives at risk or was illegal?

**I commit to follow the law as passed by Congress.**

3. Yes or No: Did Joe Biden lawfully win the 2020 presidential election?

**It is my understanding that Joseph Biden was certified the winner of the electoral college vote on January 7, 2021, thereby making him the lawfully elected President of the United States.**

4. Yes or No: Did Donald Trump lawfully win the 2024 presidential election?

**It is my understanding that Donald Trump was certified the winner of the electoral college vote on January 6, 2025, thereby making him the lawfully elected President of the United States.**

## **SENATOR JOHN HICKENLOOPER (D-CO)**

The Bipartisan Infrastructure Law included major programs designed to improve safety, strengthen the resiliency of supply chains that rely on rail, highway, or aviation modes of transportation and modernize critical infrastructure across each state. The American government includes a separation of powers where the Legislative Branch passes laws that, after enactment, are implemented by the Executive Branch. By next year, Congress and this Committee must decide on how we will reauthorize surface transportation programs to meet the needs of our states.

1. Mr. Zerzan, do you believe an Executive Order has the power to override the will of laws that are crafted by Congress? Why or why not?

**Executive orders do not generally override laws passed by Congress.**

2. Mr. Zerzan, will you commit to advising Secretary Duffy to implement federal policies, award discretionary grants or formula funds on a timely basis, and faithfully review project applications as intended by Congress?

**I commit to advising the Secretary to follow all applicable law.**

