

**AVIATION SAFETY:
OVERSIGHT OF FAA SAFETY INITIATIVES**

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION OPERATIONS,
SAFETY, AND SECURITY

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

DECEMBER 10, 2009

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

54-919 PDF

WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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THURSDAY, DECEMBER 10, 2009

U.S. SENATE,
SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND
SECURITY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:02 a.m. in room SR-253, Russell Senate Office Building, Hon. Byron L. Dorgan, Chairman of the Subcommittee, presiding.

**OPENING STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. We're going to call the hearing to order. This is a hearing of the Commerce Committee, Subcommittee on Aviation. We welcome today the Honorable Randy Babbitt, the Administrator for the Federal Aviation Administration.

We have held a number of hearings recently on the issue, particularly of safety and fatigue and related matters. And this hearing is a hearing to discuss a wide range of issues with the Administrator. Mr. Babbitt is going to be talking about what he has been involved in down at the FAA. He's involved in a number of actions.

Shortly after he was sworn in as Administrator of the FAA he held a "call to action" meeting. And that "call to action" meeting brought in regional air carriers, pilots, pilot's unions and many others to discuss and improve safety and to reduce risk. The "call to action" initiatives have led the FAA to seek voluntary commitment from air carriers to implement certain flight operations quality assurances and aviation safety action programs and various things. We'll talk about that today.

The FAA has made progress in a number of areas. And there are a number of areas where progress needs yet to be made. I held a hearing recently and we talked about the issue of fatigue and the fact that fatigue has been on the Most Wanted List for 19 years of the NTSB. And Mr. Babbitt and the FAA are working on that.

I was disappointed at the last hearing to understand the time has slipped. We'll talk about that a bit with Administrator Babbitt as well because we are determined to try to drive this to a conclusion.

It is the case that commercial aviation in this country delivers about 800 million people per year to their destinations. 30,000 flights operate every day in this country safely. We've had some tragic accidents, but few. And we also know how to prevent acci-

dents in the future by addressing things that we understand are potential problems and cause potential risk.

There are fatigue-related accidents that have occurred in the last 20 years. And one, in my judgment quite recently, that caused a good many fatalities. And it ought to require all of us to be urgent in our request to the FAA to make progress on dealing with these issues.

Recent FAA equipment outages have caused some concern. And we will ask about those today as well because it caused major delays and chaos across the country in the air traffic system, one November 19 of this year and one in 2008. The bird strike issues, the Hudson River mid air collision. Those are both issues. Talking about the helicopter and fixed wing mid air collision. The bird strike with the landing in the Hudson River by a commercial airplane raises other issues I know for the NTSB and also for the FAA.

Airworthiness directives violations, I won't talk much about that except to say that I'll ask questions about that as well. When commercial airlines fail to comply with airworthiness directives that's a very serious problem and I know the FAA has had to take some remedial action there.

And then the issue of next generationers, or so called "NextGen" changing the air traffic control system and modernizing that system is very important because that will improve safety. Improve safety. Save fuel. Do a lot of things.

Most people nowadays understand that you can access a satellite somewhere above the Earth and get directions from that in order to move your car or to find a location of your friend with a cell phone. The problem is despite the fact that that technology is mature and ready, it is not available in this country, generally speaking, for the movement of commercial airplanes. It's unbelievable to me.

We still are doing this ground-based radar navigation in the skies when, in fact, GPS navigation would be much, much safer. Then we would know exactly where an airplane is in the sky. Right now we know about where that fast traveling jet is.

We know about where it is because the transponder put a blip on the screen. And at that nanosecond, that's where that plane was. And for the next seven or 8 seconds as the sweep goes on that console, that airplane is somewhere else.

Well, we don't need to guess about where airplanes are in the sky. NextGen and the modernization of the air traffic control system to a GPS system is exactly what we need to do on an urgent basis. And that's something that Administrator Babbitt is very deeply involved in as well.

All of these are very important issues. Administrator Babbitt has a lot on his plate. And we appreciate him being here today.

I'm going to—Senator Johanns, did you want to say a word? I'm not going to have opening statements by and large. But we have a number of other members who will—Senators who will join us momentarily. But I'd be glad to call on Senator Johanns if you wish to make a comment.

Senator JOHANNIS. Mr. Chairman, that is a very kind offer. I concur with so many things that you said and wanted to indicate that. But I can only be here about 45 more minutes.

So maybe it's best that I pass on the opportunity to make an opening statement. If I have anything we'll submit it for the record. And we can proceed to the first witness.

Senator DORGAN. Well, Senator Johanns, thank you. And thanks for your very active participation on all of these hearings on the issue of aviation and air safety.

Mr. Babbitt, you have only recently, that is, in the recent months taken the reins of a very large agency. And we appreciate that. We want to hear your comments today and then open it for questions.

As I've indicated, we have a number of other Senators who will be joining us shortly, but you may proceed. Your entire statement will be a part of the permanent record, and you may summarize.

**STATEMENT OF HON. RANDOLPH BABBITT, ADMINISTRATOR,
FEDERAL AVIATION ADMINISTRATION**

Mr. BABBITT. Well, thank you very much, Chairman Dorgan. Members of the Subcommittee, thank you very much for inviting me here to testify on behalf of the Federal Aviation Administration to discuss the FAA's ongoing safety initiatives. Safety is, of course, the most important mission of the agency and the FAA professionals take this mission and their role in it very seriously.

At the onset of this hearing, I'd like to take a moment to acknowledge a group of family members that are attending this hearing this morning representing the family members of passengers who died earlier this year in the Colgan accident. Any aviation fatality is taken very seriously by the FAA and of course, by me personally. And while I can only imagine the grief and the painful process that they're going through to come to terms with their loss, we're very motivated to improve aviation safety so that other families could be spared their tragic experience.

I've met with the family members on more than one occasion, personally. And I will do so again later today with Secretary LaHood. My Associate Administrator for Safety, Peggy Gilligan and her Deputy, John Hickey, have also met with them on a number of occasions. And we remain in close touch with them to ensure that they know what we're doing in the key areas about which they've expressed concern.

One of those areas is whether all pilots flying under Part 121 regulations should be required to have an air transport pilot certificate. The current regulations permit a first officer today to fly under Part 121 with a commercial certificate. The ATP certificate requires, among other things, that a pilot have at least 1,500 hours flying experience.

But before the issue of an ATP requirement was raised by Members of Congress and these families, I had already asked my safety organization to start putting together an advanced notice of proposed rulemaking to consider whether a new rating or endorsement could be established that would require more than what is currently required for a commercial certificate, but would focus again, more on the actual elements required rather than the 1,500 hours required to maintain or to obtain an ATP. And instead focus more

on discreet training and the quality of that training to achieve the rating.

I am concerned that simply raising the quantity of hours required without addressing the quality and the nature of the time and the pilot experience imparted during training may not ensure the improved proficiency that we all want. And I'd like to identify areas where an individual pilot receives and successfully completes training to obtain professional, operational experience in such areas as multi-crew operations, icing environments, and high altitude operations, just to name a few. This option is more targeted than simply increasing the total number of hours required which, by the way, assumes that once that number is achieved that it would have resulted in a comprehensive set of skills. That may not be the case.

Another area that has been the subject of much discussion is pilot fatigue. You mentioned this has been an issue for 19 years, and I have personally championed the issue of pilot fatigue for every one of those 19 years.

I've been deeply involved with this. And not long after I became the Administrator, I had the FAA charter an Aviation Rulemaking Committee, an ARC, to make a recommendation on this issue. The ARC began meeting in July and presented their recommendations to me in September.

While consensus was not reached on all of the issues, we were provided a very good framework to consider many of the issues that contribute to pilot fatigue. At the time the ARC was chartered, I committed to an extremely aggressive time schedule for the publishing of a proposed new rulemaking. It turns out that may have been a little too aggressive.

I've been briefed numerous times on the areas that need further analysis for this subject, and the analysis remains underway. And as frustrating as it is for me that we will not complete the analysis by our aggressive year end schedule. I've told the team working on this rule to take the time to make certain we do this rule right. We have one opportunity. And I want it completed properly. But I promise you it will be completed.

And, finally, I want to mention the incredible wealth of information that we've received from our "call to action" held earlier this year. History has shown us that we are able to implement much better safety improvements and far more quickly and more effectively when we work together on the problems and the solutions. I'm a firm believer in communication. Build a consensus. But as I've said from the beginning where consensus can't be reached, it's my job to make the call. And I will.

We'll be issuing a report later this year to update everyone on the information we've received, the recommendations that were made, and how we're moving forward. And I'm confident from this that we have built a good foundation from which to issue guidance and possible further rulemaking.

So, Mr. Chairman, that concludes my remarks. I'd be certainly willing to answer any questions that you and the Committee members might have.

[The prepared statement of Mr. Babbitt follows:]

PREPARED STATEMENT OF HON. RANDOLPH BABBITT, ADMINISTRATOR,
FEDERAL AVIATION ADMINISTRATION

Chairman Dorgan, Ranking Member DeMint, members of the Subcommittee:

Thank you for inviting me here today to discuss the Federal Aviation Administration's (FAA's) safety programs and ongoing initiatives. As you know, shortly after I was confirmed as Administrator, Secretary LaHood and I initiated a Call to Action on airline safety and pilot training. We made this Call to Action to encourage the aviation industry in this country to come together to share their best practices across the board and implement actions we know can improve safety. History has shown that we are able to implement better safety improvements far more quickly and effectively when we work together on problems and their solutions. We have received a wealth of information from the Call to Action, and, as a result of this information and our previous efforts, we are involved in a number of projects to use that information to make the industry and traveling public safer.

To start, we had several short-term actions that we wanted to achieve in June and July of this year. These included:

Flight and Duty Time Rulemaking: As a result of the Call to Action, FAA made the creation of a new flight and rest rule based on fatigue science a high priority, with an aggressive timeline. FAA chartered an aviation rulemaking committee (ARC), which began meeting in July 2009. The ARC, which consisted of representatives from FAA, industry, and labor organizations, was charged with producing recommendations for a science-based approach to fatigue management by September 1, 2009. I am pleased to report to you that the ARC met its charge and that we are currently reviewing its recommendations. Understandably, this is an extremely sensitive and complex area and, given the short time-frame the ARC was given, consensus was not reached on all of the issues they were asked to consider. At the time the Call to Action was announced, I said that, as Administrator, I would work with the aviation community to reach consensus, and where we could not I would be willing to make the tough decisions. I fully intend to live up to that promise. There is some more analysis that is underway and I am committed to getting this done right—and we will get it done. As frustrating as it is for me that we will not complete this complex analysis by our aggressive year-end schedule, I have told the team working on this rule to take the time required to make sure we have done all that is necessary to support what we ultimately propose. With this in mind, we will continue to push to get our proposed rule on the street as soon as possible.

Focused Inspection Initiative: Recognizing the urgency of proposals in the Call to Action, FAA required its principal operations inspectors for Part 121 carriers to conduct a focused program review of air carrier flight crewmember training, qualification, and management practices.

The focused inspection initiative had two parts. The first part of the initiative required FAA inspectors to meet with the carrier's director of operations, director of safety, and company officials responsible for flight crewmember training and qualification programs. The purpose of these meetings was to determine the carrier's ability to identify, track, and manage low-time flight crewmembers and those who have failed evaluation events or demonstrated a repetitive need for additional training. Inspectors also looked at whether the carrier adopted the suggestions in Safety Alert for Operators (SAFO) 06015 to voluntarily implement remedial training for pilots with persistent performance deficiencies. The meetings were to occur as soon as possible, but no later than July 15, 2009. I am pleased to report that all of these reviews were completed.

As a result of these meetings, our inspectors found that about two-thirds of the carriers operating under the traditional regulatory requirements for pilot training and checking (*i.e.*, carriers that do not participate in an Advanced Qualification Program) had systems in place to identify and manage low-time flight crewmembers and those with persistent performance problems. We strongly encouraged carriers without such systems to establish them. For those who will not commit to implementing these systems, we will increase oversight to ensure their training and qualification programs meet regulatory requirements.

The second part of the initiative has also been completed. Inspectors conducted additional inspections to revalidate that the carrier's training and qualification programs meet regulatory standards in accordance with FAA guidance materials. Among other items, inspectors confirmed that these programs:

- Review the entire performance history of any pilot in question;
- Provide remedial training as necessary; and

- Provide additional oversight by the certificate holder to ensure that performance deficiencies are effectively addressed and corrected.

Training Program Review Guidance: Using results from initial elements of the focused inspection initiative, FAA will provide guidance material on conducting a comprehensive training program review. This guidance will describe the training program review in the context of a safety management system and its role in a corporate safety culture.

Although our original goal (as indicated in the Action Plan) was to develop this document by July 31, we postponed development of the Training Program Review Guidance for two reasons. First, the Action Plan indicates that we will use the results of FAA's focused inspection initiative in developing the material. Although FAA inspectors completed Part I by July 15, Part II (which calls for a more in-depth review of training) was not completed until this fall. Second, we found that the initial July time-frame would not allow us to benefit from suggestions and ideas developed in the series of Call to Action safety forums held around the country in July and August.

As noted, FAA inspectors have now completed the second part of the focused inspection initiative. We are currently analyzing this information, along with ideas gathered from the regional safety forums. We expect to complete our data evaluation by December 31. We will then develop guidance documents, including both a Notice to Inspectors and a SAFO. Our goal is to have both documents ready for internal coordination by the end of February.

Obtain Air Carriers' Commitment to Most Effective Practices: To solidify oral commitments made at the Call to Action, I sent a letter to all Part 121 operators and their unions and requested written commitments to adhere to the highest professional standards, with specific commitments on the following key topics:

- *Pilot Records:* While Congress is working to amend the Pilot Records Improvement Act of 1996 and the FAA amends Advisory Circular 120-68D, I asked that air carriers immediately implement a policy of asking pilot applicants for voluntary disclosure of FAA records, including notices of disapproval for evaluation events.
- *FOQA and ASAP:* I asked that air carriers who have not done so, establish flight operations quality assurance (FOQA) and Aviation Safety Action Program (ASAP) programs and develop data analysis processes to ensure effective use of this information.

I can tell you that the responses indicated that carriers have overwhelmingly shown a willingness to make the commitments I requested. The responses we received cover 99 percent of the aircraft operating under a Part 121 certificate, so I am pleased to have gotten such a comprehensive commitment.

Labor Organizations: I asked labor organizations for their commitment in the following areas:

- Establish and support professional standards and ethics committees to develop peer audit and review procedures, and to elevate ethics and professional standards.
- Establish and publish a code of ethics that includes expectations for professional behavior, standards of conduct for professional appearance, and overall fitness to fly.
- Support periodic safety risk management meetings between FAA and mainline and regional carriers to promote the most effective practices, including periodic analysis of FOQA and ASAP data with an emphasis on identifying enhancements to the training program.

I contacted seven labor organizations, all of which responded positively and each of which is tracking their individual efforts in accordance with their organizational structure. FAA's authority does not extend to compelling the actions of labor organizations, but we are tracking their efforts and will describe them in the report issued at the end of the year, as discussed below.

Mentoring: To address issues in the professional standards and flight discipline area, FAA developed and sought industry comments on the prospect of creating a range of mentoring programs. There is no question in my mind that this is a critical area. I am very much in favor of mentoring, but there is no question that it is also one of the most challenging concepts to address. We found this to be true during the discussions held at Call to Action safety forums around the coun-

try. Still, these discussions have produced some interesting and promising ideas. For example:

- Establishing Joint Strategic Councils within a “family” of carriers (mainline and regional partner(s)). This approach could lead to individual as well as corporate mentoring relationships.
- Using Professional Standards Committee Safety Conferences to provide opportunities for two-way mentoring—a very good reminder that good ideas are not unique to larger mainline carriers.
- Exploring mentoring possibilities between air carriers and university aviation programs.

We encouraged carriers to meet with their partner airlines to discuss what mentoring options were best suited to their operations and seniority structure. I understand that most major carriers have done this and I am appreciative of their efforts. While there are challenges associated with making mentoring a routine part of training standards, I am committed to keep working in this area for the long term.

Regional Safety Forums: Beginning in July, FAA conducted a series of regional safety forums to discuss the Call to Action initiatives, listen to stakeholder comments, and seek ideas for and commitments to additional actions in the areas in which FAA is already taking specific action. It was very important that the Call to Action effort be a comprehensive outreach for information and input and not from only those individuals or entities that could make it to Washington in June. By the end of August, FAA held 12 well-attended forums in the following locations:

July 21	Washington, D.C.
July 30	Dallas/Fort Worth
July 30	Chicago
August 4	Seattle
August 6	Minneapolis/St. Paul
August 6	Atlanta
August 6	Anchorage
August 20	Miami/Fort Lauderdale
August 20	Denver
August 21	St. Louis
August 27	Las Vegas
August 27	Boston

The Call to Action also included several intermediate term actions, intended for completion in the August–December 2009 timeframe. These include:

Crew Training Requirements: At the time we initiated the Call to Action, the FAA already had an NPRM open for comment, intended to enhance traditional training programs for crewmembers and dispatchers by requiring the use of flight simulation training devices for flight crewmembers, and including additional training requirements in areas critical to safety. The public comment period closed on August 10, with over 3,000 pages of comments. After careful review of these comments, FAA will issue a supplementary proposal to incorporate some of the views provided and offer the public another opportunity for input on the revised document. The final rule will be consistent with the philosophy of enhancing the quality and effectiveness of training rather than focusing on traditional quantitative measures such as total flight time.

One of the things that the Call to Action has also shone a light on is the issue of varying pilot experience. We do not believe that simply raising quantity—the total number of hours of flying time or experience—without regard to the quality and nature of that time and experience—is an appropriate method by which to improve a pilot’s proficiency in commercial operations. We are also considering other options. For example, a newly-certificated commercial pilot with the minimum number of hours might be limited to certain activities until he or she could accumulate the type of experience deemed potentially necessary to serve as a first officer for an air carrier. We are looking at ways to enhance the existing process for pilot certification to identify discrete areas where an individual pilot receives and successfully completes training, thus establishing operational experience in areas such as the multi-pilot environment, exposure to icing, high altitude operations and other areas common to commercial air carrier operations. We view this option as being more targeted than merely increasing the number of total flight hours required because it will be obvious to the carrier what skills an individual

pilot has, rather than relying on an assumption that a certain number of hours has resulted in a comprehensive set of skills.

Guidance to Inspectors on Safety Oversight: Consistent with the report of the Independent Review Team on Managing Risks in Civil Aviation, on which I served, FAA's Aviation Safety organization included scenario-based training in safety oversight as part of the August All-Managers Conference. This training was intended to address issues raised in the report, including:

- Management of varying regulatory interpretation styles within the inspection work force;
- Methods for harmonizing extremes in regulatory application; and,
- Methods for optimizing the regulatory effectiveness and coherence across a diverse team of inspectors.

Final Report: By December 31, FAA will finalize a report summarizing our findings and recommending additional action items based on the Call to Action meeting, regional safety forums, results of the focused inspection initiative, and other actions. The report will include performance metrics for auditing and assessing progress.

While these are the steps we have accomplished and the upcoming actions we will be taking, I want to point out the biggest factor affecting safety: professionalism in the workplace. Safety begins at the top, but whether one has a wrench in his or her hand, sits at a yoke or carries a clipboard, wears a headset or works in the galley, safety is everyone's responsibility. In spite of this, we have not seen the required level of professionalism consistently from the aviation industry across the board. Although professionalism prevails in the vast majority of the aviation work force, it is not uniform throughout the industry. The standards are the same, the training is the same, but the mentality is not the same, and this is what we have to change.

One aspect of professionalism that needs further review is the professional responsibility of pilots to report for duty ready to fly. Recent incidents have reinforced this concern. Of special interest is the challenge for those who commute from one city to their work domicile in another. The effect commuting has on fatigue for crew members requires further analysis. I know from last week's hearing that this is an issue of great interest to this Subcommittee. But I want to emphasize as we consider options on fatigue, reporting to work fit for duty is far more complex than drawing a circle around a hub and stating that the pilot must live within that area. This is where professionalism—taking responsibility for showing up fit for duty—has to govern.

Please understand, I recognize the interest in and concern about commuting. But given the complexities and vested interests inherent in this issue, the ARC did not reach a consensus recommendation. Consequently in the interest of not delaying issuing the broader fatigue proposal, we will request additional comments and recommendations to consider whether added restrictions in this area would further enhance safety.

It is essential that those who have captured the essence of the professionalism have opportunities in and out of the cockpit to pass it on. Experience is a wonderful teacher, and there is no substitute for learning at the hands of someone who has already been there. The inexperienced people in the system need to meet the ones who have been around the block. They need to seek them out and mine whatever golden nuggets they have. That is one of the main reasons I think we need to see more mentoring throughout the industry.

I also think that we need to see greater use of the tools at hand like safety management systems across the board. It is often difficult to spot a trend with a slope that has only three data points on it. Safety management systems can help us plot more points and produce better information to help us make the right safety decisions.

When people know that they can raise their hand and say, "Hey, I think there's a problem here," it is then, and only then, that we are able to move forward in safety. If you have a situation where someone raises a hand and then is punished for doing so, all you have done is encourage silence. When you make silence the rule, when sweeping issues under the rug becomes the status quo, you have a recipe for disaster.

Unfortunately, we also need to recognize a basic truth here: we cannot regulate professionalism. No matter how many rules, regulations, advisories, mandatory training sessions, voluntary training sessions, it still comes down to the individual—the individual pilot, mechanic, technician, flight attendant or controller.

In conclusion, I want to say that while the Call to Action initiatives have been a major focus for me since joining the safety professionals at the FAA, their impressive work has been ongoing for years. Their work has resulted in eliminating fuel tank flammability, virtually eliminating commercial icing accidents, and drastically reducing the number of general aviation accidents in the state of Alaska, among many other things. Safety is at the core of FAA's mission and we will always strive to make a safe system safer. Mr. Chairman, Senator DeMint, members of the Subcommittee, this concludes my prepared remarks. I would be happy to answer any questions that you might have.

Senator DORGAN. Mr. Babbitt, thank you very much. Senator Rockefeller, you have just arrived. And did you want to make any opening comments or would you like to begin questioning? I'd be happy to defer.

The CHAIRMAN. I'll put my statement in the record.
[The information referred to follows:]

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

In discussions about aviation safety, it is often cited that the United States has the safest airline industry in the world. That fact is statistically correct—numbers do not lie. But sometimes they do not tell the whole truth. And, this fact offers no comfort to families of the victims of airline accidents.

Numbers alone do not reassure me that our Nation's aviation system is as safe as it could be.

Nor, do I believe, after the series of safety lapses we have seen over the last year, that statistics alone will reassure the millions of Americans who take to the skies everyday.

During this holiday season millions will fly far and wide to spend time with family and friends. The last thing they should be worrying about is their own safety.

Over the last several months, the issue of pilot training and fatigue has dominated the safety discussion—and rightly so. They are important issues that need the FAA's and industry's immediate attention.

I believe that revisions to flight time and duty limitations are long overdue. There is simply no excuse for past failures in this area. Frankly, it is embarrassing, and I expect the FAA to make progress on it in the near future.

Mr. Babbitt, when we first met, I told you that you have one of the hardest jobs in Washington. After your first year on the job, I believe you would agree with me.

I know that you are committed to continuously improving the safety of our Nation's aviation system, and, just as importantly, changing the way the FAA addresses safety issues. I am pleased that under your leadership the FAA is being proactive, not reactive, when it comes to safety.

As you know, safety issues cannot be addressed in isolation. They are woven into every aspect of the agency's mission from aircraft certification, to air traffic control, and airport development.

Just as the agency is rightly focused on pilot issues, it must also remain as vigilant on other safety priorities—the oversight of airlines, reducing runway incursions, and air traffic controller staffing issues. I am pleased that the FAA is making progress in each of these areas.

But, as I have said, having the safest system in the world does not mean it is safe enough.

We are reminded far too often about the fragility of our aviation system—a system dependent on antiquated technology and human factors we still don't fully understand.

Over the last several years, modernizing our Nation's air traffic control system has been a priority for me and the Members of the Committee.

The benefits of modernization are often described in terms of economic efficiency. There is no question that is true, but the strongest case for modernization is that it will make our system safer.

The Next Generation Air Traffic Control System has clear technological benefits including more precise flight paths and greater situational awareness for pilots.

That is why it is even more critical that the Senate move on a FAA Reauthorization bill early next year.

Safety is clearly the top priority for everyone in aviation. I know the FAA and the industry take the proper action 99 percent of the time when it comes to safety.

But, that is not good enough. As we know all too well, the margins for error in aviation are far too small. It is that 1 percent that can lead to tragedy.

At the moment, our aviation system is fragile. We all need to work together to make sure we maintain it, strengthen it, and sustain it as the world's finest.

I look forward to working with you to achieve that goal.

The CHAIRMAN. I want to say to Randy Babbitt that I'm feeling very guilty because you called me a couple times. I've been lost in something called the deepest weeds bog of healthcare, nonstop. And I want to apologize to you because I think you're doing a terrific job.

Mr. BABBITT. Thank you, Senator.

The CHAIRMAN. And so will you accept my apology?

Mr. BABBITT. Absolutely.

The CHAIRMAN. Thank you.

Mr. BABBITT. Yes, sir.

The CHAIRMAN. OK.

Mr. BABBITT. Absolutely.

The CHAIRMAN. And Mr. Chairman, I'll defer to you on questions. And I'll take my place in the regular order.

Senator DORGAN. Senator Rockefeller, thank you very much.

Let me begin asking about the issue of fatigue since you commented on it. You formed an ARC and they met July to September. And you now have some recommendations, but further analysis needs to be done, you say.

Both the recommendations and further analysis that are underway, will they relate in any way to the issue of commuting or is commuting outside of the range of vision on this particular rule-making? And if so, why?

Mr. BABBITT. Yes, sir. The ARC addressed this within their comments for a proposed rule. They were briefed on the issue. The parties involved in that ARC did not come up with any conclusions. They instead said that commuting was an issue they felt was outside of the boundaries of what they were looking at in terms of a fatigue rule.

When we issue the NPRM, I do plan to put observations about commuting into the proposed rule which will be available for comment. I think everybody appreciates, you know, some of the issues here. And I think for the record and for your understanding, you should or perhaps I could explain a little bit.

My focus here is on fatigue. And my focus is on making certain that when a pilot shows up and takes the responsibility to carry 2 passengers or 200 or 250 passengers, they accept that responsibility. They have an obligation to show up fit, both physically and psychologically to undertake the mission they've got.

So, it's more of a concern to me that we ensure that they not show up fatigued, not the reason that they became fatigued. Again, I'm more concerned that they show up not fatigued. People can be fatigued for a lot of reasons—the 2 o'clock phone call that takes a child to the hospital; the decision to play an extra 18 holes of golf before work.

But we're depending, we have for years, upon professional responsibility. And we have tried very hard. I've used, to the extent I have, the bully pulpit. I have pushed the professionalism issue with some degree of success.

We have reminded people that not only does the pilot have a professional responsibility, the carrier also has a responsibility. It's a shared responsibility that they not put people to work who aren't fit to work. That I think some of the awareness and the bright light that we put on this issue recently has shown us some benefits.

We had a very unfortunate incident not too long ago, an embarrassing incident in the profession where a pilot was observed by others in the crew to not be fit for flight and the pilot was removed. So the system does in fact work. We need to keep emphasizing it. And as I said, I expect observations regarding commuting to be in the NPRM which will be available for comment.

Senator DORGAN. Mr. Babbitt, you made a comment. Let me comment on what you said at the start of your statement. There are a number of people who I see in the room who are family members of the victims of the Colgan air crash.

And I'm convinced that when all the dust settles on all of this that their activities, relentless activities, on behalf of the memories of their loved ones, will end up saving lives. Because they are relentless in trying to make certain that nobody gets on an airplane in the future with a pilot and a co-pilot that apparently haven't trained in the stick pusher or one of whom hasn't flown in icing. Both of whom have traveled a far part across the country in order to get to the duty station. Neither of whom have been in a motel room to rest for the evening following all-night flights. I mean, I'm convinced that their relentless push of us and of you is going to make a difference.

And so with that as a precursor, it just seems to me that the notion of saying we expect everybody to be professional is not obviously just the answer. The question is if you now have a system in which fatigue clearly plays a significant role. And training plays a significant role. How do you fix that system in a way that at the end of the day leads you to believe that you have better trained crews in the cockpit, better rested crews in the cockpit? I mean, that's the key for me.

But I have a lot of questions about—well let me just ask one more. Then I'll—questions about NextGen and so on we want to cover before you leave. But we—it seems to me you must look at the totality of all the issues facing these pilots and the crews of these commercial airliners.

You said that you don't know whether—let me say it differently. You indicated that for you the question of an ATP certificate is not the number of hours that you have, that it's what kind of training have you had. But if that's a qualitative judgment, and it is, then how are you going to describe that in terms of what someone is going to hire out there? We had all these discussions a week or so ago about how many hours it would take to get on with an airliner 10 years ago and how many hours it takes nowadays to go find a job and a commute. Very, very different.

So tell me how you would measure this qualitatively?

Mr. BABBITT. Well, what we expect to explore in our advance notice would be an endorsement. We use this process today. For example, someone with a commercial pilot's license who would like to fly an aircraft capable of operating at very high altitudes, we have

a number of airplanes today that can operate 25,000 or 30,000 feet pressurized.

A commercial license gives you absolutely no insight into that environment. So you have to obtain an endorsement and have some very specific and tailored training just to operate in that environment.

Recognizing hypoxia.

Recognizing what effects the thin air has on the wing.

The engine performance.

The narrowing of the flight envelope.

The stall in the maximum speed become closer and closer in thin air.

All of this is training for high altitude operations.

I'm suggesting that as a first step that we take a commercial pilot and say, if you want to work for a 121 operation, you need more experience. You need to demonstrate to us that you have had multi-crew training. You have operated it with cockpit resource management. You have had exposure to ice training. You have had exposure to high altitude operations, and jet engine operations. All of these things would be elements toward an endorsement.

I would further say I'm not so convinced that the ATP that we have today gives us the elements that we need, as I have testified here and I've testified in the House.

I actually was on the flight that landed behind Air Florida. Eastern Airlines, flight 1482 was the aircraft that landed behind the aircraft that took off. That airplane had qualified pilots, very well trained. Both of them had ATPs. The first officer had never seen an airplane deiced. Now that's wrong. That pilot was not trained for the mission.

And what we're saying now is that we want to ensure that every pilot has seen every possible scenario that's going to be presented to them. The fact that they have 1,500 hours, or 2,500 hours, doesn't give me the comfort that we've achieved that training. I'd much rather have somebody with 1,000 hours that had been exposed to simulated scenarios. We have the capability today with high fidelity simulations to expose pilots to every potential environment.

Senator DORGAN. Mr. Babbitt, could a pilot be hired today and be in a cockpit today similar to the Air Florida flight that had not seen de-icing previously?

Mr. BABBITT. Yes, sir.

Senator DORGAN. And how is it after 30 years that nothing has changed?

Mr. BABBITT. Well, that's a question that I've had 6 months to work on so far. But that's one of the reasons I—

Senator DORGAN. But isn't that unbelievable to me? I mean, it's just unbelievable to me that, you know, a commercial license might give you the right to fly a Cessna 210 and use a pressurized aircraft and use a flashlight to see how much dry ice is on your wing at night. But that doesn't give you the capabilities, it seems to me, to get in the cockpit of a commercial airliner and fly 150 people around.

Mr. BABBITT. You're absolutely correct. And I can use myself. I mean, I was hired with a commercial license. I didn't have any ATP.

But I flew co-pilot for 10 years. And so I gained that experience. I was mentored. And I think we depended upon a system that took a significant amount of time.

What we have seen more recently, in cases where you have rapid expansion in carriers, is that suddenly you've got somebody in the left seat with 3 years and somebody in the right seat with 1 year. And that's where the system begins to show its weakness.

Senator DORGAN. Senator Rockefeller? And then I'll call on Senator Johanns.

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

The CHAIRMAN. Thank you, Mr. Chairman.

Mr. Babbitt, you have this, your "call to action." And your "call to action" is very important because it seeks again I'm getting a little bit of Senator Dorgan's idea of these things ought to happen as opposed to these things are going to happen. And in your "call to action" you're asking for voluntary, you know, commitments from air carriers to implement flight operations, quality assurance, aviation safety, and action of all of these things.

So some of these voluntary commitments are also sought from labor unions to establish professional standards, peer audits, review procedures, etcetera. I want you to know that our FAA bill includes that all of these will be mandated. OK? So, it's not a question of discussion anymore.

But I'm sort of interested in how you were doing on this because the airlines are in trouble, because big airlines, little airlines, general aviation. Everybody is in trouble. The word, voluntary, do the best you can becomes a way of not crushing them economically. On the other hand, when it comes to passenger safety, you can't worry about that.

You know if Amtrak went broke because we were enforcing upon them safety standards or you know, any airline because we're enforcing on them standards which are in the public interest which kept passengers safe, we would happily do that because that's our job. That's our job. Their job is to try to make it in the bad economy. And that's very hard. But we can't shy away from our responsibilities.

So how do you, sort of, size up your "call to action?" And how are your voluntary commitments being received?

Mr. BABBITT. Right, sir. The "Call to Action" was fairly robust. It called for a number of things and I think we found one action item in particular to be pretty effective. And what I asked the carriers to do was to advise us of everyone who had any of these safety programs that are out there. But I also put them on notice that I intended to call them out. I told the carriers that they had by the end of September to advise me whether or not you had done this and that I would publish the list of those who hadn't. And we did.

It is remarkable the increase in participation that we got between the end of September and the end of October. We had a good number that responded, and said, yes, we're doing this.

But we had a good number who didn't and we put them up on our website. We let people know these are carriers that chose not to do what we asked.

And I'm pleased to say that of the 98 carriers we've had positive responses from 80 who are now engaged in all of these programs. They either have them in force or because of the mechanics required, for example, the FOQA program requires some technology which they are adapting. We are monitoring those.

We shouldn't consider some of those carriers that are very small. And we actually should excuse a few of them. For example, if you only have two airplanes, you know. FOQA doesn't do anything for you.

The CHAIRMAN. Right.

Mr. BABBITT. But I've been very happy the unions, by the way, responded 100 percent.

The CHAIRMAN. Good. I just say as a matter of my own personal philosophy that it's a tricky balance. But in the end it isn't between when we're on really hard economic times.

I mean, you know, there's a question here I have about people traveling on Christmas vacation. Well, in fact, they're going to be doing a lot less traveling this year. We know that. But that's because of bad economic conditions.

But there are certain things involving public safety where you cannot compromise on safety. You just can't do it. We can't do it. You can't do it.

And previous people might not have been as strong as you are. We can't let them do it for the sake of keeping harmony or something or open relationships. We have to bring the hammer down. Make sure the consumers come first. That's the philosophy of this Committee. Consumers come first.

Mr. BABBITT. Yes, sir.

The CHAIRMAN. That's the new philosophy of this Committee, but it is the philosophy.

One quick follow-up on the NextGen which has been driving me crazy for a number of years that we can't get it done. And that we are still behind Mongolia with respect to, you know, GPS and all the rest of it. That's only because they're building their first system. But nevertheless it makes the point.

And it's going to be great for air traffic controllers and for pilots because they'll be able to tell how far they are away from each other. People will be able to land more frequently because they'll have virtual vision. What will be the effect on passengers in terms of safety if we have a NextGen system in place?

Mr. BABBITT. Well better spacing, clearly, and more reliable, up-to-date, information on the aircraft positioning. Senator Dorgan mentioned some of the pieces that will be there. I think there are a lot of ancillary benefits we talk about as well. Not only safety in the aircraft, but also safety in the environment, a lot less carbon emissions, and a lot less noise for environmental impact. All of those come into it.

But the fact that the situational awareness of a pilot is much enhanced and the situational awareness for a controller is much enhanced, is going to be a huge benefit. I'm really pleased that we're beginning to see some pretty rapid acceleration of deployment.

We now have initial operating capability in Louisville where we're actually using ADS-B. The controller can see all the ADS-B aircrafts just like he can see radar. We're actually on a trial basis now using ADS-B in the Gulf.

What does that mean? 10,000 people a day move back and forth off of oil rigs. There are almost 4,000 oil rigs out there. We move 10,000 people a day on and off them in helicopters without radar.

Well, now we can see those aircrafts. They can see each other. They can navigate better. These are all benefits to every one of those people on the helicopters in terms of the separation and their safety. So all in all, the benefits are enormous for all involved.

The CHAIRMAN. Mr. Chairman, one final 30 second answer. Why don't we have that system in place now? Why have we been talking about it for so long? Why has everybody been willing to step up to the plate until they find out that it might cost them some more money?

You know, the President gave a great speech at Oslo this morning. He talked about the responsibility of all countries to do all kinds of things. And you know, we don't—we can't get it done. What's your theory of that?

Mr. BABBITT. Well, I think part of it is probably our own fault. I don't know that we ever really explained or made available the understanding of the savings that were available. We didn't make the business case, if you would, that you could save an enormous amount of money.

I can make a very good business case today. I can show you that the commercial airlines in this country will save a billion gallons of fuel a year. At only two dollars-a-gallon, that's pretty easy to compute. That's two billion in savings.

The system only costs six billion. Anybody in the business sense would say this is a great deal. I should have one of these. So we need to do a better job on the business case.

I also think there is another side of it. There is a tipping point for equipment until some mass of people actually has the equipment, the airports don't benefit, and the traffic doesn't benefit from it. I've used the analogy of the HD, the cable operator, if you wanted me to buy the box. I'll buy the box when you have enough channels and you say well, I'll put enough channels on when enough of you buy the boxes.

So, I think we've finally come to the point where we say, look, we need to do this. You need to put the channels on. We need to buy the boxes.

The CHAIRMAN. Thank you.

Senator DORGAN. Senator Rockefeller, thank you very much. As a courtesy, the Ranking Member of the Subcommittee, Senator DeMint, did not make a statement. Did you have something to say at the front of this?

**STATEMENT OF HON. JIM DEMINT,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator DEMINT. Senator Dorgan, thank you. Thank you for your persistence on safety.

Again, thank you and Senator Rockefeller as well as our Ranking Member. The thing I'm just listening for today is how do we push this over the hump and get this done?

I know we've got legislation in place. But the fact is, no matter what we try to legislate we're not the experts. Some may be pilots, but certainly not to the degree we're talking about here and the need for the industry to try to come up with these standards working with you so that they fit with the legislation we're writing.

I don't want a political solution to a safety issue. At the same time we don't want to wait decades longer to get safety standards from the industry. Just your perspective, Administrator Babbitt, and I do appreciate all you've done since you've come into office. What we're trying to do is just push this to the end. And the big part of it needs to come from your side, from the carrier side, from the pilot side.

Mr. BABBITT. Well, I appreciate that very much. I pushed a lot of these. I actually have the benefit of probably being the loudest and most vocal advocate of one level of safety back in the 1990s. So I appreciate, you know, what some of these take.

I also appreciate the concern about something being voluntary, but I also have learned what it takes to now create a regulation. And so what I have done is to ask people to do these things on a voluntary basis until we can get to the point of moving them into legislation.

We're working with Congress. And I appreciate the help we're getting. Some of these, information, for example, if it were in our hands would be discoverable and therefore people would be reluctant to give it to us. Left in the hands of the carriers, it's not.

We're working, you know, with all of the Committees in both Houses to find ways that we can immunize this information so that the people will continue to willingly give it.

Senator DEMINT. The key here is if you can become the best practice headquarters where you can pull these voluntary standards, these creative new ideas to make things safer and you create the critical mass. But as you said, they're not going to do that if it creates some form of liability or public exposure. So, maybe that's something we can do to make sure that anonymously or otherwise that these ideas are sent to you. And you can continue to give us those from the ground ideas of what we really need to do to make things safer.

Mr. BABBITT. Well I would just add one point. We're here today forensically looking back at a very tragic accident.

I want to find the data before the accident. I want to find ways to get the information to us so that we can predict the accident so we don't ever have hearings like this. Rather, you can be talking to me about budget issues or something, not about tragedies that happened.

And information is going to take us through that gate.

Senator DEMINT. Right. Thank you, Mr. Chairman.

Senator DORGAN. Senator Johanns?

**STATEMENT OF HON. MIKE JOHANNS,
U.S. SENATOR FROM NEBRASKA**

Senator JOHANNS. Thank you, Mr. Chairman.

Let me, if I might, Mr. Babbitt, in the short time I have, focus on four really important things.

I want to talk to you about this commuting issue.

I want to talk to you about pilot experience and salaries for pilots.

And then probably as important as all of those is equipment.

Help me understand commuting. Let's say I'm a pilot. I live in San Diego. But the flight that I am going to fly originates in New York City. And I commute back and forth between San Diego and New York City.

That flight from San Diego to New York City that I make every week to get on the flight that I would fly, how is that factored into safety regulations or is it? Is it just not counted?

Mr. BABBITT. No, it currently is not counted. And commuting, while I don't think that the majority of pilots commute, it's difficult. Pilots in the traditional times would commute based on some short-term event.

In other words, maybe a new piece of equipment was offered in another domicile. They would bid that domicile, but didn't want to move children out of school. So they would commute within their own system.

But I think if you look at commuting now you're still going to find that the vast majority of it is limited to commuting on their own system. So, for example, Colgan had two bases. They had a base in Virginia and they had a base in New Jersey. So, if someone took an assignment up in Newark then they would commute on their own airline or, you know, there are a variety of ways to do that.

Longer distance commuting is something a little different. But no, it does not count. And pilots, we have depended on professionalism.

I commuted. I commuted myself for 5 years. I commuted to New York to fly Captain. It was available up there. It wasn't available here. I wanted to—

Senator JOHANNNS. You know I'm not questioning anybody's professionalism. I understand the issue of living away from home. All of us do that here.

But I would tell you flying back and forth, even halfway across the country every week is hard work. It's tiring. It's exhausting. You start the week you feel like you haven't had a break.

Just in our own experience, and I'm not flying the airplane. You know, I'm sitting in back catching a cat nap. That can't be a good thing.

And I appreciate what I'm suggesting here probably turns the system upside down. But if you show up tired, you can't fix that until you get some rest.

Mr. BABBITT. That's correct. And the rule as it's stated today—and perhaps what's being suggested is that it is insufficient but the rule today says that you won't show up tired, that you have an obligation, a professional responsibility, as does the carrier, to make certain that you're fit.

Senator JOHANNNS. But we don't police that, do we?

Mr. BABBITT. I'm sorry?

Senator JOHANNNS. We don't police that. I mean nobody is standing there saying did you fly through the night to get here?

Mr. BABBITT. No, they don't.

Senator JOHANNNS. OK. Now let me ask you a little bit about experience. I always assumed that the pilot and co-pilot were equally capable of taking over and flying that airplane. I always thought that that was the safety valve I had.

I'm beginning to question whether that assumption was correct. I'm beginning to wonder whether co-pilot is training ground. And that the co-pilot is there, hopefully, to someday get to a point where they can be the pilot.

Is that a more accurate read of this than what I thought before?

Mr. BABBITT. Both pilots are very well qualified. They go through the same basic training procedures. But, the captain has some more stringent requirements in his training, regardless of whether the co-pilot has an Air Transport Pilot Rating or not. The co-pilot simply doesn't have to demonstrate some of the maneuvers that a captain has to demonstrate.

And along with that the co-pilot also can't perform some of the functions in certain weather conditions. There are more restrictions on what his capabilities are recognizing that everybody has to start somewhere. I mean, you know, utopia would be that every pilot in every airplane had flown captain for 5 years. But that can't happen.

So, we do have restraints in place. We say that when a first officer is new, he can't fly with a new captain.

First he flies with a check pilot, who is trained to watch him. For the first 100 hours he flies, he's with a very experienced pilot.

Next he can fly with someone other than a check pilot, but he can't be an inexperienced line captain. He has to also have a significant amount of time as a line operating pilot in order to have a new co-pilot. So months go by while this new co-pilot gets some exposure.

So, there are some protections in there. But the reality is, it's simply impossible that everybody could come in qualified as a captain with experience in their pocket already. Everybody has to start somewhere.

And the way we protect that is by restricting some of the things we allow them to do as first officer with not enough demonstrated experience.

Senator JOHANNNS. Is the training ground or level of experience different if I'm flying from Scotts Bluff to Laramie than if I'm flying from New York to San Diego?

Mr. BABBITT. No, sir. However, some routes actually require, for example, high altitude airports, or airports in foreign countries that have unusual approach procedures, some special training. But other than that, you're completely qualified to operate the aircraft anywhere in the system.

Senator JOHANNNS. Let me ask a quick question, if I could, about—and I'm going to pass by salary, although that worries me. I just want to say, though, I think somebody who is making as low of a salary as some do working far smaller carriers is of concern. I don't know how they're supporting their family and maybe it's not

our role to get in the middle of that. But if it impacts safety, it's our responsibility.

But I want to get to equipment. When I was Governor, we had a state plane. And I'll never forget the first day the pilot turned back to me and said, "I'm turning on the de-icing." And I looked out at the wing—and could see some ice building up.

Then I saw this balloon expand. And I thought to myself, wow, that's it? Tell me about the Buffalo flight and the kind of equipment that they were using.

And I just want your honest assessment about how good that equipment is in a flight pattern that's going to deal with icing issues on a regular basis.

Mr. BABBITT. Well, we just issued a very, very exhaustive icing rule, again recognizing the time it takes to put one of these rules out. However, we took emergency action on over 100 air-worthiness directives to make people and specific pieces of equipment follow new criteria in areas ranging from how the equipment worked to the instruction and the recognition by pilots of when they're beginning to ice. So those were very important steps.

That airplane was completely compliant. While this investigation is not complete, I don't believe that it's going to find and I don't want to prejudice an NTSB investigation. I'm not going to comment on that. But I don't believe icing was a causal factor here. The causal factor was the failure to recognize a very fundamental stall warning and the fundamental inaction or improper response to a very basic warning that the crew had been well trained for and simply didn't follow the procedures.

Senator JOHANNNS. Thank you, Mr. Chairman.

Senator DORGAN. Thank you very much, Senator Johannns.
Senator Begich?

**STATEMENT OF HON. MARK BEGICH,
U.S. SENATOR FROM ALASKA**

Senator BEGICH. Thank you very much, Mr. Chairman. And thank you, Mr. Babbitt, for being here. I appreciate it.

As usual I try to attend these when you're here because I always have some parochial issues, but some broader sweeps. But first I want to do a couple, if I can, a couple of comments on Alaska issues which obviously I view this hearing not only an update on fatigue and others, but a general kind of update on your survival for 6 months so far.

And the first one is in Alaska, you know, our flights service stations in Alaska are not contracted out. We're the only one that's not contracted out. All the rest are contracted out services.

And of course, we appreciate that. We think they do a great job. Our concern and my concern is that there are vacancies occurring. Training is not occurring to replace those people.

And what I'm starting to hear is that folks are concerned that it's basically FAA's letting it kind of peter out so then they can have an excuse to contract out. And that concerns me. And I will only tell you from a personal experience as someone who has to fly a lot in Alaska, most recently on a regional, small, very small eight seater, coming out of a small town back to Anchorage International

which very rarely, I cannot recall other than volcanic ash that closed it down for a period of time.

We were circling multiple times because the fog was so thick which I had never seen. Since I was born and raised there, I had never seen it this thick. And of course, you know, the stations were doing what they were doing, giving us the right information.

And we were also getting a little concerned about fuel because there wasn't intent to go further than where we were headed. We did end up cutting through the fog individually, based on the service center's recommendation on where to land at a different airport. The poor person that was with me from Washington, D.C. who had never been in a small plane, had an experience of their lifetime.

But those service centers are critical. And the people that run those, we greatly appreciate. I don't want to discount what goes on in the lower 48, but what we've done in Alaska, I think, has been a very good job.

We have capacity to train these folks in Alaska. But the concern is that they are not filling the vacancies. With the rumor mill ripe with this is how they're going to contract it out.

So I want to make it very clear. We are not interested in contracting. And I'd like to get from you at a point, you don't have to do it now.

But at a point when you can give me an update on what's happening there. And what the vacancy levels are. What the plans for training is and what the rollover rate is.

Those are critical people for air conditions or conditions in Alaska. And my experience was about a month and a half ago. And it reassures me the quality of people we have working there.

So if you could?

Mr. BABBITT. Yes, sir. You have a very high quality team up there. That's a unique environment. Let me assure you that we're looking at this.

We recently had a new Federal ruling that allows us to do two things.

One, we can continue people who would otherwise be at retirement, if they'd like to stay, they may. We can even go back and people who thought they wanted to retire and then realized later, gee whiz, I actually would rather be working again. This new Federal rule allows us to go back to an annuitant which was previously prohibited. We can now re-engage them.

I don't have the full details. But I will get back with you and your office to make sure that we have the staffing levels that are required up there.

[The information referred to follows:]

The Federal Aviation Administration is responsible for the operations and staffing of the 17 flight service stations (FSS) in Alaska. These consist of parent facilities in Fairbanks, Juneau, Kenai, and Palmer with 13 satellite facilities elsewhere across the State. As of December 11, 2009, we have 192 full-time personnel supporting these facilities with 3 vacancies.

Fairbanks (includes Barrow and Northway)

Onboard—46

Vacancy—1

Kenai (includes Cold Bay, Dillingham, Homer, Iliamna, and McGrath)

Onboard—68

Vacancy—1 (non-FSS specialist)

Palmer (includes Nome, Kotzebue, Deadhorse and Talkeetna)

Onboard—26
Vacancy—0

Juneau (includes Sitka and Ketchikan)

Onboard—38
Vacancy—1

Regional Office Administration

Onboard—14
Vacancy—0

Maintaining the necessary numbers and experience levels for our Alaskan FSS workforce is a top priority of the FAA. Presently, despite only having three vacancies, we have a growing number of individuals who are either at or nearing retirement eligibility. As of today, 97 of the current 192 employees were eligible to retire. This number will increase by 9 in calendar year (CY) 2010, 11 in CY 2011 and 10 in CY 2012. A recent survey of retirement-eligible employees showed that 13 of the 97 are likely to retire before June 2010.

Flight service station personnel are classified as air traffic control specialists and, as such, they may not perform air traffic-related functions beyond age 56. Currently, however, this requirement can be waived at the discretion of the Administrator. The FAA FSS program office has and will continue to consider this option for those FSS specialists who desire to continue their FSS duties beyond age 56.

Training of future FSS specialists has changed since Lockheed Martin took responsibility for delivery of FSS products in all states but Alaska. Rather than training a limited number of FSS specialists at the FAA Academy at the Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma, the FAA will be providing training for Alaska specialists at our facility in Kenai. We are finalizing the updated, localized curriculum for a class that will commence in early 2010. Employment bids for both in-state and out-of-state candidates to populate this and future classes will be released within the next several weeks. Once candidates are selected and their initial training is complete, they will be assigned to a principal duty station where on-the-job and local area knowledge training will occur. It is anticipated each applicant will take from 12 to 24 months to reach full-performance capability as an FSS specialist.

Mr. BABBITT. And I have no intent of making any change in that environment. So that I think I can assuage that fear for you.

Senator BEGICH. Great, thank you. The second one, which I want to thank your office for. We had to get waivers to oxygen to be moved by plane as you know. Your Assistant Deputy Administrator helped a great deal on that.

Literally we were in some cases 2 days away from people losing their capacity to have oxygen to live. And we had to have waivers. And I appreciate your office.

But the one thing they didn't grant which is waivers, again for oxygen tanks for construction. And the reason construction is because you're using them for welding them and so forth. We're now transporting these 250 pound containers on snow machines across the tundra in the winter. I don't know if that's very safe, to be very frank with you because they're not going on a smooth ride.

So, if you could look into that I'd greatly appreciate that.

Mr. BABBITT. Yes, sir.

Senator BEGICH. They did the first half which was fantastic. I mean, literally made a difference in people's lives overnight. And it's just a unique situation of transporting those facilities because we can't do it by road. It's just not possible.

Mr. BABBITT. Oh, I'm aware.

Senator BEGICH. Let me follow up on a couple quick things. I only have a few seconds left. But when people—when pilots are de-

nied by their carrier not to fly because of fatigue, is there a record by the airlines when that happens?

Do you know how many of those have ever occurred? In other words where an airline says you know what? You look a little too tired or the pilot says, I'm too tired. Is there such a record or documentation that you could say it's actually that they're doing it?

Mr. BABBITT. If those records are being maintained, Senator, they're being maintained by the carriers. I will tell you that I think a number of carriers have addressed this pretty aggressively. They have what they call commuter letters. If the commute itself has led to some fatigue pilots have a vehicle which they can take themselves off a flight.

And this is, again, this is an industrial solution. So they're different on different carriers. But some of the carriers that I've seen, have language that allows pilots to take themselves off a flight. And in return they're willing to make up a flight on another day when they're rested.

Others have different ways. Sometimes—

Senator BEGICH. But do you—I don't mean to interrupt you, Administrator. But do you do random reviews to see? I mean, I don't want to be critical on the airline industry because I think generally it's an amazing safe industry overall. But we have some issues.

But what they tell you and what you see may be two different things. So do you have capacity? Do you have authority and capacity to say I want to see the last month of how many people you—pilots said, no, I can't fly because of fatigue or you have turned away as pilots because of fatigue? Do you have one capacity? And have you done that?

Mr. BABBITT. We have not made that recommendation to my knowledge to go in or requested that type of inspection. I'm certain if we did that the carriers would volunteer it. What you would be asking—

Senator BEGICH. So you have capacity? You have legal capacity, you think, to do that?

Mr. BABBITT. I don't believe we do.

Senator BEGICH. Oh, OK.

Mr. BABBITT. I don't believe we do.

Senator BEGICH. They will voluntarily.

Mr. BABBITT. I would see no reason why, as long as we kept the information proprietary.

Senator BEGICH. Sure.

Mr. BABBITT. That a carrier, if we said, how many people called in sick last month and how many called in sick and how many said they couldn't fly due to fatigue, not illness, but fatigue? I'm very comfortable the carriers would share that with us.

Senator BEGICH. I've gone way past my time here. I just want to say your example of when you posted on the website. I remember as Mayor I did that on a couple things when people weren't paying their bills. And I put them on the website. And it was amazing the collection rate spiked rapidly.

So I think that's a good idea. Take it one more step. I mean, I was glad to hear about it today. But if I wasn't here I would have not known that, you know.

Mr. BABBITT. Thank you, sir.

Senator DORGAN. Thank you, Senator Begich. Senator Hutchison is the Ranking Member of the Full Committee. I want, as a matter of courtesy to recognize the Senator.

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

Senator HUTCHISON. Well, thank you, Mr. Chairman. And thank you, Administrator Babbitt.

Let me say first of all, that we must acknowledge how safe overall our aviation system is. And we make that our highest priority. It's your highest priority. And we will always do that.

However, as we all know, the Colgan Flight 3407 is weighing on our minds. And we've learned a lot from the investigation. But we now must act.

Let me first ask you. On the time table, I understand that the end of January is when you're looking at completing the studies and the data. But then you have a notice of proposed rulemaking. And that drags out.

So let me ask you. And you know that we sent you a letter, a very bipartisan letter, by Senator Dorgan and Senator Rockefeller, but also Senator DeMint and I signed it along with other members of this Committee, including Senator Thune, Senator Snowe, and Senator Klobuchar, asking how can we do this faster. So that's our question to you.

Mr. BABBITT. Well when we publish the notice of proposed rulemaking we are obligated by the rules of Federal procedure to take comments. And people have a comment window that we have to observe. We have to then digest those comments.

A good example parallel to this one and near and dear to me is the section for training pilots. We had 3,000 pages of comments that we are obligated to digest, summarize and then incorporate if we could. So I really don't have a good direct answer as to how to make this faster. But, I can assure you, if there are gaps in there, we're going to close them as quickly as we can.

Senator HUTCHISON. Could I ask you though, don't you have an emergency authority as well? If you see something that you think can be addressed quickly. I mean, when we've had the screw on a cap being not correct, you've done emergencies, or the FAA has in the past.

Is that a possibility in this instance because people are really concerned about the fatigue issue?

Mr. BABBITT. Well as part of our "Call to Action," we reviewed with all the carriers their fatigue and risk mitigation procedures. And the carriers have been very willing to comply. I was also very pleased to see several of the unions take very progressive action, and write serious pieces in their publications to their members, the Air Line Pilots Association editorial.

You know, we have to remember that every day 20,000 pilots are going to go to work. And they're going to do a great job. They're professionals. We're trying to find the two or three that aren't.

And that's, you know, that's the hard part. So—

Senator HUTCHISON. Well let me just ask you this. Will you reserve the capability, if you see something that can be done on a more expedited basis, on a temporary measure obviously to act?

While you're completing this rulemaking, will you at least hold open the possibility that if you see something that can be done more quickly on a temporary basis you could do an emergency order, if you decided it was warranted?

Mr. BABBITT. Yes, if the data that we had indicated that we had a gaping hole somewhere. Absolutely, I would act. And I appreciate, you know, the letter that you all had written.

It's hard to convey here, but there's nobody pushing this any harder than I am internally. And I've been at it a long time. And this is something near and dear to me as well.

I should mention that as part of the "Call to Action," we asked people to respond with commitments to adhere to the highest professional standard with specific commitments on certain key topics and 80 of 98 carriers responded. So we now have increased commitment for FOQA. We have ASAP programs. These are voluntary programs.

Senator HUTCHISON. Well that's very positive.

Mr. BABBITT. Very positive. And the ones who didn't, in most cases, have a pretty darn good reason. They're just too small to really adopt a program with two or three pilots or one airplane.

Senator HUTCHISON. Well let me just say in closing that I am very concerned along with Senator Rockefeller. We had an amendment in the Stimulus bill to try to have some incentives for private investment in NextGen. He asked the NextGen question which I would have asked if he hadn't asked it first.

But I'd say it's probably our highest priority, the Chairman and myself, for the next step in safety as well as for preparing for the capability to have the robust airline industry that we want to have as the economy improves and people are able to travel and our airlines get stronger. So know that that's something that both of us consider very important. And if we can go forward with some public/private partnerships or incentives, I'm certainly going to be supportive of that as well.

So we'll work with you on that. Thank you very much.

Mr. BABBITT. I appreciate that support.

Senator DORGAN. Senator Hutchison, thank you very much. And let me reiterate NextGen is, for me as well, a major priority. It enhances safety. There's no question about that.

And we've got equipage issues. We've got a lot of issues with NextGen. You know, in my judgment it's not acceptable to have 2020 and 2025 end dates here.

We need to move, move aggressively and quickly. And I share Senator Hutchison's comment and the comment Senator Rockefeller had. NextGen has to be a significant priority. We will have additional hearings on that very subject.

Senator Klobuchar?

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

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thanks for holding this hearing. Thank you, Director, for being here again.

Let me say that, first of all NextGen is a priority for me as well. But and I would reiterate what Senator Hutchison said that our air

transportation system is, without a doubt, the safest in the world. But clearly we cannot rest on our past achievements.

And this point was proven earlier this year with the tragedy of Colgan Air, Flight 3407 which brought the safety of our airlines back into the public eye. And what was so chilling for me was to learn about these fatigue issues, to learn about some of the training issues with regional flights. And the most chilling was the conversation that was recorded between the captain and the first officer when the first officer told the pilot I've never seen icing conditions. I've never deiced. I've never experienced any of that.

So actually as a result of some of our hearings starting looking into these deicing rules and what had been happening. And I was really shocked to find out, and of course as soon—you weren't at the helm at the time. But this de-icing rule has been pending for 12 years.

I raised this issue earlier in a letter to Secretary LaHood a few weeks ago. And I was pleased. I worked with the new head of ORIA, Cass Sunstein, to try to move it out of OMB. And we were able to now get it out for public comment. But that's 12 years.

And I was just thinking when you said 3,000 pages for this newest rule. Even if you had 3,000 pages for this de-icing rule, it would be 250 pages a year or something like that over a 12 year period. I mean, we just can't let this rules sit for 12 years.

So my first question is about that timing issue. And that is can you assure us that this flight time rule will be completed by 2010? The fatigue rule.

Mr. BABBITT. By 2010?

Senator KLOBUCHAR. MmHm.

Mr. BABBITT. You mean December 31 of this year?

Senator KLOBUCHAR. December 31 of next year.

Mr. BABBITT. Oh, next year. Yes, I can. I'm the person who wanted it out by the end of this year. I now understand some of the complexities. I've worked with it over time.

One thing I do want to say is that for some of these rulemakings while the rule itself may take a while, it doesn't mean that the underlying issue that the rule is protecting hasn't been addressed. And de-icing is a good example.

Because of the timeframe, we acted immediately and issued over 100 air-worthiness directives that protected the very thing. What this rule does is gathers all those up in one place. We had to issue 100 air-worthiness directives.

So safety itself wasn't left exposed, we were doing it with air worthiness directives.

Senator KLOBUCHAR. OK.

Mr. BABBITT. But the underlying safety issue was protected.

Senator KLOBUCHAR. Right. That's very good. But you agree that we'd like these in a rule.

Mr. BABBITT. Oh, absolutely.

Senator KLOBUCHAR. I certainly thought of that when we had our laptop over flight issue out of the Twin Cities airport where the flight, the carrier, had a rule you couldn't be doing personal e-mails and texting and looking at your computer. But there wasn't a rule in place as we're trying to solve in the Congress right now.

The other issue that has emerged from the Colgan crash has been the adequacy of flight schools. And the captain, as was noted, was a student in a flight school that grooms students in as short as 6 months. Many of these pilots then land jobs at regional carriers.

Can these flight students and trained schools train students to be commercial pilots in such a short time to adequately prepare them to fly 100 people in the air?

Mr. BABBITT. Well that's why we're making the suggestion that we're making. And again, I think there has been some misunderstanding that I'm somehow opposed to the idea that we have better training.

I was looking at better training before anybody brought the issue up. I am concerned about the elements of training. And I am concerned that we're not giving people the elements they need to do the mission they're doing.

If somebody is going to be a crop duster for commercial aviation, they better learn some things about low altitude flying. And they better know that business pretty well. If you're going to carry passengers to take the responsibility of carrying anywhere from 10 to hundreds of passengers with you, you have an obligation. We have an obligation to make sure that you have been trained and exposed to every potential scenario that we can imagine today although there will be some unknowns.

You know, the flight into the Hudson was a great example. I mean, I flew for 25 years. I hit a lot of birds. But no one ever thought that you could ingest enough birds to kill both engines. It happens, you know.

Senator KLOBUCHAR. So it's—right. So the training is key. And then the other thing we've talked about is just this idea of the regional airlines themselves as kind of a farm team for the major carriers. And I have asked this before of people if this is seen as a stepping stone for a job with a major carrier. And the answer is commonly, yes.

But what I'm wondering about is, how is the safety impacted when you have this type of farm system? And if regional carriers understand that their pilots are only working for a short time or a number of them are, what incentives do the regional carriers have to invest in these pilots and provide them with anything more than the bare minimum training if there's so much revolving door going on or people leaving the regional carriers? And how do we fix that?

Mr. BABBITT. I'm not here to defend the regional airline industry, but I think there's a little bit of misunderstanding there. I was in the private sector for 42 years. I've been in a government seat for 6 months. So my exposure in the private sector is far more vast.

And so I understand, you know, all sides, both large airlines and small ones. There are any number of very senior, well qualified, 20, 25 year pilots at regional airlines. They love their jobs there.

Maybe they live in smaller towns. They enjoy—

Senator KLOBUCHAR. I believe that.

Mr. BABBITT. So it's a career for them. And it's a career for a lot of people. There are other people—

Senator KLOBUCHAR. But how about some, I mean, some of the younger pilots with the training which we need too, but don't stay as long. I mean, do you think the regional airlines are investing as long and as much in their training, especially after they startup with the airlines of some of the major carriers? And do they have the same kind of training facilities as the major carriers?

Mr. BABBITT. Many of them do. I can't speak for all of them. But, if you recall, in our "Call to Action," one of the things that we asked was that our inspectors go to every facility and review all the training.

And yes we did find some areas that could use improvement. They were meeting the minimum standards. You're also seeing, following the "Call to Action" a number of large carriers, most of the large carriers now are holding meetings with their regional partners—

Senator KLOBUCHAR. Good.

Mr. BABBITT.—to ensure that they have the same level of commitments to training and the safety forums and the discussions how to better mentor. All of these things have gone onto the table now.

Senator KLOBUCHAR. Thank you very much.

Senator DORGAN. Senator Klobuchar, thank you very much.
Senator Thune?

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

Senator THUNE. Thank you, Mr. Chairman. And I appreciate the continued focus on this important subject. The Committee has been working on legislation that will address a lot of these issues, as you know, Mr. Administrator.

I think one of the questions that I've raised in the past had to deal with the pilot's records and their availability to a perspective employer. There is a distinction between those having to be voluntarily turned over as opposed to a perspective employer having access to those records, which I think is really important in making hiring decisions. I know the legislation addresses that issue.

But I wanted to focus on a couple things. One is that you, in your testimony, talked about the distinction between quantity and quality. And I won't deny that there is—you can't. You know, I'm not playing in the NBA because I don't have a skill level to get there. There is a difference between it. No matter how many hours I would practice.

But I do think there's something to be said for experience and having a sufficient number of hours. And this is one of the issues, of course that I think has been focused on as part of our deliberations here as well. But how do you square that up when you've got, say, a DC-9 that might be flying from Minneapolis to Sioux Falls, South Dakota, that has 30 passengers on it, compared to an RJ that's full that has 50 passengers.

I mean, clearly the number of people that a pilot is responsible for on a regional jet could be more than you might have as a pilot flying the full-size jet. And yet the number of hours requirements and the distinction that's made in terms of the experience and what you alluded to is the quality verses quantity distinction. I'm

interested in hearing you elaborate on that, because it seems to me, at least, that the number of hours of experience the pilot has got to be a part of the equation in determining whether or not that pilot is equipped and qualified to fly some of these planes.

Mr. BABBITT. Sure. Well it wouldn't really matter to me whether they had one passenger or 100. They should be as eminently qualified as we can make them.

And in that case everyone, whether they're flying a regional jet or a 777, they would have to have an airline transport rating. And they would have exactly the same qualifications. What comes into question is, who can sit in the right seat. Who can be the co-pilot?

And under today's legislation and regulations that person can have a commercial pilot's license. And over the years—as I alluded to—I think we became somewhat dependent on the fact that the traditional airline industry, the model of 20 or 30 years ago, pretty much assured the co-pilot would sit in that right seat for a number of years.

And he or she would be exposed to icing. They would have high altitude. They would have mentoring. They would learn their trade sitting in the right seat.

And that was OK. But what we have today is that when a new airline forms, they hire 100 pilots. Guess what? 50 of them are going to be captains and 50 of them are going to be co-pilots with no guarantee of any assurance for us that they've achieved any of this experience.

So what I'm suggesting is in terms of the number of hours an advanced notice of proposed rulemaking in which simply, you put it out for suggestions. And what I propose to explore through this ANPRM is the concept that if you're going to go to work for a 121 carrier and you're going to sit in the right seat, then you need to bring the day you come to work, a set of credentials that's completely superior to what you're going to be asked to bring today or allowed to bring today.

You're going to have had icing training. You're going to have had upset training. You're going to have operated in a multi-crew environment, in a simulated environment. You're going to have seen all of these things.

What concerns me is to simply say that you need some number of hours. And I'm not sure what that number of hours is. Maybe it's 1,000 hours of experience needed along with those elements.

I also think that when we get past here I think, as I've stated earlier, I think we need to take a look. We've come a long way in technology. We have aircraft that do a lot more today than they did when this rule was written.

And I think some of the elements that are required to hold an ATP need to be revisited including the same things I just mentioned—the icing, the altitude upsets, all of these. Now carriers put them in. We need to have an assurance that when you go to work that you have those as a requirement.

Senator THUNE. I guess I'm just suggesting that there is a point at which quantity does matter where you have enough experience and enough hours operating some of these aircraft. And I'm not disputing the notion that the quality and the ability to fly in different types of circumstances and environments is important. But I do

think that there is an assumption sometimes that these smaller planes aren't as difficult to fly. And therefore, you don't need as much experience.

I don't think that is the case. So, I just wanted to focus a little bit on that.

Mr. BABBITT. And I agree with you on that point. Sometimes the smaller operations into difficult airports are very complex and require a high level of skill.

Senator THUNE. Right. The other issue I wanted to mention—I think Senator Johanns touched on it—is the issue which came into play on Flight 3407 and, of course, you had both pilots who had commuted to their flight.

And one of the things that the letter that we sent to you was trying to do was to get the focus on the flight time limits that haven't been changed for a number of years. And FAA had a proposal. I'm told the language was pulled after being out there for some time. And that after some recent crashes it has been revisited, which is why the letter urged you to move forward.

But as you might imagine, the airlines are not very receptive to the idea of reducing flight times for crew because obviously you're going to have to hire more pilots. And that costs more. And it's going to impact scheduling and everything else.

But I'm wondering about this issue of commute times too. Before somebody gets on a plane to fly a plane, what is the way that you calculate the number of hours that pilots can fly? We've talked a lot about this. I want to hear your thoughts and perspective about how that can be addressed. There's clearly very much at issue in this particular incident where you had pilots that came in, were sick, had had long commutes, sleeping in the airport crew lounge. I guess the policy allows this so that they log hours sleeping.

But this clearly adds to the amount of time that they've been flying and been up. And I'm sure it has got to effect their ability to be alert when it comes time to actually fly the plane.

Mr. BABBITT. Well that's an issue. We've talked about it several times here. I am concerned about simply coming up with a prescriptive rule that identified pilot commuting.

It's really not much of a burden on the carrier. The pilot would have to simply leave home earlier in order to get some amount of time. I'm presuming everybody is saying that well you need to be someplace in some zone.

But it's very difficult when you begin to think about what that zone is going to be. Who decides who commutes and who doesn't? Where do we draw the circle?

I'll give you an example. I've been based here in Washington, DC. Much of my career I was based in Washington, DC.

A number of the pilots lived in Annapolis. It's 55 miles to Dulles. Were they commuting? I mean they did most of their trips out of Baltimore. But sometimes we had to fly out of Dulles.

I lived at Dulles. I hated to fly out of BWI because it was an hour-and-a-half drive up there. And if it was bad weather I was looking at a couple of hours if it was an ice storm or something.

Was I a commuter? I lived here. I was based here. This is my domicile and I lived here.

I mean, there are just so many ways that somebody could show up fatigued. And it's very difficult to put your arms around well is it the fatigue issue or do we have some prescriptive rule that says, OK, you commuted. You had to be here 12 hours.

We don't have any assurance if those 12 hours were good rest. We don't have any way of measuring the quality of the rest you got anymore than we have a way of measuring the quality rest for me if I live here and I had a child who was up at midnight, or who I took to the emergency room at 2 o'clock in the morning. If I was due out on a flight at eight, I have no business flying that flight.

But I'm not a commuter. So these are some of the difficulties that we're faced with. And the burden would be on the pilots not the carriers.

Now I will tell you on the broader rule you mentioned some concern that the carriers, you know, say well this could cost more money. If it's uniform to everybody it doesn't make any difference. If the price of fuel goes up two cents for all of them, it just went up two cents for all of them.

And collectively they won't like that, but at least it's not an unfair burden. You're not asking somebody to carry a burden that the other ones don't. And in this case it's in the interest of safety. And it's a burden I think they'd bear.

So I'm not overly concerned about the fact that we might have, you know, some additional pilot staffing that would come from this.

Senator THUNE. OK. Well I know when you're living somewhere and commuting, you may commute an hour-and-a-half or 2 hours to get to the airport to fly. But I think there's a big difference between that and commuting from Seattle, you know, to a flight that departs from New York. I mean that is a very long commute. And fatigue would certainly come into play.

Mr. BABBITT. Well, that's one of those issues of professional responsibility. I certainly wouldn't if I knew I was going to have to fly at 8 o'clock in the morning. I wouldn't get on a flight at midnight and think that I could jump seat all night long and have any expectation that I'd be ready to fly. I simply wouldn't do that.

Senator DORGAN. Administrator Babbitt—Senator, thank you very much, Senator Thune.

Administrator Babbitt, I have a number of questions. But I believe a couple of other colleagues have probably wished to ask a second round.

Let me just—I have questions about pilot's records and the equipment outage that occurred on November 19. So I want to ask them before we end and some NextGen. But let me ask you about the Colgan crash, if I might.

Just generally speaking because I think you—I thought you said earlier that you felt that the training was sufficient in that cockpit. And I, you know, I guess I have tried to read as much and learn as much as I could about that crash. 49 people lost their lives in the airplane. That includes the crew of that aircraft and one person on the ground.

As I have looked through this, it seems to me there are a number of things that cause significant questions about that cockpit. And I don't know whether it's just an aberration. It just so happens this is the one airplane out of a lot of flights. But because a lot of things

went wrong this is the one that crashed as well, but it doesn't exist elsewhere or the question of the training, just as an example.

You're a pilot. You've flown a lot. You know and I know that I believe it was a stick pusher.

Mr. BABBITT. Stick shaker went off first.

Senator DORGAN. Stick shaker first. Stick shaker went off first and then the stick pusher. And the crew prior to that time—let me ask the question a different way because I'm—first of all you indicated this wasn't ice.

Of course the reason that the nose had to go down was because of ice. They needed to pick up speed. That ice was causing more drag and so they had to get that nose down. That's why I assume that the stick pusher was reacting.

But my understanding is that neither of the people in that cockpit had had in-flight training on a stick pusher. So if you, God forbid, had been a passenger on that flight, would you feel like there had been adequate training on at least that portion of the procedures with respect to that cockpit crew?

Mr. BABBITT. I think this accident has shown us that the fact that they were exposed to the stick pusher which is the action of last result. The sequence, the airplane had been in icing conditions. But the airplane was not icing. It had its equipment on.

Senator DORGAN. Well it was icing, but what about the boots and the hot prop were so were dealing with the icing, right?

Mr. BABBITT. Right. And what they had done they had begun to slow the airplane down and put a lot of drag devices out, flaps and so forth and failed to monitor the speed drop off. When it dropped off, the stick shaker went off and instead of giving full power which they should have done, for some reasons known only to them, they thought they could recover with partial power, which they couldn't.

The airplane then went to the second phase, the back-up phase and said if you're not going to lower the nose, I will. And that's when the stick pusher took over. They had been exposed to that training but not in the fidelity that we could give it to them. And I think we probably should look at that.

Senator DORGAN. So had you been a passenger you wished there had been more training on that exposure that's in flight or right, I mean. So I'm just asking is there a training issue here? The answer it seems to be is yes.

Then the question is, is there an experience issue here? The person in the right seat talked during the recording that she didn't have much experience or understanding about ice. And so on.

And we know the hours of both the right seat and the left seat and also the pilot's records in the left seat. So is there an experience issue in that cockpit?

Mr. BABBITT. I think this investigation is going to point to that. The training issue you point out why someone can be trained in something and then not do what they were trained to do is what befuddles most of us.

Senator DORGAN. And is there a commuting issue with respect to this flight, do you think? If you, God forbid, had been a passenger or a loved one of yours was asking these questions and one person flew from Seattle to New York, the other person from Flor-

ida to New York with no evidence of either having been in a bed. Is there a commuting issue in terms of causing fatigue?

Mr. BABBITT. Commuting is what they did. But the lack of professional planning on their part is what really troubles me. Why would you do that? Why would you think that you could commute from here? Why would you come home from vacation, you know, 4 hours before departure. So—

Senator DORGAN. I understand. But what I'm trying to say is that I think a whole series of things came together in that cockpit that was certainly troublesome to me as an observer after the fact. The training, experience, pilot records, as you know the CEO of Colgan indicated that had he had access to all the pilot's records that pilot would not have been hired. Are you familiar with that?

Mr. BABBITT. Yes, sir.

Senator DORGAN. OK. Training, experience, commuting, pilot's records, all four raise flags for me. And I guess my question is, is that just an aberration in that one cockpit on that one airplane or that a harbinger of things to come unless something significant changes?

Mr. BABBITT. I think it was a very bad collection of events. But I think we have the wherewithal going forward to remove each of those. Any accident is always the culmination of a series of things. If we removed any one of them we wouldn't have had an accident.

Senator DORGAN. And I've said before and I always want to say that that pilot and co-pilot, I'm sure were wonderful human beings, who cannot speak for themselves. And I always feel a bit bad talking about the two people in that cockpit who lost their lives. On the other hand, we don't have a choice but to talk about that.

And I also know, speaking of pilots and flight crews, Senator Johanns pointed out most of us here fly all the time, all the time. And we know that there are a whole lot of men and women who fly those airplanes who do a terrific job, professional, great people. You know, I admire their skills.

So, I don't want this either to reflect on the profession. But I do want to make sure that the things that we now know and I've cited some of them, represent an urgency in the FAA in terms of response because I think, Mr. Babbitt, when you were nominated I expressed that I was pleased with that nomination. You've got a wealth of experience. And you also now understand the—I've described previously about trying to get through the labyrinth of government agencies is like walking through wet cement. It's very hard, very hard to get things done.

And yet, I think you reflect and understand—you understand that we're saying boy, we want you to move aggressively. And I think you come to this job not wanting to be a caretaker. You want to move aggressively. So I want to help you.

I have other questions, but I want to call on Senator Rockefeller.

The CHAIRMAN. I just wanted to comment. I agree with what Senator Dorgan is saying. I had an icing question, but I think that's been answered.

And I just—and thank you. I want to say that you just sitting there and having observed what you do, you are a take charge. You are proactive. You don't react.

You're proactive by nature because this is one of the most difficult jobs in all of Washington. It's also one of the most powerful jobs in all of Washington because you have the kind of power that most Americans don't understand. But we do.

I fly into West Virginia almost never on a jet. I mean, it's I serve myself you know champagne if I'm actually at the end of a jet. We just don't have those.

So, I'm always concerned about the icing thing. I always worry about them because you have a lot of bad weather in those hills. But what I want to say is what I said at the beginning. That the nature of this Committee has changed on all fronts, on all subjects.

And it used to be sort of a go along type committee and keep the trains running, planes running. We're not that now. We are delving into.

We have a crew of investigative lawyers who report just to me. And they can go anywhere they want and uncover any wrongdoing they want. And they have access.

They use subpoena power freely. And the health insurance industry can tell you all about that, so could the Internet scam industry tell you all about that. That's what we do because we're fighting for people here.

And this is not a statement to you, it's a statement, you know, to everybody. We care first and foremost about consumers and their safety. And we understand that we're in economic difficulties. We understand that everybody is, every corporation that has a small jet or a big jet or a small prop or a big prop, they're all under pressure. So is the general aviation industry.

I talked to a guy last night in Texas. He says their sales are down something like 70 percent. You can buy a \$25 million plane for \$9 million. I think that's what he used.

So I understand that. But we cannot be influenced by that with respect to matters of safety and consumer interest. And at that I want that message to go out loud and clear to all within reach of my voice.

I thank you. I respect you. I think you're doing an excellent job.

You have the personality. You have that straight ahead look. You answer questions directly. You don't avoid. And you're proactive.

Thank you.

Mr. BABBITT. Thank you, sir.

Senator DORGAN. Mr. Babbitt, let me ask about pilot's records. The FAA has made it a part of their "call to action," the ability for a potential employer to access all of the pilot's records. Is that correct?

Mr. BABBITT. Yes, sir.

Senator DORGAN. Good cooperation on that?

Mr. BABBITT. Yes, sir.

Senator DORGAN. Alright. The use of laptops, personal wireless communication devices in the cockpit during the operation, the commercial operation of an airplane, my understanding is given what we experienced, what we saw with the commercial airliner overflying by an hour and 20 minutes or so the city that it was aiming for. The pilots indicated they were working on their laptops on pilot schedules. I don't know what the real facts are, but that was what we know from public disclosure.

We have introduced legislation to say that personal use of wireless communication devices like laptop computers by pilots operating a commercial aircraft would be banned. Now again, personal use, I understand there are wireless devices that can be used in the operation of an aircraft as part of the operation, but personal use. Do you support our legislation?

Mr. BABBITT. Yes, sir.

Senator DORGAN. And are you able to do something like that administratively? I was surprised to find that many commercial airline companies already prohibit this. But FAA regulations would not.

And we just felt there ought to be a Federal regulation that prohibits it.

Mr. BABBITT. This may be one of these areas where it was so obvious that you thought no one would need guidance. Laptops can be quite useful and a number of carriers provide them.

They have databases for takeoff information. Some people have their flight crew manuals, and the aircraft manuals stored in laptops onboard the aircraft.

Senator DORGAN. Right.

Mr. BABBITT. That's fine.

Senator DORGAN. Perfectly appropriate.

Mr. BABBITT. A very good use of it. But anything, a magazine, doing Sudoku puzzles, anything that's distractive. They shouldn't be doing that.

They have a function and anything that's distractive should be forbidden. At my old carrier, we weren't even allowed to have magazines or newspapers in the cockpit, period. If they were visible, they were banned.

Senator DORGAN. November 19, the equipment outage that caused massive flight delays across the country. Can you give us a very brief answer? What caused that? And how can we have confidence that's not going to happen again? Essentially something similar to that happened a year ago.

Mr. BABBITT. Yes, sir. I'm very familiar with this one from about 5:25 in the morning on, I was very aware of this. What happened was a router in a large network system was being replaced out in Los Angeles.

And that router had been mapped improperly. And when it was put online it had a second problem. And this probably shouldn't surprise any of us, it was a human error involved. The installation team had suppressed a warning system.

So, had it been put on with the warning system on it would have tripped itself off in about 15 seconds. And we would have known instantly. But that didn't happen. It was allowed to go online and put data in.

I think it's important for everybody to understand safety was never compromised. What we lost was the ability to have our system automated. The ability to process flight plan information on an automated basis was what we lost.

So the system worked. It identified that it had a problem. It identified that the data coming was erroneous, and it essentially warned us to shut the system down. But it gave us that warning much later than it should have due to the human error.

Senator DORGAN. Alright.

Mr. BABBITT. So as a result of that I have, as of about 2 days ago, put together an independent review team. Now, remember this was a contractor for us. So I have asked the CIOs of the FAA itself and our Air Traffic Organization, along with the OMB, representatives from the Department of Defense and the DOT, all along with a couple of outside experts to take a look at this system. And I want answers on two grounds.

Number one, in the short term, what happened? How did we allow this to happen? Number one.

And number two, what have we done so that it never happens again? The second phase which is a longer phase of this report is going to be taking a good look at the network architecture. We're building a complete new infrastructure on this. And I want to make certain that we've got a robust architecture that's protected and is redundant and will never allow this to happen again.

Senator DORGAN. We are working with the FAA, Air Force and others on the issue of air space for unmanned aircraft. As you know, UAVs or UASs are a significant part of our future in a range of areas. And there is a, I believe, an August 2010 target date.

I think Hank Krakowski from your organization is working on this. I just want to mention that to you because it is important that we continue to meet our deadlines there.

And then I want to—I'm going to call on Senator Lautenberg in just a moment. I want to make one more final comment, then I'm going to have to depart. And I'll allow Senator Lautenberg to ask whatever questions he wishes to ask.

I said to Ms. Gilligan, who was here about a week and a half ago, that we intend to monitor very, very carefully what is happening with respect to your rulemaking because Ms. Gilligan indicated that some of that had slipped. You originally were talking about December. She talked about January. You talked about today how difficult it is to do these things which are committed. But time lines are hard.

We, again, after, for example just on that icing issue. After 19 years on the Most Wanted List, we really are going to be pushy. And we're doing that because we think it's essential, at last, at long, long, last to get to the end stage of this.

You've been there a very short time. I understand that. And you inherit these things that are unfinished. And then it's your responsibility to finish them. And you will not like, perhaps, that we push. But we're going to push really hard.

So, we want a good relationship with you, one in which we push and you deliver and America's skies are safer as a result. Again, I said when I started, I'm really pleased that you became FAA Administrator, frankly. I think you bring a wealth of experience to this job, more so than many others in past years.

And you have the capability to do really good things. And we want to give you the tools to do it. And we want you to meet deadlines.

And so I thank you very much for coming here. I'm going to send a list of additional questions, especially on the subject of NextGen, because that is a significant priority of ours and especially targets and timelines are important there—

Mr. BABBITT. Yes, sir.

Senator DORGAN.—as Senator Rockefeller and Senator Hutchison indicated.

Mr. BABBITT. As a matter of fact, I have suggested to some of the staff that perhaps we could give you a quick tour of and a timeline for some of the things that we're doing. I think you're going to see a tremendous acceleration here. The components are coming together. I appreciate some of the push that you give us. You should rest assured there's some of that push going on internally from me.

And so I would invite you and would be delighted to escort a group to show you live and in color what we are doing with NextGen, and what the potential is for it. So I welcome that. Thank you.

Senator DORGAN. Mr. Babbitt, thank you very much.

Senator Lautenberg, would you proceed and adjourn the hearing when you are completed?

**STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. OK.

Senator DORGAN. Thank you.

Senator LAUTENBERG. How long shall I proceed before I adjourn?
[Laughter.]

Senator DORGAN. Until you run out of breath or run out of questions.

[Laughter.]

Mr. BABBITT. Or 5 minutes.

Senator DORGAN. Or 5 minutes, as the Administrator suggests.
[Laughter.]

Senator LAUTENBERG [presiding]. Anyway, thanks for being here. And thanks Senator Dorgan, Senator Rockefeller for their constant attention to matters of air travel. And the—I am informed that we have some of the people from the families of those who lost their lives in the Colgan flight to Buffalo. And while there isn't a lot we can do for consolation, but to let them know that their presence and their interest can help us get to a place where perhaps we can make sure that something like that doesn't happen again.

And so we're certainly pleased to have Mr. Babbitt as the Administrator. He has, as has been described, extensive experience. And we've had a chance to get to know one another. And I'm pleased at the interest and the action that he's committed to taking to provide safe travel.

It's amazing when you think about it, about the record that has been composed over the years in aviation in this country. But even one slip is one too many. We should never have that happen.

Runway safety and aircraft overruns continue to be significant problems, Mr. Babbitt. Recently a DOT Inspector General report highlighted dangerous runway procedures at Newark Airport. Now these procedures were brought to the attention of the FAA nearly 2 years ago by a Newark air traffic controller.

But yet, the FAA has just now decided to act which we're pleased to see. But why did it take FAA so long to act on safety concerns raised by a veteran air traffic controller?

Mr. BABBITT. That's a very serious issue for us, Senator. We have, I think you should know, that since I've been the Administrator, my chief council has created an office to completely revamp how we deal with the whistle blowers. And I guess the most important point I want to make is when someone raises a question and they have to "blow a whistle" to get the information to us, we've already had a breakdown. We've already had a slip in the system.

And when people bring us safety concerns we should be dealing with them. I want these handled differently. Something went wrong. We had a failure to communicate. We had a failure of understanding. Something went wrong.

And I want to change that. So—

Senator LAUTENBERG. So we can count on you to be a willing listener or to make sure that someone is a willing, unbiased listener if complaints come from those employed in the system because—

Mr. BABBITT. That's precisely what we're trying to create.

Senator LAUTENBERG. And there has been in the past some concern about security of the jobs by raising complaints. And we don't want to hear about that anymore because we'll get them to the witness table and have them—

Mr. BABBITT. And that completely flies in the face of what we're trying to achieve with safety management systems. I've testified here and other places and I've spoke about it. And before every professional group they can bring action and pressure for us. But we need to have a system that allows people to point out safety flaws that will guide us to avoiding accidents, avoiding problems, and avoiding conflicting runway issues. Any of these are worthy of being addressed and we need to find a vehicle to allow them to express it.

Senator LAUTENBERG. Well certainly we know that when things go the other way when a mistake is learned about, when bad practice is threatening that the FAA should be quick to jump on it. And they should certainly be equally as quick to respond to something that comes from an experienced and working flight controller.

I want to talk for a moment about Colgan Flight 3407. The first officer of that flight had a base pay of around \$20,000. She traveled from Seattle on a red eye. She carried around some concerns, obviously, about her income, lived at home with her parents. And she may have also been ill at the time of the flight, but was afraid to lose the time that she would not be paid for, so much pressure.

You and I talked about Captain Sully, the veteran pilot of the miracle on the Hudson. He was cut 40 percent in his salary in recent years forcing him to take another job. Given all the responsibilities that commercial pilots shoulder, should there be some review of salaries? It would be extremely unusual, but this is a—they don't send anybody up in a NASA shuttle unless they know they're in good health.

There are so many other situations where heavy responsibility relies on an individual where their health isn't, their condition isn't a concern. And health includes reductions in stress and with an ease of facility to get to work and so forth. I am not against people having to travel to get to work. But the thing that should happen is there should be sufficient time to get to work and have enough

of a time lapse that they can have some recovery time before they get in the cockpit.

So the question of incomes ought to be somehow or other reviewed. And I'd like you or your department to do it or we'll do it from our offices, get some indication of what salaries are. And to see whether they're consistent with the responsibilities that go into the manning of the cockpit in an airliner.

Regional airliners operate half of all domestic departures. They move more than 160 million people a year. Now if we have one level of safety for both regional and major network carriers, shouldn't the pilots of the regional carriers be trained and compensated at the same level as pilots for major network carriers, particularly if they're flying identical routes?

Mr. BABBITT. Well the data that you mentioned earlier—compensation records—are readily available. As a matter of fact they report them today to the Department of Transportation. Form 41 collects that data so we know what all carriers pay. And it's even broken down into cockpit, mechanics and so forth. So the data is available to us.

Compensation varies among every carrier, based on the health of a carrier. And while I, you know, have concerns, it might not shock you to know that when I flew for Eastern Airlines, I took a 20 percent pay cut myself as a professional pilot and lost a substantial portion of my pension plan. So, I'm very familiar with what the economic impact of a carrier that is in stress and does these things.

But it still concerns me. It should concern all of us that we won't continue to attract the best and the brightest of this industry if we can't compensate people. If they can't be assured that they're going to have a pension plan.

I testified in this very building in 1992 about pension reform and the obligation that I thought, carriers had. That's not my role here today. But I am concerned that if the wages aren't supportive of attracting qualified, intelligent people to these jobs in the long run, we'll suffer.

And so that's not anything that the FAA can undertake. But I think the commercial airline industry and I would applaud Secretary LaHood, who has called a group together to study the long term. He brought together folks from the industry, from the airlines, from the manufacturers, and from labor unions to sit down and discuss the question, what do we want this airline industry to produce?

Do we want it to produce service to small cities, jobs, high-paying, good jobs to people whether they be mechanics or pilots? And if that's what we want, have we enabled the system to do that? And so I applaud Secretary LaHood's action there. He's going to empower that within about 2 weeks.

This group is going to get together. And he's made it very clear he doesn't want a series of nice things to do. He wants a series of actionable items that we can take.

Senator LAUTENBERG. Good. We had an incident in this room some time ago when there was a takeover attempt of one airline by another. The acquiring airline was willing to pay \$17 billion in cash to buy the other airline. The room was full of pilots from the acquiring airline.

And I asked a question of the CEO of the company, if they had \$17 billion available for purchase of another airline, why were they reducing pensions? The room broke out in applause. I wasn't looking for that, but the deal was broken because there was a different evidence of a responsibility that the airlines had to take.

And we need their cooperation in determining what kind of compensation ought to be there to make sure that the pilot is flying as much as we can with a respectable salary that says, look, this job is worth it because people love to fly, as you know. And they will fly for almost any price. Not just for income, but for love of job and rendering a real service.

And in 2006, the former FAA Administrator stated that Newark Liberty air traffic control tower needed at least 35 controllers to move traffic safely. But right now there are only 26 certified controllers and 8 trainees in manning the tower. They're supposed to have 35 trained, but they have only 26 trained, fully trained.

Now I've been asking this question for the past 5 years, and this time I'd like to have it be the last time that we discuss this. And I trust you, Mr. Administrator, to make sure that if you don't have the resources to do this and you have to let us know.

That when will the Newark Tower be fully staffed with certified controllers? When will the LaGuardia be fully staffed? When will and I just look at those in the region that I—and why also at JFK are these understaffed?

Maybe there can be technological reasons that say, OK, well we can get by with that. But if that's the case you're going to have to tell us about it.

And last, the FAA has taken a major air space redesign in the New Jersey/New York/Philadelphia region. The major overall of the flight patterns has raised safety concerns from controllers and could increase the noise levels over many parts of New Jersey. In 2007, the FAA official dismissed the noise problem at best as a side issue.

Well, we can't say in good conscience that the quality of life issues affecting hundreds of thousands of New Jerseyans should be considered in the redesign process. And there is also a concern about living in the path, the glide path of an airport or take-off. Can we count on you to do that and also willingness to hold a town hall meeting in New Jersey to discuss any FAA plan to address the safety and noise concern regarding air space design projects?

Mr. BABBITT. Yes, sir. I indicated in the past, I think one of the areas that we have not done well in, is when we talk about air space redesign. People immediately focus on some new dotted lines that didn't used to go over the area in which they live. When we talk about air space redesign, we have a couple of things to expand on.

We have a new contract with the National Air Traffic Controller Association. We're making a lot of efforts to have a much better dialogue and ability to communicate with them and the ability to collaborate with them on issues. I want their participation in this air space redesign. I welcome their participation.

This is the environment in which they live. They do this day-to-day. You can have a lot of academic studies, but having the academic and the technical solution paralleled and mated with the

practitioner gives you a far better product in my experience. So we want to do that.

Second, I think it's incumbent upon us to let people know that we're doing more than just changing the dotted lines. With this air space redesign and I think I've noted in the past, we're not redesigning it just because it's working so well now. It's not working well now. And with the new technology that we have we're going to be able to utilize a lot of new techniques. But we——

Senator LAUTENBERG. We look forward to that. And I'm going to close this hearing. And once again, convey our condolences to those who lost loved ones in the flight to Buffalo.

We're trying very hard honestly. I address this to the people here to make sure that we learn from mistakes, and how terrible a mistake that was. How terrible an error in judgment that was in terms of having the kind of person in the cockpit that you couldn't feel good about or obviously was unable to assist in that moment of emergency.

With that I close this hearing. Thank you again, Mr. Babbitt. Thank all of you for being here.

[Whereupon, at 11:52 a.m. the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO
HON. RANDOLPH BABBITT

Question. Last year there were several incidents that demonstrated that air carriers were not in full compliance with the FAA safety standards and airworthiness directives. What steps have been implemented to make certain that air carriers' maintenance programs are in full compliance with the FAA's safety standards?

Answer. The agency established an airworthiness directive (AD) compliance review team (CRT), consisting of eight FAA and industry subject matter experts, to review these events. The AD CRT's September 2009 report documents 12 findings and recommendations which focused on the process of developing and implementing ADs and ensuring compliance.

As a result of the AD CRT report, the FAA asked manufacturers, air carriers, and industry associations to participate in an aviation rulemaking committee (ARC) to develop implementation actions responsive to the findings and recommendations from the AD CRT.

The ARC met for the first time in December 2009. Its four supporting sub-groups will work through recommendations in the following areas: Service Information, AD Implementation, AD Development and FAA Procedures. The ARC will submit a final report detailing recommendations and implementation actions by June 2011.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BYRON L. DORGAN TO
HON. RANDOLPH BABBITT

Question 1. I have concerns about the speed of NextGen implementation as a whole. Do you believe the agency is on track to deliver on its modernization commitments in both the near-term and by 2025?

Answer. NextGen is one of the Department of Transportation's top priorities. It represents the single, most significant overhaul of the National Airspace System in American history and we are on track to deliver on our NextGen commitments.

In 2009, the FAA made significant progress toward the implementation of NextGen by meeting 94 percent of our high-priority NextGen goals for the year. For example, in 2009 our new satellite-based aircraft surveillance tracking system, Automatic Dependant Surveillance—Broadcast (ADS-B), was made operational in the Gulf of Mexico where surveillance has never before been possible. That comes on the heels of making ADS-B operational in Louisville, and many other sites will soon follow suit. The 2010 NextGen Implementation Plan, which we expect to publish in early 2010, provides a summary overview of FAA's planned and ongoing activities.

The September 2009 RTCA NextGen Mid-Term Implementation Task Force report reiterated the need to maximize those benefits that can be achieved today with existing aircraft equipage, while continuing to build toward the longer-term. In response to the RTCA report, the FAA has made significant adjustments to our NextGen plan to address the RTCA's recommendations.

Recognizing that NextGen is a portfolio of investments, there will be incremental progress as the FAA implements NextGen solutions and capabilities throughout the near and mid-term. New infrastructure and associated capabilities will provide a foundation for expanded capabilities and benefits that will be introduced over the long term.

It is expected that a significant portion of the core objectives of NextGen (enhanced safety, increased system capacity, improved quality of service, and enhanced environmental performance) will be met as planned through the implementation of relatively well-understood, advanced concepts, technologies, procedures, and policies. We estimate that by 2018, NextGen will reduce total flight delays by roughly 21 percent while providing \$22 billion in cumulative benefits to the traveling public,

operators and the FAA. In addition, 1.4 billion gallons of fuel will be saved, cutting carbon dioxide emissions by nearly 14 million tons.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO
HON. RANDOLPH BABBITT

Question 1. What is the current staffing and vacancy levels at each of Alaska's Flight Service stations?

Answer. The FAA is responsible for the operations and staffing of the 17 FSSs in Alaska. These consist of parent facilities in Fairbanks, Juneau, Kenai, and Palmer with 13 satellite facilities elsewhere across the State. As of December 11, 2009, we have 192 full-time personnel supporting these facilities with 3 vacancies.

Staffing numbers by parent facility are summarized below:

Fairbanks (includes Barrow and Northway)

Onboard—46

Vacancy—1

Kenai (includes Cold Bay, Dillingham, Homer, Iliamna, and McGrath)

Onboard—68

Vacancy—1 (non-FSS specialist)

Palmer (includes Nome, Kotzebue, Deadhorse and Talkeetna)

Onboard—26

Vacancy—0

Juneau (includes Sitka and Ketchikan)

Onboard—38

Vacancy—1

Regional Office Administration

Onboard—14

Vacancy—0

Question 2. How many of these employees are currently retirement-eligible or will become retirement-eligible within the next 3 years?

Answer. Maintaining the necessary numbers and experience levels for our Alaskan FSS workforce is a top priority of the FAA. Presently, despite only having three vacancies, we have a growing number of individuals who are either at or nearing retirement eligibility. As of today, 97 of the current 192 employees are eligible to retire. This number increases by 9 in calendar year (CY) 2010, 11 in CY 2011 and 10 in CY 2012. A recent survey of retirement-eligible employees showed that 13 of the 97 are likely to retire before June 2010.

Flight service station personnel are classified as air traffic control specialists and, as such, they may not perform air traffic-related functions beyond age 56. Currently, however, this requirement can be waived at the discretion of the Administrator. The FAA FSS program office has and will continue to consider this option for those FSS specialists who desire to continue their FSS duties beyond age 56.

Question 3. What is the FAA's plan for training Flight Service Specialists to insure Alaska maintains fully staffed and professionally trained Flight Service Stations?

Answer. Training of future FSS specialists has changed since Lockheed Martin took responsibility for delivery of FSS products in all states but Alaska. Rather than training a limited number of flight service specialists at the FAA Academy at the Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma, the FAA will be providing training for Alaska specialists at our facility in Kenai. We are finalizing the updated, localized curriculum for a class that will commence in early 2010. Employment bids for both in-state and out-of-state candidates to populate this and future classes will be released within the next several weeks. Once candidates are selected and their initial training is complete, they will be assigned to a principal duty station where on-the-job and local area knowledge training will occur. It is anticipated each applicant will take from 12 to 24 months to reach full-performance capability as an FSS specialist.

Question 4. During your testimony, you mentioned a recent Federal ruling allowing for flexibility with employees considering retirement. Can you please provide more information on this ruling?

Answer. The salary of a retired employee who receives a Federal annuity, *i.e.*, an annuitant, is generally reduced and/or off-set if the annuitant returns to Federal employment. However, the National Defense Authorization Act (NDAA) for Fiscal

Year 2010 changed this rule by amending the Civil Service Retirement System (CSRS) and the Federal Employee Retirement System (FERS) statutes.

The amendments to the CSRS and FERS statutes allow the head of the Agency to waive the application of the off-set and salary reduction rule applicable to reemployed annuitants, under certain circumstances (*e.g.*, waivers may be granted when it is necessary to fulfill functions critical to the mission or assist in recruitment or retention of employees). Certain limitations also exist with respect to appointments pursuant to such waivers including limitations on the duration of an appointment, the hours of service that may be performed by an annuitant appointed under the waiver authority, and the number of annuitants granted waivers.

The Office of Personnel Management (OPM) has issued guidance on this legislative change and we are coordinating with DOT on how best to attract and benefit retirees willing to return to part-time Federal employment during peak demand periods either as FSS specialists or instructors at our Kenai facility. We will update you on these items and their applications to our Alaska FSS staffing as more information becomes available.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BILL NELSON TO
HON. RANDOLPH BABBITT

Question 1. Under current FAA regulations governing flight and duty rules for pilots there are three sections with three sets of rules: one for domestic scheduled operators, one for international flag carriers and one for non-scheduled operations. Could you explain the reasoning behind having three different sets of rules?

Answer. These rules were originally constructed to apply to the unique properties associated with the kind of operation (domestic, flag, or international), including the associated business models. However, the FAA is currently in the process of amending the existing flight and duty regulations, using fatigue science to create a single regulatory approach to addressing fatigue in all types of Part 121 operations. We anticipate issuing a notice of proposed rulemaking by April 2010.

Question 2. Last year I filed an amendment to the FAA Reauthorization bill that would allow proven bird strike radar technologies to be purchased with Airport Improvement Program funds as long as they do not have a negative effect on navigational aids. What is the status of the FAA's studies on bird strike radars?

Answer. The FAA Technical Center in New Jersey, FAA, in conjunction with the U.S. Department of Agriculture and the University of Illinois Center of Excellence for Airport Technology, is currently testing various types of commercially-available bird radar systems. The purpose of the study is to determine the effectiveness of the systems as well ensuring that bird radar systems can coexist with, and not impact, existing airport navigational aids. We will use the results of the assessments to develop a performance specification which would make avian radar eligible for competitive procurement by airports using AIP grants.

A three-step process must be completed prior to making avian radar eligible for AIP grants. First, the technical evaluation must be completed. We expect the evaluation to be complete in the next several months. Second, the performance specification must be developed. We expect the performance specification to be completed before the end of Fiscal Year 2010. The third step in the process is development of guidance for the use of AIP grant funds. Based on the work effort remaining, we expect that the testing, specification and technical guidance will be complete in time for the FY2011 grant year.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
HON. RANDOLPH BABBITT

Question 1. Administrator Babbitt, in your 6 months at the helm of the FAA, how have you made it clear to the airline industry that there is truly only one level of safety for all air carriers?

Answer. All Part 121 air carriers, regional and mainline, are held to the same regulatory standards and are inspected by the Federal Aviation Administration under the same protocol as prescribed by the Air Transportation Oversight System (ATOS).

In addition to the regulations, the FAA has developed voluntary programs that enhance safe operations. Examples of these programs include the Advanced Qualification Program (AQP), Aviation Safety Action Program (ASAP), Flight Operations Quality Assurance (FOQA), Line Operations Safety Audit (LOSA), and Voluntary Disclosure Reporting Program (VDRP). These programs can require additional in-

vestment by air carriers. Mainline carriers may be better situated, financially, to make these investments than regional carriers.

Nevertheless, in my letter of June 24, 2009, I clearly communicated my expectation to air carrier CEOs that all Part 121 air carriers should implement FOQA and ASAP programs. I have received responses from 82 percent of Part 121 air carriers. These responses show that 98 percent of airplanes operating under Part 121 are flown by operators which have, or intend to implement ASAP programs. In addition, 94 percent of aircraft operating under Part 121 are flown by operators which have or intend to implement, both ASAP and FOQA.

Question 2. Administrator Babbitt, earlier this year I introduced legislation to improve the safety of air medical services (S. 1199). The content of my bill was included in the FAA reauthorization legislation reported by the Commerce Committee. My understanding is that the FAA is looking at issuing a notice of proposed rulemaking on helicopter EMS operations to address a number of the National Transportation Safety Board's "most wanted" safety improvements, among other things, and has initiated a formal 'rulemaking project'. What is the status rulemaking process?

Answer. We have moved expeditiously to complete a notice of proposed rulemaking (NPRM) addressing many of the NTSB recommendations related to helicopter air ambulance operations, as well as many of the voluntary initiatives put in place over the last 3 year period. This NPRM is in the final stage of agency clearance and on schedule to be published in the spring, after DOT and OMB clearance are complete.

Question 3. Administrator Babbitt, as you know, regional airlines have different business models. At carriers such as Horizon, which is part of the Alaska Air Group, headquartered in my state of Washington, pilots can- and do have fulfilling careers flying for a regional airline. One way of looking at the continuing education and training Horizon provides for its pilots is that it is making a long-term investment in its most critical asset.

Some regional airlines, though, which focus exclusively on being the low-cost feeder to a mainline carrier, may view pilots as a short-term operational expense and therefore look to hire minimally qualified pilots, pay them as little as possible, and not invest in anything much more than on-the-job training.

I understand you want us to not focus exclusively on a specific number of flight hours a pilot and copilot have, but on the range of situations a pilot and co-pilot are trained to address. If it does end up that the FAA moves forward with the approach that you are advocating for in your testimony today, how will ensure compliance at all airlines, including all regional carriers?

Answer. As you have stated, not all pilots for regional airlines regard their employment as merely an opportunity to gain experience and move to a major airline. Many pilots make decisions based on the lifestyle a regional airline can provide, such as seniority, types of airplanes or location of domiciles.

Whether employed by a regional or a major airline, all pilots are trained and qualified in accordance with Part 121. FAA conducts the same oversight (*e.g.*, through inspection and observation) of Part 121 operators, whether a regional or a major airline.

Focusing exclusively on a specific number of flight hours a pilot and copilot have is one option to address the issue of better operational experience for pilots who carry commercial passengers. My concern is that this option focuses on quantity rather than quality and scope of training and experience. The kind of experience needed cannot be measured only in hours of flight time. For these reasons, the FAA is considering a number of possibilities. One idea is to address this issue through an endorsement, such as the endorsement required to serve as pilot-in-command in a pressurized aircraft. For instance, a commercial pilot who wishes to work for a Part 121 air carrier, might first be required to obtain an endorsement showing successful completion of ground training and flight operational experience in specifically defined areas (*e.g.*, icing, high altitude). These concepts will be explored in the advance notice of proposed rulemaking we intend to issue within the next 45 days on pilot certification requirements for Part 121 operations.

Question 4. Administrator Babbitt, as you know, the FAA is in the process of replacing the HOST Computer system—technological backbone for En Route Air Traffic Control—with ERAM. As I understand it, however, this change-over has not been as smooth as the FAA or its contractor had hoped. The air traffic controllers have had to learn to do a number of more labor intensive work-arounds, which is an inconvenience during the midnight to four am shift when there is little traffic, but of much greater concern when air traffic controllers are handling numerous flight operations during the busier times of the day. As you know Seattle is next in line

for ERAM after Salt Lake City. What is ERAM's current status and implementation schedule?

Answer. ERAM is currently undergoing operational use and evaluation at its key sites in accordance with the FAA's acquisition management system. A key milestone in the process is the In-Service Decision (ISD) which will determine our ability to proceed with ERAM to the other 18 sites.

The key sites for the ERAM program are Salt Lake Air Route Traffic Control Center (ARTCC) and Seattle ARTCC. We intend to start continuous (24 x 7) operational use at the Salt Lake City (ARTCC) in February.

The role of a "key site" is to use the new system in an actual operational environment and find software "bugs" that were not identified at the prime contractor's facility and at our Technical Center, despite very extensive testing there.

The problems that were identified at Salt Lake are being resolved through software fixes that were recently delivered to the site. Currently, we expect to commence continuous operations at Salt Lake ARTCC by early February. We are proceeding down a similar path with our second key site, the Seattle ARTCC where they have identified all of their remaining known software problems that must be fixed. The software changes are still in the process of being made, and we expect delivery to occur in the latter part of February. Independent Operational Test & Evaluation is expected to start in February as well.

We are pleased to announce that we have reached a memorandum of understanding with the National Air Traffic Controllers Association on ERAM implementation. They have identified a national technical representative, and we have engaged the Air Traffic Controllers from Salt Lake City (ZLC) in the testing of the new software build at the Atlantic City Technical Center.

Question 4a. My understanding is that there is a backup system for HOST. Is there a back-up system for ERAM? If it is the same system that currently backs-up HOST, have there been any difficulties in switching between that system and ERAM?

Answer. The backup system to HOST is called EBUS. It is a separate system that provides less than full capability as a backup (for example, limited data blocks). The backup to ERAM is ERAM itself, in that it is an internally redundant system, *i.e.*, it has two completely redundant channels (and processors, etc.), both with the same full capabilities. HOST is a single channel system; if it goes down, the overall automation system transitions to EBUS for limited capability. With ERAM's two channels, if one of them goes down, the overall automation system transitions to the other channel. Again, both channels have the same full capabilities. The ERAM "backup" is therefore more robust than the HOST backup. EBUS will continue to be used as part of the system transition from HOST to ERAM, but as HOST is retired from each facility, EBUS will also be retired from our inventory.

The difficulties encountered in transitioning from EBUS to ERAM have been addressed in the latest software which will be used to start continuous 24 x 7 operations by early February at Salt Lake.

Question 5. Administrator Babbitt, based on your experience in industry, is there any advantage to using notice to airmen (NOTAM) compared to going through a formal rulemaking process when it comes to aviation safety issues? Philosophically, do you see there being benefits to having airlines voluntarily abide by safety directives or do statutes and rules provide a more effective means of ensuring compliance?

Answer. (a) The FAA uses NOTAMs to disseminate time-critical aeronautical information that is of either a temporary nature or not sufficiently known in advance to permit publication on aeronautical charts or in other operational publications. NOTAM information includes information on airports, taxiways, ramps, obstructions, communications, airspace, changes in the status of navigational aids, radar service availability, and other information essential to planned en route, terminal, or landing operations.

(b) Although regulations are essential in some cases, history has shown that we can often implement safety improvements more quickly and effectively on a voluntary basis. To do so, we use tools such as the Safety Alert for Operators (SAFO) and the Information for Operators (InFO).

A SAFO is an information tool that alerts, educates, and makes recommendations to the aviation community. SAFOs frequently contain information that is time critical. The FAA expects operators to consider immediate implementation of any applicable action recommended in a SAFO.

An InFO contains information to help operators meet certain administrative, regulatory, or operational requirements with relatively low urgency or impact on safety. InFOs contain information or a combination of information and recommended action to be taken by the respective operators identified in each individual InFO.

Question 6. Administrator Babbitt, I am a strong advocate for the accelerated adoption of RNAV/RNP technologies. In addition to the fuel savings, the use of RNAV/RNP, when combined with a continuous descent approach, will reduce in the aggregate, the total amount of noise experienced by all those living in areas surrounding the airport. The new more efficient approach, though, may increase the noise experienced by a narrow segment of population—places that may have never been subject to airline noise before. If a new more efficient approach is designed that flies over an area that is not part of an airport's existing environmental impact study area, does a new environmental impact study need to be conducted? If that is the case, could that slow significantly the adoption of RNAV/RNP?

Answer. The FAA's policy with regard to establishment or proposed change in procedures includes the requirement to conduct a noise screening analysis, including arrival aircraft below 7,000 feet above ground level (AGL), departure aircraft below 10,000 feet AGL, or when a national park or other similar land (on a case-by-case basis) is in the area, below 18,000 feet mean sea level. This noise screening analysis will determine the level of environmental review necessary. The degree of change in the current noise footprint associated with the proposed change in procedure(s) will determine the level of environmental review required, regardless of whether the area is or is not part of an airport's existing environmental impact study area. There are four basic criteria that determine the level of environmental review required for a proposed change. They are: (1) a change in the day-night sound level (DNL) of 1.5 decibels (dB) or greater within the 65 dB contour; (2) a change of 3 dB or more in the 60 to 65 dB contour; or (3) a change of 5 dB in the 45 to 60 dB contour; and 4) the type of land-use in the area of change.

The result of the noise screening analysis will determine the level of environmental review required; either a Categorical Exclusion (CATEX), a Documented CATEX, an Environmental Assessment (EA) with a Finding of No Significant Impact (FONSI), or an Environmental Impact Statement (EIS) with a Record of Decision (ROD). The CATEX or Documented CATEX does not have the potential to delay implementation of an RNAV/RNP procedure. An EA/FONSI can take approximately 12 to 18 months to complete and depending on the start date, could potentially delay implementation by a few months. An EIS/ROD process takes anywhere from 24 months or more to complete and would have the greatest impact on an implementation schedule.

Procedures requiring additional environmental studies can significantly extend the production timeline depending on the level of the environmental study. With a solid foundation of routes and procedures in place, we are exploring ways to accelerate performance-based navigation (PBN) and the Next Generation Air Transportation System (NextGen) using techniques such as continuous descent arrival and optimized profile descent (OPD). We are migrating away from a site-by-site (or runway-by-runway) procedure implementation process toward a NextGen readiness concept that would include development of an integrated system of PBN routes and procedures by geographic area (incorporating metropolitan areas and outlying airports). The key difference is that this approach combines airspace, environmental, and procedure development. Where possible, we are implementing OPDs with area navigation (RNAV) to make them environmentally friendly or "green," however, any new procedure still requires noise screening.

Question 7. Administrator Babbitt, my understanding is that the contractor operating the FAA's Automated Flight Service Stations (AFSS), which does not include Alaska, continues to shut down stations across the country and consolidate these functions into its three hubs. Several AFSSs are being shut down on February 1, 2010, including the one in Seattle. With the Winter Olympics starting in Vancouver, British Columbia later that month, and with the expected increase in the number of private planes, I am surprised that the contractor would chose to close down the facility at that time. But apparently, the contractor has that discretion under the contract. As the contractor continues to shut down AFSSs nationally, are there a sufficient number of individuals trained at its three hubs with sufficient regional knowledge to provide the necessary flight information to pilots around the country?

Answer. Yes. The seven continuing sites planned for consolidation are part-time and provide only preflight (pilot weather briefing) services. The exception to this is the Miami facility which provides full services. The three hub locations in Ashburn, Virginia, Fort Worth, Texas, and Prescott, Arizona, currently provide comprehensive flight services using local area knowledge-trained specialists. When the part-time facilities are closed at night under the current operational scenario, coverage for those facilities is transferred to one of the three hub locations. This has been the case for over a year.

Only when pilots call for preflight briefings would they be talking with one of the consolidated sites. All calls from airborne aircraft are already talking to a specialist

located in one of the three hubs. Even preflight calls are routed through the Lockheed Martin Flight Services (LMFS) telephone distribution switch which attempts to assign the caller to a briefer having the local area knowledge. Where the briefer is physically located has no bearing on where the call is directed.

Question 7a. Is this a potential safety issue?

Answer. No. Over the course of the program history and as facilities have been closed, the local area knowledge was maintained by moving employees to the hubs, thereby retaining the correct flight plan area knowledge and expertise. Performance under this model has been demonstrated successfully and validated through responses to customer satisfaction surveys. However, through our continued oversight of the LMFS performance, if it is determined that local area knowledge is insufficient; steps will be taken to rectify the situation immediately.

Question 7b. How does the contractor test /certify that these individuals at its hubs who are providing flight services have the necessary local knowledge for different regions across the country?

Answer. In accordance with Federal Aviation Administration and National Weather Service (NWS) requirements, LMFS trains flight service specialists in local flight plan area knowledge. Each specialist must pass an annual evaluation that measures his or her knowledge and skills specific to the areas for which he or she is certified. In addition to the local flight plan area training and evaluation, all flight service specialists must pass the NWS weather briefing certification process.

Question 7c. Is there an acceptable performance level in the contract related to this?

Answer. Yes—there is a performance metric (PM) specifically associated with local area knowledge, called “Employee Evaluation Index Score.” As mentioned above, this PM involves an annual exam that each specialist must pass for each area for which he or she is certified. Also, it is a requirement for all flight service specialists to hold an NWS certification as a condition of employment. All flight service specialists who have passed the NWS certification process are authorized to brief within the United States. Specialists receive mandatory training from LMFS for the specific flight plan area(s) before they are authorized to brief that area. The FAA verifies the training documentation and the NWS certification for each specialist as part of its regular quality assurance/quality control assessments.

During prior consolidations, LMFS employees possessing local area knowledge have transferred to the hubs, thus allowing these individuals to log on to the LMFS system and brief calls from any portion of the continental United States, regardless of their physical location. For example, an individual from the Seattle Automated Flight Service Station (AFSS) who transferred to one of the three hubs could be assigned a call from the Seattle flight plan area if requested by a caller. That specialist could be physically located in any of the three AFSS hubs.

Question 7d. If not, should it be included in option one (which the FAA has to inform the contractor that it wants to exercise by August 4, 2010)?

Answer. As noted, a PM exists to measure local area knowledge. The FAA continually assesses and evaluates not only the actual performance metrics and their associated acceptable performance levels (APL) but also the specific nature of each metric for value-added benefits and applicability. Over the course of the contract, various modifications to the PMs/APLs have taken place. If the FAA determines deficiencies exist or gaps in the performance standards manifest themselves, the FAA will address these shortfalls in performance through various means including, but not limited to, additions/modifications of the PMs/APLs.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL TO
HON. RANDOLPH BABBITT

Question 1. Since 1998 there have been 148 medical helicopter accidents with 137 fatalities. The NTSB recently found that medical helicopters comprised 43 percent of all fatal accidents in 2008. When the NTSB held its hearings in February and recently issued its recommendations to the FAA, CMS and others, NTSB addressed not only the avionics, but also the economics of the air medical industry. As I’m sure you’re aware, I’ve sponsored S. 848 which addresses air medical medicine, including some economic issues. I fully support FAA’s efforts to address the avionics issues. In light of the NTSB recommendations, to what extent do you believe that the economic issues should also be addressed to stop these deadly crashes?

Answer. The Department of Transportation’s Office of the Secretary administers aviation economic regulatory issues. The Department supports a study in this area. Following introduction of S. 848 and its companion bill in the House, H.R. 978, DOT

received and granted meeting requests from both supporters and opponents of the proposed legislation. The Department received diametrically opposed statements concerning the state of the industry and whether a problem exists in this area. A study conducted by a neutral party would result in an objective report on whether a systemic problem exists, and if so, the nature of any problem identified. DOT suggests that at a minimum, the report include facts, analysis, and recommendations in the following areas: (a) the “state of the industry,” including information on the number, size, and location of air ambulance operators and their relationships with State and local Governments, hospitals, and other entities; (b) coordination of air ambulance operators with State or local Emergency Medical Services (EMS) systems; (c) the nature of air ambulance operators’ service contracts, sources of payment, and costs of operation; (d) dispatch protocols, and compliance in practice; (e) current State regulations of air ambulances; (f) whether systemic problems exist under the current system governing air ambulances, and if so, the nature of the problems; and (g) the potential impact of additional State regulation of air ambulances. Both the House passed and Senate reported versions of legislation to reauthorize the FAA currently contain proposals to conduct a study of the industry consistent with these recommendations.

Question 2. Several of the provisions of S. 848 as well as an amendment that I proposed to the FAA Reauthorization bill would clarify the areas of air ambulance operations that are medical safety and service related and thus would clarify that these areas can be regulated by the states. These include medical qualifications and training of helicopter personnel, quality of care, proper equipment and temperature controls, access for transportation of patients, and proper medical equipment aboard a helicopter. In addition, my amendment would require the coordination of flight requests and proper communications between the helicopter and the public safety personnel.

Many states already regulate these areas, including Missouri. In fact, Missouri regulates far more medical and safety areas than my amendment does. Missouri law states that air ambulance services must meet the following requirements:

- Documentation that each aircraft has life support equipment and supplies.
- Equipment that allows for reliable communication.
- Effective maintenance, storage, usage and replacement of medical equipment and devices.
- Sufficient personnel to meet the mission of a flight.
- Proper training to carry out life support procedures.
- Proper records, policies and procedures, including a record of each transport and casualty protocols, and medical control policies.
- Proper training of air medical personnel.
- Designated medical director for each air ambulance service.
- Proper communications centers and operations, including systems to assure response to emergency requests and estimated time of arrival.
- Quality improvement program that monitors and reviews the quality of patient care.
- Maintenance of policies and procedures, including safety programs, standards of care, ambulance operations and communications.

Certainty for the state as to what they can regulate and what they cannot in air ambulance operations—based on that which is aviation safety related and preempted and that which is medically related and not preempted—would be an important advance in this field. Given that MO and other states are already regulating these areas, why should we not clarify that these areas are appropriate and lawful for the states to regulate? Can you confirm that the FAA believes the Missouri regulations are lawful and appropriate, as I believe they are?

Answer. I fully recognize the interest States have in ensuring their residents receive prompt medical treatment from properly qualified professionals. I also know that an underlying statutory and regulatory framework is necessary to ensure the provision of such services. Nevertheless, it is the details of that framework—the specific language used in statute or regulation and the manner in which it is actually applied—that determine its appropriateness in any particular instance. In all instances, however, state medical regulations that would affect air ambulances must be compliant with FAA safety requirements.

State regulations must also avoid conflict with the Airline Deregulation Act of 1978. The Department’s long experience with regulation of air ambulances has shown that State regulations fall along a continuum ranging from exclusively med-

ical matters on one end, to economic qualifications on the other. The former are more likely to be wholly appropriate; for example, those addressing the credentials and training of medical personnel. The latter much less so, as in the case of "certificate of need" requirements.

DOT/FAA recognizes the need for guidance, however, and for that reason we have responded to state officials seeking opinions on whether a state regulation or proposed action conflicts with the FAA's safety oversight or the Airline Deregulation Act. Such requests include discussions of the specific regulation and the details of its implementation and application in a particular scenario. With these specifics, the experienced professionals in the FAA's office of the Chief Counsel and the DOT's office of the General Counsel are prepared to provide assistance.

Question 3. I consulted with the FAA before introducing my legislation, S. 848, to address the areas of concern that the agency had in the legislation over the aviation safety regulation of air ambulances. Are there any recurring issues with S. 848 that the FAA has with regard to aviation security? If so, what are they?

Answer. Aviation security related issues must be addressed by the Transportation Security Administration, as TSA is the agency charged with responsibility for aviation security oversight.

