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NOMINATIONS TO THE FEDERAL AVIATION ADMINISTRATION AND THE U.S. DEPARTMENT OF TRANSPORTATION

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

FEBRUARY 7, 2008

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ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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CONTENTS

	Page
Hearing held on February 7, 2008	1
Statement of Senator Boxer	4
Letter, dated January 22, 2008, to Hon. Mary Peters, Secretary, U.S. Department of Transportation	4
Article, dated January 22, 2008, from *The San Diego Union-Tribune* entitled "FAA Faults tower for Lindbergh incursion"	28
Statement of Senator Inouye	1
Statement of Senator Klobuchar	38
Statement of Senator Lautenberg	7
Statement of Senator McCaskill	40
Statement of Senator Rockefeller	24
Statement of Senator Smith	5
Statement of Senator Snowe	42
Prepared statement	43
Statement of Senator Stevens	3
Prepared statement of Hon. Kay Bailey Hutchison, U.S. Senator from Texas	9
Statement of Senator Thune	23
Statement of Senator Wicker	8

WITNESSES

Gros, Simon Charles, Nominee to be Assistant Secretary for Governmental Affairs, U.S. Department of Transportation	17
Prepared statement	18
Biographical information	19
LoBiondo, Hon. Frank A., U.S. Representative from New Jersey	1
Sturgell, Hon. Robert A., Nominee to be Administrator, Federal Aviation Administration, U.S. Department of Transportation	9
Prepared statement	11
Biographical information	12

APPENDIX

Letter, dated February 5, 2008, to Hon. Daniel Inouye, from Bill Connors, Executive Director and Chief Operating Officer, National Business Travel Association	52
Letter, dated February 6, 2008, to Hon. Daniel K. Inouye and Hon. Ted Stevens, from James C. May, President and CEO, Air Transport Association of America, Inc.	51
Rockefeller IV, Hon. John D., U.S. Senator from West Virginia, prepared statement	51
Response to written questions submitted to Hon. Robert A. Sturgell by:	
Hon. Barbara Boxer	67
Hon. Maria Cantwell	69
Hon. Thomas R. Carper	78
Hon. Byron L. Dorgan	64
Hon. Kay Bailey Hutchison	81
Hon. Daniel K. Inouye	52
Hon. John F. Kerry	62
Hon. Frank R. Lautenberg	71

NOMINATIONS TO THE FEDERAL AVIATION ADMINISTRATION AND THE U.S. DEPARTMENT OF TRANSPORTATION

THURSDAY, FEBRUARY 7, 2008

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

The Committee met, pursuant to notice, at 10 a.m. in room SR–253, Russell Senate Office Building, Hon. Daniel K. Inouye, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII

The CHAIRMAN. I am pleased this morning to introduce the Honorable Frank LoBiondo, the United States Representative from the State of New Jersey. Congressman?

STATEMENT OF HON. FRANK A. LOBIONDO, U.S. REPRESENTATIVE FROM NEW JERSEY

Representative LOBIONDO. Thank you. Thank you, Mr. Chairman, and I appreciate very much the opportunity to testify before you this morning.

I want to thank you for considering Simon Gros for the appointment. I wanted to tell you that I have known Simon's mom and dad probably for more than 25 years, and I have known Simon for more than 10 years. I am very proud to say that he is a native of south Jersey. I represent New Jersey's Second Congressional District. We cover about a third of the state geographically.

Simon was born and raised in Brigantine, New Jersey. He first came to me when he was at the University of Maryland and asked to be an intern. It was pretty clear that Simon was a pretty special individual at that time. A lot of interns, I am sure you have seen over the years, come and go. Simon demonstrated a great deal of energy and enthusiasm coming in, looking for more and extra work all the time.

And after he finished school, I was rather surprised, but he came and asked for a full-time position in the office. We brought him on as Staff Assistant, with him understanding this was a pretty low-level entry. But he worked his way up, continued to show that same energy and enthusiasm all through his time with me, worked into a number of various positions in the office.

Determined that he was going to improve himself, he then enrolled in law school as he continued to work for me. But at a cer-

tain point, he came to me and said that he wanted to move into the private sector. I told him I understood and very reluctantly accepted him leaving the office because he is one of those rare individuals you can count on to do things the right way the first time.

Simon continued to work on his educational process, continued to work hard in the private sector, and he always had an interest in transportation issues and found himself with the Department of Transportation. He quickly moved to the position of Deputy Assistant Secretary for Governmental Affairs. And in a short time at the DOT, Simon has demonstrated what I knew all along, that is, highest levels of professionalism and commitment to public service.

He has continued to serve with distinction. He has worked closely with folks from both sides of the aisle, very accurately portraying the issues as they are presented. I have found him to be very direct, something that in our business we value a great deal.

So it is with a great deal of enthusiasm that I come before you today in recommending Simon Gros for the position and would hope that the Committee favorably considers it. And I thank you very much. I would be happy to answer any questions.

The CHAIRMAN. I thank you very much, Congressman. I am certain your friend Simon is very pleased.

May I now suggest Mr. Sturgell and Mr. Gros join us at the table?

Congressman I thank you for your presence here.

Before we proceed, Mr. Sturgell, would you care to introduce your family? I am certain they are here.

Mr. STURGELL. I would, Mr. Chairman. Today, I have with me some very special people—my mother, Barbara; my wife, Lynn; my sister, Sharon; and a good friend of ours, Kim Lee, an American Airlines pilot. I appreciate that.

The CHAIRMAN. Mr. Gros?

Mr. GROS. Thank you, Mr. Chairman. I would like to introduce my wife, Natalie; my mother, Barbara; my grandmother, Fran; my father, Roger; my mother-in-law, Louise; and my stepfather-in-law, Sandy Gellis, in the back there.

Thank you.

The CHAIRMAN. You have a brigade here.

The Federal Aviation Administration requires strong leadership to improve its safety record and to address several significant challenges currently before the agency. Congestion and flight delays have grown to record levels over the past year, and I think all of us agree that the FAA must take immediate action to resolve these problems before the system becomes overwhelmed and we find ourselves in gridlock.

Mr. Sturgell, these are just some of the challenges you will face, if confirmed. The FAA must begin modernizing the air traffic control system in earnest. Although some modernization efforts are underway, the agency needs to make substantial progress over the next few years to ensure our air traffic has the capacity to meet rapidly growing demand. In addition, the FAA must continue its essential work on improving the safety of air travel.

The relationship you have with your workforce is also critical. Effective air traffic control is central to the FAA's success, and I am concerned about morale problems among some of the employees. So

I would very much like to hear your views on this matter and to hear about any steps you intend to take that would promote a positive and fulfilling workplace environment at the FAA.

Mr. Sturgell, I must stress to you the importance of having an FAA Administrator who is willing to communicate directly with Congress and who will work aggressively to move the agency forward in this critical period. Time is short. Unfortunately, funding is tight, and the next FAA Administrator must oversee the modernization of the National Airspace System.

This Committee and the Congress expect you to work closely with us in addressing the immediate and the long-term issues facing the agency and to be an effective advocate for the best path forward with both the White House and the Legislative branch.

With respect to the Office of Governmental Affairs, Mr. Gros, if confirmed, you will be responsible for representing the Department of Transportation in its dealings with Congress and working closely with Members and staff on legislative efforts. This is an essential mission.

In addition to reauthorizing the FAA, there are a number of important transportation issues that the DOT and Congress must address in the coming year. To name a few, we must enact Amtrak, rail safety legislation, strengthen truck safety, and fully implement the important pipeline safety legislation recently enacted by Congress. A good working relationship between Congress and DOT is vital if we are going to find solutions to these challenges and improve the quality of our Nation's transportation systems.

And so, on behalf of the Committee, I thank both of you for appearing before us today and thank both of you for your commitment to public service. And should you be confirmed, I look forward to working with each of you.

Before proceeding, the Vice Chairman of the Committee, Senator Stevens?

STATEMENT OF HON. TED STEVENS,
U.S. SENATOR FROM ALASKA

Senator STEVENS. Thank you very much, Senator. Thank you, Senator Boxer. I am sorry to be a little late.

I think these are two very important positions at the Department of Transportation, and I look forward to the hearing today. Above all, aviation is more important to our state than any state in the Union. It is literally the lifeblood of Alaska. Seventy percent of our cities in our state can be reached only by air year round. They might have a boat from time to time, but year-round transportation is air transportation.

It is important that the FAA maintain knowledge of Alaska, and Mr. Sturgell, I am a little concerned about the retention of our people in the FAA in Alaska. The retention seems to be a very difficult thing. Attrition is very high. And because of our unique terrain and this enormous aviation community, it is essential that we have people up there who understand the state and understand the weather in the state.

So I look forward to having the chance to discuss this with you, and I want to work with the Chairman and both of you, when you

are confirmed, and try to see if we can do our best to improve the aviation system of our country.

Thank you very much.

The CHAIRMAN. I thank you very much.

Senator Boxer?

STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Senator BOXER. Thank you, Mr. Chairman, for holding this important hearing. Welcome, sir.

As a frequent flyer between California and Washington, as in well more than a million miles since I came to Congress, I know firsthand the challenges the flying public faces when they travel. The Department of Transportation confirmed on Tuesday what airline passengers have known all year, that 2007 was the second-worst year on record for airline delays.

Mr. Chairman, I think it is important—I just want to get your attention for a second—that the DOT confirmed on Tuesday, that 2007 was the second-worst year on record for airline delays. I just think it is something that we really need to talk to you about what your ideas might be to change it. Thank you, Mr. Chairman.

I think Americans are frustrated, and they want to know what the FAA, the airlines, and the Congress are going to do to alleviate the delays and keep our skies safe. Senator Snowe and I wrote the Airline Passenger Bill of Rights Act of 2007, which would require airlines to give passengers adequate food, water, and facilities when planes are delayed on the tarmac and also a timetable to allow passengers to deplane if they choose to do so and if the pilot deems it safe.

As you know, with the help of this Committee, we were able to include this language in the Senate FAA reauthorization bill, and I hope to work to strengthen that language when it comes to the floor.

I thank the FAA for recognizing the need for our Passenger Bill of Rights by issuing a proposed rulemaking. But I do have some concerns. I am told that FAA is considering preempting state laws, such as New York's or other efforts currently under consideration in several states. In addition, DOT rules should set minimum standards for airline contingency plans for food, water, and deplaning. And we have sent a letter to you, to the FAA—Senator Snowe and I—very recently, and I would like to ask unanimous consent to place that in the record.

The CHAIRMAN. Without objection.

[The information referred to follows:]

UNITED STATES SENATE
Washington, DC, January 22, 2008

Hon. MARY PETERS,
Secretary,
Department of Transportation,
Washington, DC.

Dear Secretary Peters:

We are pleased that the Department of Transportation (DOT) has turned its attention toward addressing airline delays and service, but we have serious concerns about several of the rules proposed by your Department in Docket No. DOT–OST–2007–0022.

As the DOT moves forward with this rulemaking, we urge you to set minimum standards for the contingency plans and ask the DOT to both review and approve the plans proposed by the airlines. These minimum standards should not only include necessary food and water, but also passengers' right to safely deplane if they have spent more than 3 hours on the tarmac either when arriving at, departing from, or being diverted to an airport.

Allowing airlines to design their contingency plans without the guidance of minimum standards or even a review by the DOT renders this rule completely ineffective. As noted by your own Inspector General, many of the airlines previously signed a voluntary Airline Customer Service Commitment in 1999 and incorporated many of those requirements in their contracts of carriage. Despite those efforts, little has changed and it is clear that this system of voluntary commitments is not enough to prevent the severe delays and unconscionable conditions that too many air travelers have recently endured.

We applaud the efforts of states to protect the healthy and safety of passengers who travel through their airports. It is important that any rule established by the DOT should not preempt state efforts such as the law recently passed in New York, or those measures currently under consideration in California, Rhode Island, Washington and other states.

Lastly, we support the proposals to improve communication between the airlines and their customers, and require airlines to track and provide consumers with more information about the past performance of flights and their carriers. Better information will help consumers make an educated choice when purchasing their ticket, and provides airlines an incentive to compete on the quality of their service as well as price.

We look forward to working with you and other officers in the Department of Transportation on these important issues.

Sincerely,

BARBARA BOXER,
U.S. Senator.

OLYMPIA SNOWE,
U.S. Senator.

Senator BOXER. Thank you. So that is issue number one.

I am very concerned about the fact that the air traffic controllers in my state are telling me that FAA simply doesn't grasp the full implications of the increasing number of air traffic controller retirements across the Nation. Controllers tell me that a wave of retirements, dispute over pay, controller fatigue, excessive overtime hours, training of new hires, and unsuitable working conditions in the towers are creating a safety hazard on the ground and in the air for the passengers.

This is very serious, I think, to all of us, and we look forward to hearing your response with your plans to deal with this. First of all, do you agree with this assessment? And second of all, what would you do to help alleviate this problem?

So I do look forward to speaking with you about these and other matters. And thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Smith?

STATEMENT OF HON. GORDON H. SMITH, U.S. SENATOR FROM OREGON

Senator SMITH. I thank you, Mr. Chairman and Senator Stevens, for this important hearing.

It is quite obvious that our Nation's aviation system is in serious need of an overhaul. The economic impact of delays in the aviation industry have a negative impact on our economy. I commend the FAA for their safety record. Flying has never been safer. But safety

aside, flying in this country is reaching appalling levels of difficulty.

Data released this week, as Senator Boxer just noted, 2007 was one of the worst years for commercial flights in this country. A near record number of flights were delayed. More bags were lost, and there were more customer complaints than in 2006 and the most since the year 2000. That data alone is all we need to move expeditiously on the FAA reauthorization bill stuck in the Senate.

The FAA legislation passed by this Committee does include a $25 user fee. I still have difficulty with it, and it is bogging down that bill. I do not agree with the premise that we have to create a new bureaucratic system of fee collection to pay for the improvements to the air traffic control system. I see no reason why we cannot use the current payment system of fuel and excise taxes to fund the FAA.

The money needed to pay for the NextGen system can be collected through the current financing structure much more simply, much less expensively. I am looking forward to hearing Mr. Sturgell's explanation for why we cannot use the current system to pay for NextGen Air Transportation System.

The implementation of the NextGen system is an enormous task. I am not convinced the FAA has the capability to implement a system that requires the technological change currently proposed. The FAA does not have the best track record when it comes to implementing new technological systems.

I am also concerned about the FAA's reliance on technology for the NextGen system that is not available and may not be available when needed. I have yet to hear when key system technological capabilities will be delivered, how much capacity will be added to the system, and how much of the old system will be retained as a backup.

NextGen is not expected to become fully operational until at least 10 years from now. I am interested in learning what we can do to improve our Nation's airways between now and then. Steps must be taken to reduce congestion between now and then.

I am concerned that when we discuss NextGen, no one talks about the need for more capacity on the ground. We could and should have the best radar system in the world. But without places to land and gates to receive those planes, we will still have those same problems on the ground as in the sky.

Mr. Sturgell, I am interested in hearing your thoughts on improving capacity at our airports and whether there is anything we can be doing in concert with NextGen to expand the airports' capability. All of our major airports are in very urban areas with no growth. How do we work around this gridlock on the ground to improve gate areas and expand and build new runways?

There are a number of challenges before you, sir, and I look forward to your testimony. Thank you.

The CHAIRMAN. Thank you very much.

Senator Lautenberg?

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

Senator LAUTENBERG. Thank you, Mr. Chairman. It is an important hearing, and transportation shapes life in America, in my view. It was aviation that enabled a coast-to-coast development that made us the great Nation that we are today. And if these nominees are confirmed, their whole responsibility is to shape our Nation's transportation future on the rails, the highways, and in the sky, and thusly, we have created a critical obligation to be as thorough as we can in the selection of these government leaders.

I first want to apologize to Congressman LoBiondo for not having been here to welcome him. He has shown a commitment to constant improvement of our transportation infrastructure. We serve well together.

And I know that he came to introduce Simon Gros, who is nominated to be Assistant Secretary for Governmental Affairs for DOT. I have worked with Mr. Gros since he has been with the Department of Transportation and noted his professionalism and diligence, and I believe the Committee should confirm his nomination.

Mr. Sturgell, someone with broad aviation experience, has been nominated for the highest post at FAA. And while he is well qualified with knowledge of aviation and is being selected as the country's top aviation watchdog, questions are going to be raised about the decisions that Mr. Sturgell made and implemented at the FAA. These decisions seemed to have missed what FAA needs most—leadership and a new perspective on how to continue to improve safety, which has been terrific. But so has the volume of traffic expansion and it provides new problems, while providing reliability in our aviation system.

As the FAA's Deputy Administrator for the past 5 years, Mr. Sturgell has helped design the policies that have proven misguided and put our aviation system in its current troubled state. Now, I want to be clear. I trust the men and women who do the work to keep our planes flying safely each day—our pilots, flight attendants, our mechanics, our ramp workers, our air traffic controllers, safety inspectors, and the other professionals who we rely upon each day to keep more than two million flyers, travelers safe.

They are among the top transportation professionals in the world. But the Bush Administration policies have inhibited the ability of these hard-working professionals to do their best by failing to meet some of their basic needs. Our Nation's air traffic controllers are overworked and understaffed, and the FAA is refusing to negotiate in good faith to improve, or to at least discuss, their working conditions and their income.

Sixty-hour work weeks are not uncommon in the retail business and the manufacturing industry. But that is far above the standard that should be in place for the aviation industry and can lead to fatigue, tired eyes in our skies. In addition, the FAA continues to allow dangerous and unnecessary safety risks on our runways, and that is confirmed in the GAO report we have with us.

Working with the Government Accountability Office, we have obtained this report which shows that quick actions of pilots and controllers are sometimes the only things that prevent many cata-

strophic accidents from happening each year. I hope this Committee takes a hard look at this report since FAA has not.

Further, the Bush Administration's failures have led to one of the worst years ever for flight delays, as was discussed by our colleague earlier. Only 73 percent of flights arrived on time last year.

Last, the FAA is forcing hundreds of thousands of residents who live in the New Jersey and New York region to deal with more jet noise as it re-routes planes over our homes, schools, and communities. Aside from the decreased quality of life, we are already hearing about confusion over the new routes by pilots and controllers, which could lead to alarming consequences.

Mr. Chairman, I regret to say that I do not believe that President Bush's choice for FAA Administrator is the right choice. The results at FAA do not support this nomination, which is an opinion held by many Senators. It is not the way to bring our aviation system up to the levels of reliability and efficiency that we need. It is not good for the public interest. It is not good for our region. It is not the safest way to operate this vital part of our transportation network.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank you very much, Senator.

This morning, the Commerce Committee has the great privilege and honor of presenting a new member. He is the gentleman from Mississippi, the Honorable Roger Wicker. Senator.

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

Senator WICKER. Well, thank you, Mr. Chairman. And if I might take this opportunity to congratulate you on taking your 15,000th vote on the floor of the U.S. Senate?

The CHAIRMAN. I am not that old.

[Laughter.]

Senator WICKER. There were distinguished Members of the Senate who told that for the truth yesterday, and the remarks were very generous and well deserved. And it is a pleasure to be here.

I am told that this is a time for an opening statement. I have another Committee to attend, and I am learning the ropes around here. So if I might, let me just also apologize for being a few moments late. I was at the National Prayer Breakfast, and the bus just arrived back at Capitol Hill.

I want to congratulate the two nominees and to say that I read their testimony with interest. I wish both of you well, and I will simply, by way of opening statement, express my hope that they will maintain an interest in the small communities of the United States that serve rural America.

The FAA Contract Tower Program continues to be one of the most successful and cost-effective FAA-industry partnerships, as validated numerous times by the Department of Transportation Inspector General. There are seven FAA contract towers in my state of Mississippi alone, and the bottom line is that without this program, many of these smaller airports would not be benefiting from the important safety benefits that control towers provide the flying public.

So I would hope that, if confirmed by the Senate, Mr. Chairman, these two witnesses will continue to maintain as a top priority the 249 smaller airports in America that benefit from this program.

I thank you very much, Mr. Chairman.

The CHAIRMAN. I thank you very much, Senator.

And now, may I recognize the Vice Chairman?

Senator STEVENS. Mr. Chairman, I have been informed that Senator Hutchison has a conflict this morning. She is the ranking Republican on the Subcommittee for Aviation, and she wants to have me voice her support for these two nominations and hope that we will have a chance for early confirmation.

She wants to submit a statement for the record, and I ask that that be reserved.

The CHAIRMAN. Without objection, so ordered.

[The prepared statement of Senator Hutchison follows:]

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

Chairman Inouye, Vice Chairman Stevens, thank you for scheduling the nomination hearing today. It is important we quickly provide a stable leadership environment at the FAA. I support both Mr. Sturgell and Mr. Gros' nomination and I look forward to working with them as we move forward on FAA Reauthorization and other transportation priorities.

I am excited to start working with my good friend and colleague Sen. Rockefeller in my new capacity as Aviation Subcommittee Ranking Member. We have an important year and several challenges ahead of us, but it will be essential to have a strong leadership team in place at the FAA in order achieve our goals of an extension and finalized FAA Reauthorization bill.

Mr. Sturgell is clearly qualified to be Administrator based on his vast aviation background and his institutional knowledge of the Agency. I believe it is paramount Congress provide the FAA with a strong and knowledgeable leader to oversee and motivate the more than 45,000 FAA employees. As he has shown through his time as Acting Administrator and Deputy Administrator, Mr. Sturgell has the skills to help improve our safety system and to work the Agency through a much needed modernization process.

Again, thank you for moving forward with these nominations. I look forward to their timely confirmation.

The CHAIRMAN. And now, I am pleased to call upon Mr. Sturgell.

STATEMENT OF HON. ROBERT A. STURGELL, NOMINEE TO BE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Mr. STURGELL. Thank you, Mr. Chairman, for the privilege of addressing you, Senator Stevens, and the Members of this Committee as the nominee for the position of Administrator for the Federal Aviation Administration. Let me just say from the outset that I reaffirm the pledge I made when I took my oath of office to serve my country, to uphold the principles of the Constitution, and to do my duty to the best of my ability. It is a commitment I renew each and every day at the FAA.

As the steward of the largest, most efficient, and most complex airspace system in the world, I will work tirelessly to improve and enhance safety and efficiency in order to serve the millions of people who place their trust in us and who depend on the system for their livelihoods. Above all, they demand safety, and that is what we deliver.

I am proud to have helped advance that safety record throughout my professional career. The United States leads the world in set-

ting the highest standards of safety for the aviation industry, and I pledge to keep it that way. I must be candid. I have been asked fairly pointedly by several people about why I want to be considered for this position. The answer for me is simple. It is about the mission.

I am proud to serve with the men and women of the FAA, who set and meet the highest standards of excellence. Following the attacks of 9/11, I sought public service, first with the National Transportation Safety Board and then with the FAA. For me, like so many others, it was personal.

At the FAA, I have never side-stepped a hard issue or a tough call. During the last 5 years, the FAA has learned to manage better and smarter. We have implemented financial management strategies that better serve the taxpayer while maintaining the standard of excellence.

Our capital programs are on track. We have had seven clean audits in a row, and we have been taken off the GAO's high-risk list for financial management. In terms of safety and regulatory authority, the FAA is the international gold standard. The men and women of the FAA have made it that way, and I thank them for their efforts.

As you know, I am working hard to keep things moving. As the entire airline industry has suffered constraints, as passenger demands rise, and as our workforce ages, we have responded with a massive recruitment and training initiative. We have created retention and job enhancement strategies, and a new workforce is being built.

We had nearly 2,000 applications in less than a week when a new bid recently went out for air traffic controllers. But we are also focusing on our safety inspectors and other critical safety positions. We are addressing those issues that continue to impact travelers—delays, uncertainty, cancellations. Only through the cooperation of all the parties involved can we find the real solutions.

And as you have seen by our willingness to work in our most congested corridors recently to find and implement solutions, we are beginning to make headway. System-wide, we have introduced new technologies, ranging from satellites to runway lights, from simulators to the next generation of navigation and safety equipment that will bring the Nation's airspace safely into the future.

If confirmed, I will continue working with our stakeholders, my colleagues at the Department of Transportation, and, of course, the Congress to continuously improve the performance of the FAA.

Finally, Mr. Chairman, it is an honor for me to serve this great Nation. From my days at Top Gun to my tenure with the airlines and now here before you, I continue to share your pride at what this country stands for. You have my solemn promise that, if confirmed, I will uphold the best interests of the United States of America and its people at all times.

Mr. Chairman, thank you. And I would be happy to answer any questions the Committee may have.

[The prepared statement and biographical information of Mr. Sturgell follow:]

PREPARED STATEMENT OF HON. ROBERT A. STURGELL, NOMINEE TO BE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Thank you, Chairman Inouye, for the privilege of addressing you, Senator Stevens, and the Members of this Committee as the nominee for the position of Administrator of the Federal Aviation Administration.

Before I begin, it's my profound pleasure to introduce three very special people, my wife, Lynn, and my parents, Bill and Barbara Sturgell. I'm blessed to have come from wonderful parents and have a loving wife by my side to provide me with such a solid foundation and support. I'm proud to have them here with me today and feel that support just as I've felt it every day of my life.

Let me say from the outset that I reaffirm the pledge I made when I took my oath of office—to serve my country, to uphold the principles of fairness and righteousness as outlined in the Constitution, and to do my duty to the best of my ability.

It is a commitment I renew each and every day at the FAA, that as the steward of the largest, most efficient and most complex airspace system in the world, I will work tirelessly to improve and enhance safety and efficiency in order to serve the millions of people who place in us their trust, who depend on the system for their livelihoods, the movement of goods, and as the safest mode of transportation on earth.

I am proud to have helped advance that safety record throughout my career. The United States leads the world in setting the highest standards of safety for the aviation industry, and I pledge to keep it that way.

I must be candid: I've been asked fairly pointedly by several people on the Hill about why I want to spend five more years at the FAA. The answer is simple. I love my job. I'm proud to serve with the men and women of the FAA who set and meet the highest standards of excellence and I love the aviation business from the inside out.

I've had to make hard choices, sometimes unpopular choices during my tenure with the FAA. But, we've learned to manage better and leaner. We've implemented financial management strategies that better serve the taxpayer while maintaining the standard of excellence under which we operate.

Our capital programs are on track, we've had seven clean audits in a row, and we've been taken off the GAO's high-risk list for financial management. My goal is simply to have the FAA viewed as the gold standard, and I want to thank the men and women of the FAA for their hard work and dedication to excellence.

As the entire airline industry has suffered constraints, as passenger demands have fluctuated, as our workforce ages, we've responded with a massive recruitment and training initiative, we have been innovative in crafting retention and job enhancement strategies. The new workforce is being built. We had 1,800 applications in less than a week when a new bid went out for air traffic controllers. Now, we have to execute on the training.

We are also addressing those issues that continue to impact travelers. Delays, uncertainty, cancellations, only through the cooperation of all parties involved can we find real solutions. And as you've recently seen by our willingness to work in our most congested corridors, to find and implement solutions, we are beginning to make real headway.

System wide, we've introduced new technologies ranging from satellites to runway lights, from simulators to the next generation of navigation and safety equipment that will bring the Nation's airspace roaring into the future and will impact how safely, quickly, and smoothly flights transverse this Nation.

If confirmed, I look forward to, and remain committed to, working with our stakeholders in the aviation community, my colleagues at the Department of Transportation, and, of course, the Congress, to continuously improve the performance of the FAA and to ensure that our system remains dynamic and future oriented that new safety innovations are implemented and that the aviation community continues to share in the growing record of safe operations.

Finally, Mr. Chairman, it is with humility that I say, it is an honor to serve this great nation. From my days at the United States Naval Academy to this very moment, I continue to be filled with pride at what this country stands for. You have my solemn promise that, if confirmed, I will uphold the best interests of the United States of America and its people at all times. Mr. Chairman, thank you. I would be happy to answer any questions the Committee may have.

A. BIOGRAPHICAL INFORMATION

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

Robert Allan Sturgell
Nickname: Bobby

2. Position to which nominated: Administrator, Federal Aviation Administration.
3. Date of Nomination: October 23, 2007.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: 800 Independence Avenue, SW, Room 1010, Washington, D.C. 20594.

5. Date and Place of Birth: August 1, 1959; Washington, D.C.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: Lynn Ann Sturgell (Stewart)
Child: Benjamin David Sturgell (5)

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

United States Naval Academy, Annapolis, Maryland. 1978–1982, Diploma received 1982.

Anne Arundel Community College, Arnold, Maryland, 1981–1982, no diploma received (completed 25 hours of financial accounting courses while simultaneously attending USNA).

University of Virginia School of Law, Charlottesville, Virginia, 1991–1994, Diploma received 1994.

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

United States Naval Academy, May 1982 to January 1983, Annapolis, MD, Physical Fitness Instructor.

Training Squadron Six, January 1983 to October 1983, NAS, Pensacola, FL, Student Pilot.

Training Squadron Twenty-three, October 1983 to August 1984, NAS, Kingsville, TX, Student Pilot.

Training Squadron Twenty-two, August 1984 to March 1985, NAS, Kingsville, TX, Student Pilot.

Fighter Squadron One Two Four, March 1985 to March 1986, NAS, Miramar, San Diego, CA, Fleet Replacement Pilot.

Fighter Squadron Fifty-one, March 1986 to May 1989, NAS, Miramar, San Diego, CA, Training Officer, Weapons Instructor, Administrative Officer.

Navy Fighter Weapons School, May 1989 to August 1991, NAS, Miramar, San Diego, CA, Instructor Pilot, Administrative Officer, Readiness Officer.

Fighter Composite Squadron Twelve, November 1991 to October 1998, NAS Oceana, Virginia Beach, VA, Instructor Pilot Safety Officer.

Securities and Exchange Commission, Summer 1992, Washington, D.C., Summer Intern.

Shaw, Pittman, Potts & Trowbridge, Summer 1993, 2300 N Street, NW, Washington, D.C., Summer Intern.

Shaw, Pittman, Potts & Trowbridge, June 1994 to February 1996, 2300 N Street, NW, Washington, D.C., Associate.

United Airlines, March 1996 to March 2002*, Dulles Int'l Airport, Washington, D.C., Flight Operations Supervisor, Pilot.

National Transportation Safety Board, March 2002 to September 2002, 490 L'Enfant Plaza, SW, Washington, D.C., Senior Policy Advisor to the Chairman.

Federal Aviation Administration, September 2002 to Present, 800 Independence Ave, SW, Washington, D.C., Acting Administrator, Deputy Administrator, Acting ATO Chief Operating Officer, Sr. Counsel to the Administrator.

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

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* Leave of absence began March 2002. Resigned November 7, 2002.

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

Served as the President of the Citizens Advisory Committee to the Calvert County Board of County Commissioners, 1999–2002.

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

Blue Heron Properties, LLC—sole owner (company dissolved in 2003)

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

District of Columbia Bar Association—1994 to present.

Maryland State Bar Association—1994 to present.

NTSB Bar Association—1994–1996, 2002.

Southern Anne Arundel County Chamber of Commerce—1999–2001 (Board member).

Boys and Girls Club of Southern Maryland—2000 (Board member).

Air Line Pilots Association—1996–2002.

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

Candidate, Maryland State Senate, District 27—1998; Outstanding Debt: None

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

1998–2004, Member, South County Republican Club.

1998 to present, Member, Southern Prince George's County Republican Club.

1998 to present, Member, Calvert County Republican Club.

2000, Volunteer, Bush/Cheney 2000.

2002, Volunteer, Ehrlich for Governor; Contribution: $500.00.

2002, Volunteer, Hale for County Commissioner.

2002, Wayson for County Council; Contribution: $500.00.

2004, $1,000; Bush for President, 2004.

2004, $500; Republican National Committee.

2006, $1,000; Ehrlich for Governor, 2006.

2005, $1,000; Hale for Delegate, 2006.

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

National Society Daughters of the American Revolution Award, 1978.

United States Naval Academy Alumni Association Award, 1982.

Secretary of the Navy Distinguished Midshipman Graduate Award, 1982.

Lieutenant Clarence Louis Tibbals Memorial Award, 1982.

Phi Kappa Phi Honor Society, 1982.

Commodore's List, Training Air Wing Two, 1985.

Sea Service Deployment Ribbon (2 awards), 1986 and 1988.

Meritorious Unit Commendation, 1988.

Armed Forces Expeditionary Medal, 1988.

Navy Achievement Medal, 1989.

White House Fellow, Regional Finalist, 1990–91.

National Defense Service Medal, 1991.

University of Virginia School of Law, Dillard Fellow, 1992–1994.

The Virginia Trial Lawyers Award for Trial Advocacy, 1994.

Navy Achievement Medal, 1997.

Navy and Marine Corps Commendation Medal, 1998.

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

Articles

When All Else Fails, Blame the ADB, *Approach* magazine, September 1989.

More BFM: Out of Plane Maneuvering and Effective Rate/Radius, *TOPGUN Journal,* Spring/Summer 1989.

Carrier Battlegroup Defensive Weapons Systems, *TOPGUN Journal,* 1990.

F–14 Section Tactics: The Intercept Phase, *TOPGUN Journal,* Fall 1990.

F–14 Section Tactics: The Weapons Employment Phase, *TOPGUN Journal,* Winter 1990–91.

F–14 Section Tactics: Post-Merge Phase, *TOPGUN Journal,* Spring 1991.

Forward Quarter Tactics in Desert Storm, *TOPGUN Journal,* Summer 1991.

Letter to the Editor, *The New Bay Times,* September 1998.*

Commentary, *The New Bay Times,* October 1998.

Letter to the Editor, *The Capital,* September 9, 1998.

Speeches

Challenge & Success, FAA Information Technology/Information Systems Security Partnership and Training Conference, March, 2005.

Black Boxes and Gray Matter, NATCA ASI Forum, March, 2005.

A Proud Tradition, Labace 2005, March 2005.

Working Together, CMAC Honored Speaker Remarks, May, 2005.

Our Pledge to America, Equipment Dedication Ceremony, June 2005.

Aircraft Certification Leadership Conference, August, 2005.

Beat Army, New Controller Welcome, August 2005.

A Good Investment, Cincinnati/Northern Kentucky Int'l Airport Runway Dedication.

Not Business as Usual, NBAA, November 2005.

AAAE, Hawaii, January, 2006.

Aviation Cooperation Program Meeting, Beijing, April 2006.

Aviation Cooperation Program Luncheon, Beijing, April 2006.

IATA Fuel Efficiency Seminar, Beijing, April 2006.

China Press Roundtable, Beijing, April 2006.

Pomp and Circumstances for Tomorrow's Leaders, ASH Model Graduation Ceremony, May, 2006.

Clear Skies Ahead, FAA Environmental Awards, May, 2006.

Keep Showin' Us the Way, AAAE Contract Tower Workshop, June 2006.

Unsurpassed Training Starts Right Here, International Aviation Training Symposium, July, 2006.

Good Planning Makes a Difference, Tappahannock-Essex Airport Grant, August, 2006.

Walking Hand in Hand, EMTD Graduation, August 2006.

A Level Playing Field for All, AAAE DBE Conference, October 2006.

International Safety Forum Opening Session, November 2006.

Addressing Challenges, Civil/Military Air Traffic Management Seminar, February 2007.

NASAO Legislative Conference, March 2007.

Spokane ATCT/TRACON Dedication Ceremony, August 2007.

China EMDT Graduation, September 2007.

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*Various letters to editor during 1998 election campaign, articles not retained and not available by website search.

A Great Airport at a Great Time, Dulles Tower Dedication, September 2007.

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

07/21/2005, House Government Reform Committee (ADIZ).

03/22/2007, Senate Commerce, Science, and Transportation; Aviation Operations, Safety, and Security Subcommittee/ATC Modernization.

05/09/2007, House Transportation and Infrastructure Subcommittee on Aviation—The Future of Air Traffic Control Modernization.

09/26/2007, House Transportation and Infrastructure Subcommittee on Aviation—Airline Delays and Consumer Issues.

09/27/2007, Senate Commerce, Science, and Transportation; Aviation Operations, Safety, and Security Subcommittee—Congestion and Delays at the Nation's Airports.

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

My entire career has been devoted to aviation. Since 2002, I have held increasing positions of responsibility at the FAA. I have been the Deputy Administrator since March 2003 and the Acting Administrator since September 2007.

I wish to serve as FAA Administrator because I am a strong believer in public service and commitment. At this point in our Nation's history and in my professional career, I cannot think of a more important service that I could perform. I am grateful for the support that has been given me by the Secretary, and I am deeply honored that the President has nominated me to serve as Administrator.

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

If confirmed as Administrator, I would be responsible for ensuring taxpayer monies are spent prudently and efficiently in executing the mission of the FAA. As the Acting Administrator and Deputy Administrator of the FAA for the past 5 years, I have extensive experience managing an organization with approximately 45,500 employees. Our budget for Fiscal Year 2007 was more than $14 billion.

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

The top 3 challenges facing the FAA are safety, capacity and human capital planning. The agency must continue to improve aviation safety as the industry grows and evolves, and it must also increase capacity by transforming the system to the next generation system. Finally, the FAA must ensure that it maintains the correct skill sets to achieve these goals, including aviation safety inspectors, engineers, program managers, technicians and air traffic controllers.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts: None.

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

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: Please refer to the General Counsel's Opinion letter.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

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

In my various positions at the FAA and NTSB from 2002 until the present, I assisted in the preparation of testimony presented before the House and Senate au-

thorizing and appropriations committees. I have also met with members and testified before Congress on issues involving the FAA, including pending legislation.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items: Please refer to the enclosed General Counsel's Opinion letter.

C. LEGAL MATTERS

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

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

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

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

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

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

D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

RÉSUMÉ OF ROBERT A. STURGELL

Education

University of Virginia School of Law, J.D. 1994; Dillard Fellow; Virginia Trial Lawyers' Trial Advocacy Award.

United States Naval Academy, B.S. 1982.

Graduated with Distinction, Resources Management (GPA 3.82, Rank 8/1037).

USNA Alumni Association Award for the outstanding midshipman graduate.

Participant, Varsity Lacrosse (2 Years).

Anne Arundel Community College, 1982.

Completed 25 credit hours in Financial Accounting courses.

Experience

Federal Aviation Administration (2002 to present).

Acting Administrator (Sep. 2007 to present).

Directs the operations of the Federal Aviation Administration and acts as principal advisor to the Secretary of Transportation on civil aviation matters and air transportation.

Deputy Administrator (2003 to present).

Joins the Administrator in heading the agency that regulates and advances the safety of the Nation's airways, airports and operates the world's largest air traffic control system. Directly responsible for the day-to-day operations of the agency's 46,000 personnel and $14 billion annual budget, as well as its capital programs and modernization efforts.

Air Traffic Organization Chief Operating Officer (Acting) (2007 to present).

Responsible for the day-to-day operations, maintenance and capital programs of the 33,000 person air traffic organization.

Senior Counsel to the Administrator (2002–2003).

Primary advisor to the Administrator on regulatory policy and management initiatives.

National Transportation Safety Board (2002).

Senior policy advisor to the Chairman. Primary advisor and coordinator on NTSB safety recommendations, accident reports, legal opinions and orders, policy programs and management initiatives.

United Airlines (1996–2002).

Flight Operations Supervisor responsible for the performance, training, and counseling of probationary pilots assigned to the Washington, Dulles domicile. Fully qualified flight officer flying the Boeing 767 and Boeing 757 aircraft in both international and domestic operations.

Shaw, Pittman, Potts & Trowbridge (1994–1996).

Attorney assigned to the Aviation and Litigation groups representing major aviation and corporate clients before the Federal Aviation Administration and the Department of Transportation in all regulatory matters, including enforcement proceedings, code-sharing, consumer affairs and bilateral aviation agreements.

United States Naval Officer (1982–2002).

Twenty years (active and reserve duty) as a Naval Aviator flying the F/A–18 Hornet, F–14A Tomcat, F–16N Falcon and A–4 Skyhawk with over 2,000 flight hours and 280 arrested carrier landings. Extensive experience in operations management including developing annual plans and managing operating budgets in excess of $5 million. Responsible for the maintenance of 12 aircraft valued at over $400 million. Twice awarded Navy Achievement Medal for outstanding professional achievements and Squadron Pilot of the Year for exceptional leadership.

TOPGUN Flight Instructor (1989–1991).

A member of the prestigious Navy Fighter Weapons School instructing Navy and Marine Corps pilots in graduate-level tactics, training and weapons systems. Lectured extensively on carrier battle group defensive weapon systems and F–14 section tactics. Authored numerous articles on tactics, training and aviation safety.

Community

President, Calvert County Citizens Advisory Committee (1998–2002).

Board Member, Boys & Girls Club of Southern Maryland (1999–2000).

Board Member, Southern Anne Arundel County Chamber of Commerce (2000–2001).

Member, Deale/ShadySide Small Area Planning Committee (1999–2001).

The CHAIRMAN. All right, thank you very much, Mr. Sturgell. And now may I call upon Mr. Simon Gros?

STATEMENT OF SIMON CHARLES GROS, NOMINEE TO BE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS, U.S. DEPARTMENT OF TRANSPORTATION

Mr. GROS. Thank you, sir. Chairman Inouye, Vice Chairman Stevens, Members of the Committee, thank you for offering me the opportunity to appear before you today, as you consider my nomination to be Assistant Secretary for Governmental Affairs at the U.S. Department of Transportation.

I am honored to have been recommended by Secretary Peters and nominated by President Bush to continue my service to the Administration. I am also grateful and lucky to have enjoyed incredible support from family and friends through the years. I would especially like to recognize Congressman Frank LoBiondo, my home-

town Congressman, for whom I worked when I first came to Washington.

And I would be remiss if I failed to thank my parents, Barbara Errickson and Roger Gros, for all of the guidance they have given me. Most importantly, I would never be where I am today if not for the support of my best friend and wife, Natalie.

Sir, the primary role of any Assistant Secretary for Governmental Affairs is to enable effective communication between Federal, state, and local elected officials and the department. With less than a year left in this Administration, I believe that this function is more important than ever, especially as Congress—and this Committee in particular—debates legislation critical to the future of our Nation's transportation system.

If confirmed, I pledge that my office will remain in constant contact with Congress on all issues affecting the department. I will be responsive to Congressional inquiries and proactive when communicating departmental priorities and activities. And I will work within the department to ensure that we comply with both the spirit and the letter of laws passed by Congress.

Sir, it is, indeed, a rare honor to serve as Assistant Secretary of Transportation. If confirmed, I will represent the department with integrity and reliability. I look forward to working with you and your staff to help make sure transportation remains safe and becomes more efficient for all Americans.

Thank you for considering my nomination. I would be pleased to answer any questions you may have.

[The prepared statement and biographical information of Mr. Gros follow:]

PREPARED STATEMENT OF SIMON CHARLES GROS, NOMINEE TO BE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS, U.S. DEPARTMENT OF TRANSPORTATION

Chairman Inouye, Vice Chairman Stevens, Members of the Committee, thank you for offering me the opportunity to appear before you today as you consider my nomination to be Assistant Secretary for Governmental Affairs at the U.S. Department of Transportation. I am honored to have been recommended by Secretary Peters and nominated by President Bush to continue my service in the Administration.

I am also grateful and lucky to have enjoyed incredible support from family and friends through the years. I'd especially like to recognize Congressman Frank LoBiondo, my home-town Congressman, for whom I worked when I first came to Washington. And I would be remiss if I failed to thank my parents, Barbara Errickson and Roger Gros, for all of the guidance they have given me. Most importantly, I would never be where I am today if not for the support of my best friend and wife, Natalie.

The primary role of any Assistant Secretary for Governmental Affairs is to enable effective communication between elected officials at the Federal, State, and local level and the Department. With a little over a year left in this Administration, I believe that this function is more important than ever, especially as Congress, and this Committee in particular, debate legislation critical to the future of our Nation's transportation infrastructure. If confirmed, I pledge that my office will remain in constant contact with Congress on all issues affecting the Department. I will be responsive to Congressional inquiries and proactive when communicating Departmental activities. And I will work within the Department to ensure that we comply with both the spirit and the letter of laws passed.

It is indeed a rare honor to serve as Assistant Secretary of Transportation. If confirmed, I will represent the Department with integrity and reliability. I look forward to the opportunity to work with you and your staff to help make transportation safer and more efficient for all Americans.

Thank you for considering my nomination, and I would be pleased to answer any questions you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Simon Charles Gros.
2. Position to which nominated: Assistant Secretary of Transportation (Governmental Affairs).
3. Date of Nomination: October 16, 2007.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: 1200 New Jersey Avenue, SE, W85–320, Washington, D.C. 20590.

5. Date and Place of Birth: June 30, 1975; Falls Church, VA.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Natalie Jessica Cantor Gros, not employed.

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

George Mason University School of Law, J.D. (2004), J.M. (2001).
University of Maryland at College Park, B.A. (1997).

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

My employment history is listed below. Management-level jobs are noted with an asterisk (*). All of my past employment, both managerial and non-managerial, relates to the position for which I am nominated.

United States Department of Transportation—Deputy Assistant Secretary for Governmental Affairs*; Deputy Chief of Staff*; Special Assistant to the Assistant Secretary for Governmental Affairs; Associate Director, Office of Governmental Affairs.

Van Scoyoc Associates, Inc.—Director of Government Affairs.

Kessler Century Government Relations—Legislative Associate.

U.S. Representative Frank A. LoBiondo—Legislative Aide; Legislative Correspondent; Staff Assistant.

9. Attach a copy of your résumé. A copy is attached.
10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.
11.List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years: None.
12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Lincoln Majority (Treasurer, 2003–2004).

Republican National Lawyers Association (2005–2006).

New Jersey State Bar Association (2004 to present).

13. Have you ever been a candidate for and/or held a public office (elected, nonelected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.
14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Republican National Committee 72-Hour Task Force.

Tom Kean for U.S. Senate (2006).

Bush-Cheney 2004.

Thune for Senate (2002).

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

Secretary's Gold Medal, Department of Transportation, 2006.
Secretary's Team Award, Department of Transportation, 2005.

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

"New Internet Gambling Prohibition Bill Passes House Committee", *www.winneronline.com,* June 29, 2000.

"House Rejects Internet Gambling Ban", *www.winneronline.com,* July 10, 2000.

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

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

If confirmed, I believe that my service at Department of Transportation, along with my previous work experience, will provide a solid foundation from which to guide DOT's government affairs operation through the end of the Administration. I began my career as a congressional staffer, gaining valuable insight into the legislative process. And while I furthered my governmental education in the private sector, it has been my experience in the DOT's Office of Governmental Affairs and as Deputy Chief of Staff that truly solidifies my qualifications. During my three and a half years at the DOT, I have gained an understanding of both the inner workings of the Department and how issues are considered by Congress. As such, I am uniquely qualified for this position.

I am interested in this position primarily because I wish to continue my service to the President and to Secretary Mary Peters. President Bush has provided Secretary Peters with a platform from which to bring about needed change in this country's transportation system. The Secretary has responded by proposing cutting-edge transportation policy reforms, and I firmly believe that, if confirmed, I can help her to work with Congress to bring about these reforms.

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

I firmly believe that, as a public servant, my first duty is to the American taxpayer. As Deputy Chief of Staff of the U.S. Department of Transportation for more than a year, I experienced first-hand the complexities of management and the importance of controls. I was responsible for managing the Immediate Office of the Secretary, as well as helping to coordinate the overall management of the Department.

If confirmed, I will work as Assistant Secretary of Transportation (Governmental Affairs) to ensure that the Office of Governmental Affairs is a proper steward of the taxpayers' dollars. I will take affirmative steps to continue appropriate management and accounting controls.

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

The top challenge at the Department of Transportation is to maintain and improve safety within our transportation system. In the air, we are enjoying a safety record not seen since the dawn of the jet age. We can do better, however, and are working to do just that with the anticipated deployment of the Next Generation Air Traffic Control System and the dedication of our aviation safety professionals. On our Nation's highways, the fatality rate dropped to its lowest level ever in 2006—and still more than 40,000 Americans were killed. The Secretary is rightly focusing her attention on those categories of fatalities that are most problematic, such as motorcycle and alcohol-related deaths.

The Department is also faced with significant mobility problems across the country. Americans are spending more and more time stuck in traffic and more and more time away from their families. Inefficient freight movement is threatening to stall America's economy at a time when goods are expected to move faster than ever. Delays at our airports are ruining family vacations and forcing business travelers to travel less efficiently. The Secretary is taking affirmative steps to combat

these problems, through various aspects of the Department's ground-breaking congestion initiative, and I think that many of the solutions identified by the DOT will lead to improved mobility, both in the short- and long-term.

Finally, I believe that the Department must be an advocate for technology advancement. The challenges listed above will only be solved by effective deployment of innovative technological solutions. The DOT can help to make Americans safer by encouraging the NextGen satellite air traffic control system, electronic stability control in automobiles, and positive train control on the rails. DOT can help the average American move through the system faster and more efficiently by incentivizing the use of new intelligent transportation systems. The modes, especially the Research and Innovative Technology Administration, will take the lead within the Department on this challenge.

B. POTENTIAL CONFLICTS OF INTEREST

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

I maintain a 401(k) retirement account with my former employer, Van Scoyoc Associates. The account contains less than $20,000.

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

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

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

Since I entered the workforce in December 1997, I have engaged in activities described above, none of which would constitute a conflict of interest, if confirmed. Specifically:

As a staff member for Congressman Frank LoBiondo from 1997 to 2000, I was involved in all aspects of the legislative process.

As a private-sector lobbyist from 2000 to 2004, I frequently worked to advance my clients' interests through state and Federal legislation.

As an employee of the Department of Transportation since May 2004, I have on many occasions, consistent with the law, advocated for or against various pieces of legislation relating to the Department's mission.

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

Should any conflict of interest arise, I would immediately recuse myself from all activities concerning that conflict.

C. LEGAL MATTERS

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

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

I was arrested in Washington, D.C. in 1997 for destruction of public property. The incident was determined to be accidental, however, and no charges were filed.

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

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

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

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

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.
2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.
3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.
4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

RÉSUMÉ OF SIMON C. GROS

Employment

United States Department of Transportation, May 2004 to present, Deputy Assistant Secretary for Governmental Affairs (6/07 to present).

Serve as the Secretary's primary advisor for all intergovernmental (Federal, state, and local) matters pertaining to the Department of Transportation.

Responsible for developing aggressive governmental affairs strategies for various Departmental undertakings.

Manage the Secretary's Office of Governmental Affairs, with 14 employees and an annual budget of more than $2.3 million.

Deputy Chief of Staff (5/06 to 6/07).

Served as Secretary's representative for policy development and coordination, both within the Department and with other agencies and the White House.

Provided strategic advice and counsel to the Secretary and Deputy Secretary.

Supported the Chief of Staff in managing all aspects of a Federal agency with nearly 59,000 employees and a $58 billion annual budget.

Managed the immediate Office of the Secretary, including the scheduling office, policy advisors, military liaisons, and support staff.

Served in an advisory capacity for political personnel decisions, in addition to acting as White House Liaison during a vacancy.

Special Assistant to the Assistant Secretary for Governmental Affairs (7/05 to 5/06); Associate Director, Office of Governmental Affairs (5/04 to 7/05).

Served as liaison between the Secretary of Transportation, Members of Congress from ten northeastern states, and various agency modes.

Provided governmental affairs oversight for the Federal Aviation Administration, the Federal Railroad Administration, the DOT's Office of Aviation and International Affairs, and on security matters.

Advised and prepared the Secretary, modal Administrators, and other agency officials for hearings and meetings with lawmakers and their staff.

Coordinated DOT Congressional activity with other DOT modal agencies to ensure strategic continuity.

Van Scoyoc Associates, Inc., July 2001 to May 2004, Director of Government Affairs.

Worked on behalf of clients to establish and maintain effective communications with Members of Congress, committee staff, and Administration officials in Washington.

Advanced client priorities through annual appropriations legislation, authorizing bills, and agency regulation.

Acted as D.C. representative for clients at meetings and fundraisers.

Developed and utilized a system of grassroots communications to better effect contact between constituents and their representatives.

Organized D.C.-based educational events for Congressional and Administration staff.

Organized fundraising events for clients, and served as assistant treasurer for a client's political action committee.

Specific areas of client interest included aviation security, highway construction, transit, railroads, education, and general research and development.

Kessler Century Government Relations, March 2000 to July 2001, Legislative Associate.

Advocated on behalf of clients on Capitol Hill and in the Administration.

Concentrated primarily on transportation, prescription drug, and gaming issues.

Represented the firm at key industry conferences.

U.S. Representative Frank A. LoBiondo (NJ), December 1997 to March 2000, Staff Assistant; Legislative Correspondent; Legislative Aide.

Supported the Congressman in his role as a member of the Transportation and Infrastructure Committee.

Advised the Congressman on a variety of other issues, including but not limited to judiciary, telecommunications, banking, armed services, and small business.

Served as Staff Director for the Congressional Gaming Caucus.

Worked with House Judiciary Committee staff to draft and pass "The Bulletproof Vest Partnership Grant Act," which was signed into law in 1998.

Education

George Mason University School of Law

Juris Doctor, 2004
Juris Master, 2001

University of Maryland, College Park

Bachelor of Arts, 1997.

Other

Tom Kean for U.S. Senate (2006); Volunteer; Atlantic and Cape May Counties, New Jersey.

Bush-Cheney 2004; Volunteer; Philadelphia, Pennsylvania and Atlantic County, New Jersey.

Thune for Senate (2002); Volunteer; Aberdeen, Sioux Falls, and Cheyenne River Sioux Indian Reservation, South Dakota.

"Top Secret" level national security clearance.

Memberships

New Jersey State Bar Association

The CHAIRMAN. I thank you very much, Mr. Gros.

Senator Thune, would you care to make a statement?

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

Senator THUNE. Thank you, Mr. Chairman. I want to welcome our nominees this morning and appreciate your willingness to serve the country.

And Mr. Sturgell, I know I have had the opportunity to visit with you a little bit about some of the airline issues that are important in my State. But I would just, when we get into questions, be interested in hearing a little bit about your views on airline consolidation. That is something that is of great interest to those of us who represent rural areas and what that might mean in terms of service and cost and what not for travelers in rural areas of the country.

And also I appreciate your focus on getting away from delays. Of course, last year everybody knows was second-worst ever on record, and that is something that also I think all of us on the panel are very interested in and hope that you will tackle and attack. And

I know in your capacity as the Acting Administrator, you have been focusing on that, and I would encourage you to continue to do that and look forward to hearing your thoughts about how we might be able to improve even further on that.

So thank you again for being here today and for your service. And thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator Rockefeller?

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

Senator ROCKEFELLER. I have no statement, Mr. Chairman.

The CHAIRMAN. Well, I thank you all very much. I will call upon the Vice Chairman to begin the questioning.

Senator STEVENS. Thank you very much. Mr. Sturgell, Members have talked here about delays. I think the two of us, the Chairman and I, probably fly a greater distance on aircraft than any Senators in history. And I have noticed personally the problems related to delays.

And I have spoken here about it before. I just want to remind the Committee of one instance where I went to National, and we had to wait 2 hours because the cabin crew was stuck in New York because of a storm. So we waited. We took off 2 hours late, went to the Midwest hub, and we were first told there was a mechanical problem, but then they told us the truth and said we were waiting for pilots.

So we waited 3 hours there for pilots. And when the pilots came on, the pilot told us this story that because of the mix-up, the plane hadn't been fueled. And then at the end, after the plane was fueled, he told us there was no food onboard. We are going from Midwest into Alaska, about a 4.5-hour trip. And they said but we do have soft drinks and a few cookies. We can wait for the food or take off. And everybody shouted "take off," of course.

But I want you to know, I don't think it is the FAA's problem necessarily, but the FAA has neglected to deal with the operators of these aircraft to work out a system where we are not delayed because the crews aren't there. And I think one of your first jobs should be to look into how to manage the airlines so there are people there to man them and fly them, and they are fueled and with food onboard before they take off.

I really think that all of these delays are related to the problem of allowing crews to live in one part of the country and fly into another. Some of the people that fly to Alaska live in Florida. That is a new twist in the airline industry, and I think it should be examined. If you don't examine it, I am going to ask the Chairman to examine it here with public hearings.

Now, second, I am a little disturbed. I want to ask you a question about this one. When the CAB was eliminated from the system and we created the FAA and we had the concept of really not the government no longer designing airline routes and who flew where and how often, one of the things that we started was to automate a lot of the flight service stations around the country.

But there was an agreement made in my state, Alaska, that because of its size and the dependence upon aviation, as I indicated,

the flight service stations would be maintained. Some time later, we were told that the contract to manage those flight service stations had been worked out with Lockheed, and Lockheed took over the management of them.

I met just last week with a group of those flight station operators who are slowly but surely leaving because of the changes in policy—I understand Lockheed walked away from that, and now it is back with FAA. One young woman told me she was 4 days from her retirement, and she was given a discharge. Two others told me that they had just signed up for their extension of service, and they were told they were going to be reassigned to another State.

Now, I don't think you have many flight service stations left in the rest of the United States, do you?

Mr. STURGELL. That system, that service is now being provided by Lockheed Martin in the Lower 48 states, Senator.

Senator STEVENS. But they have walked away from Alaska?

Mr. STURGELL. Alaska was never part of the service contract for the flight service stations.

Senator STEVENS. Well, I understood from what they said, it had been. But they did have a relationship to Lockheed, but they don't now. But the numbers of the flight service operators are about 50 percent of what they were 3 years ago. What happened?

Mr. STURGELL. We are maintaining the FAA's network of flight service stations in Alaska. As you know, we have three of those that are automated flight service stations, and we are looking now at upgrading the technology at those flight service stations.

Senator STEVENS. Well, let me tell you, are you a pilot?

Mr. STURGELL. I am.

Senator STEVENS. How would you like to land in Sicily with someone sitting in Paris telling you what the quality of the runway was? Do you know how big my state is? It is Italy, Germany, France, and Spain put together, and you are trying to run it from Anchorage.

Now I want to sit down with you, and really, this can't go on. We eliminated deaths in our aviation community with the cooperation of your predecessor, and I think we have the best flight safety concepts in the world now. But the problems that are coming up now are because of the lack of information about the condition of the airports where these pilots are flying into and the lack of information on the ground as to changes in conditions that have occurred while the plane has been in the air.

We have got to reopen those flight service stations. I have got to tell you, if what I was told last week is right, you are wrong. Because half of the flight service stations were closed, I am told, within the last 3 years. Now will you check that for me?

Mr. STURGELL. I will, Senator. And I spent several weeks flying F–14s out of Naval Air Station Adak. So I know the landscape up there. I know how important that service is to you and your state, and I would certainly be pleased to get together with you and talk to you about it.

Senator STEVENS. You know there are three mountain ranges in Alaska, and if you flew out of Adak, you were in safe country compared to the north country. I really want to work with you, but I met with a group of people, both in the industry, both operators

and personnel in those flight service stations, and they are an angry crew.

And they are angry at me because I didn't know what was going on. So I hope the two of us can find out what is going on before I go back up home. I don't like being scalped.

Mr. STURGELL. I will be following up with you on it.

Senator STEVENS. Thank you very much.

The CHAIRMAN. Senator Boxer?

Senator BOXER. Thank you so much.

I want to talk with you, Mr. Sturgell, about the passenger bill of rights that Senator Snowe and I wrote and the fact that you are coming out with proposed rulemaking. Why do you have a rule that does not—a proposed rule that doesn't include minimum standards for airline contingency plans for food, water, and a timetable for passengers to deplane when they are stranded on the tarmac? You don't have minimum standards.

Mr. STURGELL. Senator, I think Mr. Gros will join in here, but I just want to update you a little bit on what the Secretary and the Department have done with respect to those types of issues.

Senator BOXER. Well, let me just say because I don't—do you believe that the final rule will have minimum standards? So that we know that our people aren't going to be starving, and if they are sitting on the tarmac for hours, that the toilets are going to be working? That is all I want to know. Will you include that?

Mr. STURGELL. I do know that the Department has worked with airlines, and a number of airlines have voluntarily set those types of limits for how long they will be on the tarmac. The Secretary has recently——

Senator BOXER. No, no, we are not talking about that. We are talking about a DOT rule for minimum standards. Some of the airlines, yes. Some of the airlines, no. The point of Senator Snowe's bill and my bill is so that we, as America, say you can treat people, you must treat people with dignity and respect and be concerned about their safety.

Will you have, I just want a yes or no, minimum standards in that rule for the airlines to follow?

Mr. STURGELL. As you indicated, the rule does not propose standards. Certainly, comments will be considered and developed.

Senator BOXER. OK. So right now, it doesn't have the standards. Well, then Olympia Snowe and I are going to have to have a meeting with Secretary Peters about it. OK, let us move on.

GAO reported in December that at least 20 percent of controllers at 25 facilities were working 6-day weeks. What does the FAA consider an acceptable work schedule for controllers?

Mr. STURGELL. The work schedule for controllers is set at a normal 8-hour day with a maximum 2 hours of overtime per day, and they are limited to 6 days a week. That is very similar to the rules for pilots.

Senator BOXER. So you think 10 hours a day, 6 days a week is going to lead us to have safety in the skies. Is that right?

Mr. STURGELL. No, we don't——

Senator BOXER. I am asking your opinion. Senators, I am just going to wait. I am sorry. I just—I feel it is important for my Chairman to hear certain things, and I just think what we have

just heard, unless I was wrong, is that Mr. Sturgell believes that a 6-day week, 10 hours a day, is a fair work schedule for our controllers.

And I think it is so critical, and you stand by that? You don't have any intention of changing that as Administrator?

Mr. STURGELL. Senator, that is—let me just clarify what I said.

Senator BOXER. OK.

Mr. STURGELL. Our controllers' schedules are limited to an 8-hour day, plus 2 hours of overtime and a maximum of 6 days a week.

Senator BOXER. That is what I——

Mr. STURGELL. Those are the policies that we stand by. A large number of our controllers volunteer for overtime duty. But that overtime is performed within those standards.

Senator BOXER. But my understanding is the GAO reported at least 20 percent of controllers at 25 facilities were working that 6-day week as a regular schedule. Do you consider that an acceptable regular schedule?

Mr. STURGELL. By and large, they are volunteering for that overtime.

Senator BOXER. I didn't ask you if they are volunteering. I might, if I was poor or had a problem or had a divorce and had to pay my wife or whatever my circumstances are, I might volunteer to work 12 hours a day. I am not asking you if they volunteer. I am asking you whether you think it works for safety in the skies to have 20 percent of controllers at 25 facilities, including towers at major airports, working 6 days a week?

And you are saying it is voluntary. I am not asking you that. I am asking you if you think that is the optimum situation?

Mr. STURGELL. We have about two dozen facilities where we are trying to focus more heavily on our staffing and training efforts. By and large, system wide, we are running at less than 2 percent overtime and an average of about 4 hours and 50 minutes.

Senator BOXER. OK, I appreciate this. But you are not giving me your opinion. So am I to assume then that you are concerned that GAO reported that at least 20 percent of controllers at 25 facilities are working 6 days a week, including towers at major airports? That is a concern? Can I take that away from your answer?

Mr. STURGELL. Yes.

Senator BOXER. Good. Good.

Mr. STURGELL. There are about two dozen facilities that we are focused on.

Senator BOXER. Excellent. That was what I was trying to get to. The December 2007 GAO report mentioned the FAA may not be accurately reporting the number and details of runway incursions. Why did the FAA not immediately investigate a possible runway incursion at San Diego airport 2 weeks ago?

Mr. STURGELL. I am not familiar with the specifics of that particular event, but I will look into it.

Senator BOXER. OK, can I get you—I would love you to look into it. But the GAO, I mean, this isn't me or Senator Stevens or Senator Inouye or Rockefeller or Hutchison, this is the GAO, December 2007, said you may not be accurately reporting the number and de-

tails of runway incursions. Do you agree with that opinion of the GAO?

Mr. STURGELL. I think we can always do better. I think we try and report as accurately as possible, and I think we are doing a pretty good job at that. I would also point out that we have done great work in reducing the number of serious runway incursions. This is an area, like all of the areas of safety, you just can't let up on.

We just have to keep going at this and going at it and going at it, and that is what we intend to do.

Senator BOXER. Well, OK. I hope that I can infer from that that it is an unacceptable situation, and you are going to sit everybody down and get to the bottom of it. Because, here, I would like to put in the record an article from the *The San Diego Union-Tribune,* January 26, the FAA blamed a runway incursion on a control tower mistake.

[The information referred to follows:]

The San Diego-Union Tribune—January 26, 2008

FAA FAULTS TOWER FOR LINDBERGH INCURSION

By Steve Schmidt, Staff Writer

SAN DIEGO—The Federal Aviation Administration yesterday blamed a runway incursion at Lindbergh Field last week on a control tower mistake.

FAA safety officials in Washington, D.C., determined that an air traffic controller at Lindbergh erred when he cleared a Southwest Airlines plane for takeoff while a smaller jet remained on the 9,400-foot-long runway.

Agency spokesman Ian Gregor said that when the Southwest plane lifted off, the two aircraft were about 2,500 feet apart—about 500 feet closer than initially reported.

"There was no collision hazard because Southwest took off a half-mile from where the (other plane) was," Gregor said.

He said the FAA is continuing its review of the Jan. 16 incident, which occurred under clear skies just before 6 p.m.

Earlier this week, Gregor said the agency had looked into the incident and did not consider it a safety breach. He later said FAA officials in Washington were taking a deeper look.

Representatives of the National Air Traffic Controllers Association, the controllers union, said they believe the FAA initially tried to cover up the incident. Melvin Davis, a San Diego-area chapter president of the controllers union, said the incident should have raised a red flag with the FAA from the start.

The FAA and the union have been locked in a long-running feud over staffing levels, workplace rules and related issues as part of a broader debate over the adequacy of the Nation's air traffic control system.

The union says the system is badly frayed due to workplace changes and the retirement of many seasoned controllers.

The FAA says the changes have saved taxpayer money without compromising safety.

Union and FAA officials say the Lindbergh incursion occurred after a Hawker Siddeley corporate jet landed and prepared to taxi off Lindbergh's lone landing strip.

Anticipating the Hawker's exit from the runway, a Lindbergh controller cleared Southwest Flight 1626 for takeoff, officials said. As the Boeing 737 gained speed, the Hawker remained on the west end of the runway, where it had briefly stopped because of a mechanical problem.

The controller radioed the Southwest pilot to abort the takeoff, but it was too late to stop the plane without jeopardizing passenger safety, officials said.

Both FAA and union officials described the controller as a longtime employee with a good safety record.

Davis said the controller had been working 6 days a week because of staffing strains at Lindbergh.

Fifteen fully certified controllers staff the tower along with five trainees. The FAA says the facility has a designated staffing range of 14 to 18 controllers.

Rep. Bob Filner, D-San Diego, has requested a Congressional investigation into the incident. The last recorded incursion at Lindbergh was in late 2003.

Senator BOXER. And so, you weren't aware of it. But I will get this over to you, sir, and I would like it if you could please get back to me on that.

I have one more question, and then I am done. And this one is to Mr. Gros. Mr. Gros, you served as the assistant to Mary Peters? Is that not right?

Mr. GROS. Senator, I was her Deputy Chief of Staff.

Senator BOXER. Deputy Chief of Staff?

Mr. GROS. Yes, ma'am.

Senator BOXER. And during that time, we had some controversy over the granting—I'm sorry, the denial of the waiver to California. I see you are shaking your head, and you know about this issue. Now, it has been reported that you were involved in the lobbying campaign conducted by DOT officials last year in which you were contacting Governors and Members of Congress, seeking to generate opposition to the California waiver request.

You have been quoted as saying that, within DOT, the people involved in the effort were Secretary Peters, yourself, and five other DOT staffers, but you have been unclear about the involvement of others in the Executive Branch. And I think it is significant exactly how the lobbying effort got started. Can you tell us who else, outside of DOT, was involved?

Mr. GROS. Senator, thanks for the question. It is my understanding that the Secretary had conversations with the EPA Administrator. But apart from that, ma'am, I cannot tell you who else was involved.

Senator BOXER. OK, do you know if the White House was involved? The Vice President's office? CEQ? EPA? Did you ever talk to people in those agencies during the time you were lobbying Members of Congress and Governors and others?

Mr. GROS. Senator, I did not.

Senator BOXER. You don't know?

Mr. GROS. I am sorry, ma'am?

Senator BOXER. You don't know?

Mr. GROS. I don't know what kind of communication——

Senator BOXER. Did you ever have e-mail conversations with anyone in the President's office or the Vice President's office or at the CEQ?

Mr. GROS. Ma'am, I personally did not. No.

Senator BOXER. OK. Did you ever have phone call conversations with them?

Mr. GROS. I am sorry, ma'am. Are you saying do I ever or did I?

Senator BOXER. Did you? Did you during this period?

Mr. GROS. Did I? Thank you.

Senator BOXER. In other words, I assume Secretary Peters gave you your instructions to do what you did?

Mr. GROS. Yes, ma'am.

Senator BOXER. But you never spoke to anyone other than her about it?

Mr. GROS. No, ma'am. Not in that role, no.

Senator BOXER. OK. Well, I think it is just very important. The reason I raise it is that it is not appropriate, nor within the traditions of our government, for an agency to lobby another agency and to gin up Members of Congress. This is a very serious point. So I am going to send you a letter, just for you to put this in writing, and I do thank you very much for letting us know in the past what occurred at that time. And we will keep in touch with you.

And thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. I thank you very much and now recognize Senator Lautenberg.

Senator LAUTENBERG. Thank you, Mr. Chairman. I regret that I didn't note before your incredible record, which I note with envy, of 15,000 votes, and I congratulate you for that. I will need to work twice as hard as I have to get 15,000 votes. And they have been good votes, Mr. Chairman.

Mr. Sturgell, 70 percent more controllers left the agency last year than FAA predicted. This year, they are already leaving the agency at a rate 40 percent higher than last year. Is FAA facing a crisis at all?

Mr. STURGELL. Mr. Chairman—I am sorry, Mr. Lautenberg, the——

Senator LAUTENBERG. No, that is all right. I liked it. I like the sound.

[Laughter.]

Mr. STURGELL. We had 828 retirements last year. We had projected 700. This year, we are projecting a similar amount of retirements in the neighborhood of 800. And right now, the rate of retirements is running about the same as last year.

Senator LAUTENBERG. So it will be running higher than expected?

Mr. STURGELL. We are projecting 800 in our workforce plan that will be coming out shortly. But it is running at about the same rate as last year, which was 828.

Senator LAUTENBERG. Right, which was not filled. Am I correct? The hiring schedule for last year was not met?

Mr. STURGELL. We actually exceeded our end-of-year staffing number last year by 67. And this year, we are going to increase the workforce by a net gain of 256. And the budget that just came out for 2009 has a further net increase of 306 controllers.

Senator LAUTENBERG. Well, let me read you what I have found. 2007, FAA projected retirements at 947. The actual retirements were 1,622. Do you challenge that figure?

Mr. STURGELL. I do. I don't think that is a retirement number. I am not sure what that number is. Maybe it is total attrition, but I would certainly be willing to go over the numbers with you and show you our data.

Senator LAUTENBERG. And this year, your retirement projection is what?

Mr. STURGELL. We are going to be releasing our new workforce plan in March, and I think the number is right around 806 retirements for Fiscal Year 2008. I think we will be hiring just about as many as we did last year, which is somewhere a little bit over 1,800.

Senator LAUTENBERG. There is a substantial difference in what your report suggests. Did FAA—you were Deputy Administrator since when?

Mr. STURGELL. Since March 2003 until September 2007.

Senator LAUTENBERG. Do you remember the experience of 2003 in terms of hiring, or how many people did you hire in the year 2003? Do you know?

Mr. STURGELL. I don't recall offhand.

Senator LAUTENBERG. Well, I can tell you. It was the Fiscal Year 2004, so it was at the end of 2003. You hired 13. And the number that was—that retired was substantially higher than that. And we have had difficulty in keeping up the statistics that give us a degree of comfort.

We are often told, and I had many discussions with Ms. Blakey about this, I would check with the towers and see what they have had. Do you have the population at Newark in front of you?

Mr. STURGELL. I do have Newark in front of me.

Senator LAUTENBERG. How many controllers do you see there?

Mr. STURGELL. As of December 22, we have a total of 37.

Senator LAUTENBERG. Thirty-seven.

Mr. STURGELL. And I believe——

Senator LAUTENBERG. Fully trained?

Mr. STURGELL. No, they are not all fully trained. I think today we have 38.

Senator LAUTENBERG. How many?

Mr. STURGELL. Today, I think we have 27 CPCs, and we have 2 CPC–ITs fully trained from other facilities that are now at Newark.

Senator LAUTENBERG. How many should that tower have, Mr. Sturgell?

Mr. STURGELL. Our range for that tower is 30 to 36.

Senator LAUTENBERG. FPLs?

Mr. STURGELL. That is a mix of CPC, CPC–ITs, and developmentals.

Senator LAUTENBERG. Is that what you would like to see continue there, that ratio?

Mr. STURGELL. The ratio will improve as people move through the training.

Senator LAUTENBERG. Well, but we are losing them fairly quickly throughout the system. So you have to make up for that in addition to being able to get the training that is necessary. How long does it take to train a controller?

Mr. STURGELL. At Newark tower, it is coming in at less than 2 years now.

Senator LAUTENBERG. No, but in the total development of a new controller? There is time in the academy.

Mr. STURGELL. Total time right now, based on the latest results we are seeing, has our tower controllers coming in at under 2 years and our en route controllers coming in at under 3 years. Previously, it had taken 2 to 3 years in the tower, 3 to 5 years in the en route center.

Since 2004, when we have had our controller workforce plan, we have known that training was going to be key to execute. Our simulators are helping, and a more focused effort on tracking training

in general is helping. So, at this point, training and executing on that training, to me, is key in this workforce.

Senator LAUTENBERG. You make a blanket statement, if I understand you correctly, that you are right on schedule, that all of the towers are populated by the trained controllers that they should have, including the newer of those in training. Are you willing to make the statement here that you are fully staffed as you should be?

Mr. STURGELL. Senator Lautenberg, as I indicated to Senator Boxer, there are about two dozen facilities where we are focused on and where we would like to be in better shape than we are today.

Senator LAUTENBERG. So there——

Mr. STURGELL. But I think broadly speaking, we are doing OK. This is going to be a tough, tough transition. It is a workforce that is retiring, mainly those who were hired after the PATCO strike.

Senator LAUTENBERG. Have we—did we anticipate the number of retirements accurately, do you think, over the last couple of years?

Mr. STURGELL. We have not predicted them as accurately as I would have liked. We have gotten better and better each year.

Senator LAUTENBERG. OK, accurate is accurate. And Mr. Sturgell, even former Administrator Blakey admitted that her refusal to work with air traffic controllers and negotiate a new agreement on pay and working conditions led to a mass exodus of controllers. And yet, it doesn't seem that FAA has learned from that mistake.

What are you doing for recruiting and retention incentives? Are you listening to the employees at the bargaining table or to obtain a voluntary agreement with them?

Mr. STURGELL. Senator Lautenberg, we have a number of things we are doing to improve relationships with the air traffic controller workforce. I have personally met with the NATCA president several times recently. I have directed our chief operating officer and the vice presidents for the Air Traffic Organization to do so. And they are having related meetings on safety issues as well.

Senator LAUTENBERG. So relations could be better, could have been better over the period of recent years?

Mr. STURGELL. We are working on improving our relations with the workforce.

Senator LAUTENBERG. Well, that says, no matter how carefully the words are planted, if you are working to improve it, it must have been deficient in the past. It is fair to say it wasn't enough.

Mr. STURGELL. Well, we have had some very tough issues with that workforce.

Senator LAUTENBERG. In 2006, Lexington, Kentucky, the crash that took 49 lives, the pilots did not have the most recent published information about runway layouts, which it said contributed to the crash. And why did the FAA change flight departure headings out of Newark airport before even publishing the new information? Do they make changes without forewarning or providing the knowledge to pilots and those interested parties, controllers, et cetera, before they make changes?

Mr. STURGELL. That is not always the case, Senator. As a pilot myself, it is not unusual to get a take off Runway 5, turn right to 0–8–0.

Senator LAUTENBERG. Yes, but you are carrying yourself, perhaps another person in the airplane. And changes can be made more easily, I think, in the kind of flying that you did. But now we are talking about passenger aircraft, and we are talking about the responsibility to make sure that they are——

Mr. STURGELL. This was flying with United Airlines as a commercial pilot. Again, it is not unusual to just get a departure heading after takeoff. Specifically, at Newark, in terms of publishing the procedure, that is in the process now.

We have not implemented all of the departure headings. So——

Senator LAUTENBERG. They may not have implemented all of them, but they have implemented many of them. And we are still waiting to see what kind of material is being given out so that, as far in advance as possible, the pilots are alerted to the changes that are being made.

Mr. STURGELL. I will send you the latest on the date we intend to publish the procedures. But again, it is not unusual to just get a departure heading after taking off.

Senator LAUTENBERG. Yes, but several planes have gone the wrong way out of Newark because of the changes. Are you aware of that?

Mr. STURGELL. I am not aware of that.

Senator LAUTENBERG. Please check that, Mr. Sturgell.

Mr. STURGELL. I will.

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

The CHAIRMAN. I thank you.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

And Mr. Sturgell, Mr. Gros, thank you again for your service, and I want to begin by saying that on behalf of our constituents, in most cases, want to make sure that Members of Congress can identify with their circumstances and feel their pain, so to speak. And when it comes to airline service, that is one area where most of us, particularly those of us who travel back and forth on a regular basis, can relate and have, on many occasions, sat in terminals and with our constituents, many of whom expect us to be able to do something about their plight.

But I do want to say, and I think that it has already been emphasized here with respect to the statistics last year and how those square with history, that most of us, I think a lot of these things tend to be weather-related. And certainly nobody wants anybody to take any risks that would jeopardize or put anybody in a situation that is unsafe, and that is not controllable.

And yet these statistics, the weather hasn't changed. The weather in South Dakota is pretty predictable. In the winter, it is going to snow. And it is going to blow pretty much year round. And in summer, it is going to rain.

So, but the fact that these statistics continue to slip and deteriorate over time suggest that many of the factors adding to delays are factors that are controllable. And that is where I think we really have to—we need to be focusing on the performance. And a 75 percent performance on-time arrival for any other industry, that is a D, if you were scoring it if you were a professor in college. And

any other business that was only able to provide on-time service 75 percent of the time probably would be out of business.

And I guess the thing that concerns me about the airline industry generally is there seems to be sort of an acceptance of mediocrity. And that is very, very troubling. And I think that these factors, and I will associate myself with the comments from the Senator from Alaska, when it comes to pilots not being available or those types of issues, those are issues that, in my view, are in most cases within the control of the airline.

And so, that is just a general comment. And I hope that the airlines, of course, who I am sure are listening, would take note of the importance of improving on those statistics and hopefully restoring what I would call, I guess, a culture of excellence when it comes to the delivery of this very important service.

Because there is so much that rides on that—productivity. When people are stalled out, things don't get done. Anymore travel has become—when people ask me, always when you talk in front of a group, people ask you what is the best part and the worst part about your job. And I always answer the worst part is getting to and from it. And that has, unfortunately, I think become the reality for way too many people in this country.

But given that fact, and I hope that this can be improved upon, but I also think it is important if that is going to be the state of play in the airline industry that consumers need to know who is good and who is not, who is getting there on-time and who is not.

And I introduced a bill a while back that would require a certain amount of reporting for those flights that are delayed, those flights that are chronically canceled on a flight-by-flight basis. And I think it is important for consumers to know, so at least they can make informed choices. When they go in, they are booking a flight, that is the type of data that needs to be available.

Now what the airlines will tell you, and they are correct, is that that data is available. But I think it needs to be available in a more usable form to people who are purchasing tickets.

And so, I would—I am going to continue to work with the FAA reauthorization to see that we get some of those provisions put in that require the airlines to at least inform consumers so they can make choices about which flights on a consistent basis are being delayed or canceled and those that aren't. Because I think it would go a long ways toward helping make the airlines a little bit more responsive as well. I do want to—and I guess I just say that as a general statement, and I solicit your comment on it.

But I do want to follow up with a question that I mentioned earlier, and that has to do with this whole issue of airline consolidation. Because I think that, and you can argue, I am sure, both ways on this and I have heard arguments that in my area of the country that we would benefit from having a consolidated airline that has perhaps economies of scale and is a stronger airline financially in terms of both routes and prices and everything else. But that is not the widely held view among consumers.

The widely held view among consumers is that fewer airlines means less competition and, therefore, fewer options and perhaps higher prices. And so, there is a discussion about some mergers that would affect my State in particular and a lot of other states

in my region of the country. And I guess I would be interested in your thoughts about whether you see that as a good thing or a bad thing when it comes to service, when it comes to price, and just overall quality for people who travel in rural areas.

So if I could get you to comment—I would direct this, I guess, to you, Mr. Administrator—first, on the need for more information for passengers and, second, the whole issue of consolidation, how that might impact service into rural areas?

Mr. STURGELL. Thank you, Senator. On the need for more information, I do believe the Department is looking at options along the line that you are talking about. So I think there may be movement in that direction. I don't recall specifically what has been proposed or what may be proposed to date. But I understand your concerns, and I will pass those on to the Department.

On the merger issue, as you said, folks can argue either way. It is probably not appropriate for me to comment on it. The FAA's focus would be on the operational changes involved in many types of mergers. I will point out that there has been a number of mergers over the years. Republican to Northwest, and USAir had a number of mergers.

In the long run, what we have seen over the last couple of decades is that prices continue to go down because it is a very competitive industry. As for the FAA's role, again, our focus would be on the operational changes involved in a merger. Of course, the Department of Justice will be looking at the competition issues along with the Department of Transportation, which goes to your concerns about small community service.

Senator THUNE. I appreciate it. Mr. Gros, I don't know if you want to comment on either or I am sure you hear from folks up here quite often on issues related to service and information. So if you have any comment on either or both of those issues, I would be interested in hearing that as well.

Mr. GROS. Senator, thank you. I have heard from a lot of Member's offices regarding consumer issues as they relate to the airlines.

Senator THUNE. I hope not just my office.

Mr. GROS. Your offices, plural.

Senator THUNE. OK, thank you.

Mr. GROS. I think it is a little premature to talk about where consolidations are going to end up. Bobby is right. I think that when the government takes into account all of the consolidations, we will certainly take into account the effects on consumers and small communities.

Senator THUNE. Thank you. And Mr. Chairman, again, I appreciate your answers and I would just urge you to continue to focus, and I know you are, in trying to address these problems with congestion on the East Coast and into New York that create ripple effects throughout the entire system. But this is an issue that is creating a tremendous amount of frustration among the traveling public, as I think you know. And we certainly continue to hear about that.

And as I said before, there is no question that a lot, not a lot, but some of this is caused by circumstances and factors that are outside the control of the airlines, that being the weather. But to

the degree that there are issues that are within the control, these things just need to be addressed. And the numbers and the statistics, particularly in this last year, are just unacceptable.

So, thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Rockefeller?

Senator ROCKEFELLER. Thank you, Mr. Chairman. I want to talk about the 4,000 employees that have received e-mails that they are going to be laid off on March 1. Now you are required to give them written notice, and I am not going to argue about an e-mail versus written notice. But it is serious because these people come from your research, your engineering, your development division, your facilities, your equipment division.

Your air traffic controllers are, I believe, under contract until sometime in the middle of 2009. So, in theory, their situation is different. We have to, Mr. Chairman—and we have to do it in the Finance Committee—we have to make an extension because this is a very severe crisis.

You cannot address 4,000 people by e-mail and have them facing layoffs March 1 because, in effect, it is laying them off right then. Their psychology changes, their attitude at work changes, and they are frightened, as they should be. And this is not your fault. This is our fault.

We have to work out with Senator Baucus and the Finance Committee a way of extending—we have massive budget problems, and I won't get into the reasons why. I would love to, but I won't. We have to get the extension more than a couple of months.

The Chairman of the Finance Committee only wants to make the extension for these 4,000 employees to be paid for a couple of months, and that doesn't work. He thinks it does. I don't. So he and I and Kay Bailey Hutchison need to talk to make sure that at least it is extended to the end of the fiscal year. That, in itself, doesn't provide a whole lot of comfort, but it is probably all that we can do in this particular year. And we will have to scramble for the money for that.

But my question, my first question to you—I only have two—is do you detect an effect, and I want you to answer this to your own advantage, do you detect an effect on 4,000 FAA employees not having received a pink slip, but having received an e-mail saying they will be out of a job as of March 1st? Do you detect, what do you see from that?

Mr. STURGELL. Senator, thank you very much for raising this issue. It is probably my most immediate concern at the agency. I was just trying to be as inclusive as I could to our workforce. That e-mail will be followed up with a letter of notification probably at the end of next week.

I think I owe it to give the employees affected an opportunity to start taking care of their personal business, should this occur, which I hope it will not——

Senator ROCKEFELLER. But by contract you have to do that?

Mr. STURGELL. We are required to do it, yes. And I think I need to do it. It affects 4,000 people who handle our capital programs, people involved in our research, and people involved in our airports program. As you said, the latest extension, which is our fourth

now, does not extend the taxes; it does not have contract authority; and it does not have expenditure authority from the Airport and Airway Trust Fund beyond March 1.

These people are paid, by law, out of the Trust Fund. So I can't expend money from it, and therefore, I can't pay them. And that becomes a real problem for us. Because then, at that point, if we don't have expenditure authority, we are just working with funds from the General Fund, which—we have about $1.7 billion, which will get us a couple of months. I will probably have to take some measures in terms of making the agency operate more leanly, which would be things like reducing hiring, and just general tightening up all around to try and make that money last if we don't see movement to correct the problem.

I appreciate that you are focused on it and the Chairman is focused on it, and I hope we can work together to get this done as quickly as possible.

Senator ROCKEFELLER. OK. We will do that. We will do that because anything else is unconscionable.

This is less to your advantage, but it will tell me something about you. On April 23, *The Washington Post* had an article called "FAA Has Some Unhappy Controllers." Now you have a lot of people sort of become unhappy because they are under pressure and because they are underfunded. They are understaffed. They may not have the machinery and equipment that they need.

But unhappy controllers is a difficult situation. What *The Post* found was that 17 percent of FAA employees in general, only 17 percent, said that they trust FAA management. And that 61 percent disagreed with the statement that the FAA "is committed to employee concerns." That is far and away above, I would think, the average and, to me, is a very dangerous situation.

I won't get into general aviation and what you are going to do about it, but I sure will when we have our hearing next week. And I will come after you really hard. But how do you—looking at the prospect of this job, how do you, what works in your mind? You have got quite a turnaround of morale to accomplish. It's not all money. It's probably attention, visits to the field, equipment, whatever. Tell me why I am reading those statistics.

Mr. STURGELL. Senator, if I recall those statistics, I think they relate to an annual employee attitude survey, which we've done in the past, and it has over 100 questions. We have done this survey every other year or so. And in the years in between, we do a much shorter survey.

I will just tell you that, coming out of that survey, we did develop action plans for our various lines of business to address the concerns that we saw. These plans go to initiatives, which relate to better communications, better rewards for performance, as well as better training programs to develop leaders at all levels of the agency.

I also have talked to folks about making personal visits out to facilities. It is something that I need to do a better job of. I wish I could get out of D.C. to these facilities more often than I have been able to. And I think there are a number of things we can do, for instance, we are most recently developing a child care subsidy

and a tuition reimbursement plan, which we plan to roll out in the agency here shortly.

So we are taking steps, as a result of those surveys and other feedback we get, to improve the attitudes. I also think pay is important as well, and we do have a very highly paid workforce, and rightly so.

Senator ROCKEFELLER. You have given me some answers. They don't tell me all that I need to know. Would you do me the courtesy of writing me a letter? It can be confidential. I won't release it or use it, and I won't use it in this Committee, but I would like to know. Visits by you are nice, the pay is already there, and the discontent is huge despite all of this.

So it, obviously, has to be a much larger factor. It has to have deep roots. It may have to do with the uncertainty of the history of the FAA in recent years because we keep cutting their budget and asking you to do more, as passengers and airplanes increase. But I would like to have from you to me a confidential letter in which you open yourself up to what you think will be required to change those numbers around.

Mr. STURGELL. I would be glad to do that.

Senator ROCKEFELLER. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Klobuchar?

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

Senator KLOBUCHAR. Mr. Chairman, thank you for holding this hearing. Mr. Sturgell, Mr. Gros, as you know, Minnesota is the home of a proud airline history, with Northwest Airlines, Sun Country, the childhood home of Charles Lindbergh. And so, we are very interested in what you have to say here.

I just wanted to follow up a little bit what Senator Thune had been talking about, about the FAA's role in any merger approvals. And you said that, Mr. Sturgell, they focused on operational concerns. And I think you and I have talked before about the safety concerns. Are there any examples you have of past mergers where the FAA stood in and said there is such a reduction of employees that this leads to safety concerns or that changes have been made that lead to safety concerns?

Mr. STURGELL. I don't recall any, and certainly there have been none—since I have been at the agency. I do know right now that we are working with USAirways on their merger, but just on the operational side. So, no, to answer your question.

Senator KLOBUCHAR. So how does it work? Do they come and present to you plans of the merger and——

Mr. STURGELL. They do. And our certificate management offices work closely with them to discuss things like the adequacy of personnel, their maintenance facilities, how they are going to be merging certificates and their operations specifications and those kinds of details.

Senator KLOBUCHAR. All right. I also want to follow up on some of the questions about delays and that 2007 was the worst year for delays. As you know, I am supportive of funding the modernization program in any way we can and to figure out how to ramp this up.

But given what we have going on right now, some experts have said that congestion and delay is, in large part, due to the scheduling of flights during peak morning hours and evening rush hours.

Do you think that if the carriers voluntarily cut back on their flights during that time, we are going to see a decrease in congestion and delay? What do you think would be a good remedy for this in our current situation before we do the modernization?

Mr. STURGELL. I think there are a number of factors overall in the delay issue. And certainly, there is a "good news/bad news" story here. The good news is the industry is back and the passengers are back from the effects of 9/11. But as you said, the bad news is delays are up, and there are a number of things involved in delays, besides the weather, which accounts for the bulk of it. A lot of it has to do with runway capacity and new runways coming on line. A lot of it has to do with scheduling. A lot of it has to do with modernization and the FAA's operations themselves.

So it is a picture that involves everybody. And as far as scheduling flights, I will just take, as an example, what we have done at Kennedy recently. They had several hours where the number of aircraft scheduled exceeded the ability of that airport to handle. We worked with the carriers in the fall and they reduced flights voluntarily to an overall average of about 83 an hour during the peak periods, which is what we see the airport being able to handle today.

But what has happened is for next summer, there are going to be more than 100 new flights at JFK, and that is because these flights were redistributed to other times of the day where there was less demand. Our modeling shows that we are going to get somewhere between a 10 and 15 percent reduction in delays there, which is substantial. At the same time, we are going to have more flights for the flying public.

Senator KLOBUCHAR. One of the things I have heard is that if you put these caps on, it is going to cause major carriers to cut back on some of the less profitable routes. Do you think that is a potential repercussion from this?

Mr. STURGELL. I am not aware of that happening with next summer's schedule. And I will just say I do think—I don't like the caps. I don't think that is where we should be going as a nation or a government or an industry. I think we should be doing the hard things that Mayor Daley and Senator Durbin are doing out in Chicago and building new runways, and we should be moving forward on modernization.

The FAA should be doing its best in this as well. Caps are an easy solution, but I don't think they are the right solution. I think the Secretary is actively looking for ways to come up with better solutions.

Senator KLOBUCHAR. Just one follow up about the air traffic controllers. There was a lot of discussion about the hiring and trying to get new recruits in. Could you talk about what you do to keep people employed after they are recruited?

Because I have heard there are some concerns that you have some rate, a high rate, of people leaving once they start, or the job isn't what they thought and it is not working out. So could you talk a little bit about what you could do to make them stay on?

Mr. STURGELL. Certainly pay is an issue, and I think our new hires are being paid very competitively. At the end of 5 years, their cash compensation is in the mid-$90,000s. They still top out well above the GS–14 level. So I think just from a pure pay perspective, there is a lot of incentive to stay around.

Controllers do have a very substantial early retirement and benefits package, which is very attractive as well.

Senator KLOBUCHAR. But do you have a number of them leaving after they start?

Mr. STURGELL. We have training failures, which we expect. Last year, they ran about 13 percent. This year, they are running a little bit over 5 percent at our facilities. At the Academy, it is a little bit less than 5 percent, but that is not atypical.

Senator KLOBUCHAR. Are they placed right in hub airports, or are they allowed to go to smaller airports first, or how does that work? And would that change their job situation and get people to be retained more?

Mr. STURGELL. It is a mix of both. And just for background, I think 93 percent of our new hires from last year came from either our collegiate training initiative or CTI schools or from the military, former air traffic controllers or veterans. Seven percent were recruited from various local job recruiting activities we do around the Nation.

Regarding these CTI schools, we went from 9 or what do we have—we are up to 23 now, with 1 in one Minnesota, I believe, and a number of them around the country. These graduates typically have 2- to 4-year degrees with an aviation specialization, and so they come into the workforce very capable, and very qualified.

Senator KLOBUCHAR. Thank you.

The CHAIRMAN. Thank you.

Senator McCaskill?

STATEMENT OF HON. CLAIRE MCCASKILL, U.S. SENATOR FROM MISSOURI

Senator MCCASKILL. Thank you, Mr. Chairman. As I have paid attention in the news, I don't think that most Americans have put all of these stories together. But let me briefly go over what has happened just in less than a year.

July 11, 2007, a jet came within 100 feet of a taxiing jet while landing in Fort Lauderdale. August 16, 2007, two planes carrying over 200 people came within 37 feet of each other. December 6, 2007, two jets came within 300 feet of each other at Newark. January 2, 2008, a jet had to abort a landing in order to avoid hitting another jet in Houston. January 11th, a jet came within 1,500 feet of a taxiing jet while landing at Atlanta Hartsfield-Jackson. January 16, 2008, two jets came within 600 feet of each other vertically in the airspace above Newark.

I have a horrible fear that something dramatic and tragic is going to happen, and I have a sense of urgency about this. And I would like to give you a minute to try to put into words what sense of urgency you have.

Mr. STURGELL. Senator McCaskill, I would first like to start with the context that, we handle about 62 million operations a year. And as many articles recently have shown, this has been the safest 5-

year period in the history of transportation most recently. The incidents to which you are referring, I believe, are runway incursion incidents. This agency, over the last 5 to 7 years, has done a tremendous job in reducing the number of serious runway incursions. Last year, we had a total of 24. And if I get the number right, I think only eight of those involved commercial carriers.

That said, this is an area again, I think I stated earlier, like a lot of our safety areas, where we as the FAA, we as the government, we as the industry simply cannot let up on. And we have to continually improve and continually drive that number down.

Former Administrator Blakey and myself initiated a call to action last August on runway incursions. We have had great response from the community. We have included not just the carriers, but the airports, and the labor unions. We have had follow up meetings throughout the fall.

I just had a telephone call with 40 of the carrier CEOs about 2 to 3 weeks ago. We are going to keep at this particular area. It is going to be a tremendous focus of mine whether confirmed or not. So——

Senator MCCASKILL. And while we have had a—I get your point that the serious incursions decreased last year, we have had a 12 percent increase, and we are now near the record high of 2001, isn't that correct, in overall incursion incidents?

Mr. STURGELL. The overall number of incursions, when you include all categories, did increase. And you will see a further increase this year because we have changed the definition, moving to the definition that ICAO, the International Civil Aviation Organization, supports, which will make our reporting consistent with other countries around the world.

So previous surface incidents that we did not classify as any type of category of runway incursion, we are now including in those overall numbers.

Senator MCCASKILL. When did that change go into effect?

Mr. STURGELL. That change went into effect this fiscal year.

Senator MCCASKILL. OK.

Mr. STURGELL. So they will go up. I will tell you what is frustrating to me personally as a pilot about this particular area are the instances that we are seeing where controllers are saying the right thing, pilots are hearing the right thing and reading back the right thing, but then they are doing something different. It is a human factors element that is present in a lot of these safety issues that is very tough to get at.

Senator MCCASKILL. Do you believe that controller fatigue is a contributing factor?

Mr. STURGELL. I think, when you look at the NTSB's recommendations on fatigue as a result of its investigation into some of these incidents, the Board was particularly concerned about two things. One was a particular schedule that we have been using for decades at the FAA, which we refer to as a 2–2–1. It rolls your body clock forward throughout the week; but it is a schedule that our controllers like for a variety of reasons.

The second thing that the Board identified was the need to have mandatory and recurrent training on personal fatigue management strategies. So, again, back to the pilot delays. The transportation

industry in all modes depends on people being responsible during their time off, whether you are a commuting pilot coming in or whether you are an air traffic controller doing a quick turnaround. So we depend on people showing up for work rested, and we are going to carry through on those recommendations and take training strategies out to the workforce, both at the Academy and at our facilities as well.

Senator MCCASKILL. I take it from your answer that you do think fatigue could be a contributing factor or is a contributing factor. Do you think it is a contributing factor to the incursion rate?

Mr. STURGELL. I think the Board has identified fatigue in some of the ones they have looked at. And again, if you look at the specific events they analyzed, it comes down to managing your rest on your time off.

So are there incidents where fatigue has been involved in the investigation process? Yes, there have been.

Senator MCCASKILL. Well, if controller fatigue is on the NTSB's Most Wanted List and GAO has cited fatigue as a major issue, I know—and this has been covered by some of the other questioning, but I want to make sure that I get your commitment. There has been a recommendation that you work collaboratively directly with the air traffic controllers association. And I want to hear your commitment that you are willing to work directly with the air traffic controllers association to deal with this issue of fatigue.

Mr. STURGELL. The Board has identified fatigue as an issue in all modes of transportation. We certainly do intend to follow up on the recommendations we have received. We have had one meeting that both I believe NATCA and I believe PASS also attended, and we will continue to work together with them on a work group on these recommendations. That is my commitment to you, yes.

Senator MCCASKILL. Great. Because the impression that I got from reading all of the backup material for the hearing today was that you had not been willing to work one-on-one with the controllers on this particular issue, as NTSB had recommended. And what you are saying is that is no longer the case, that you are now willing to work with them one-on-one on this issue?

Mr. STURGELL. My belief is there was a meeting in December with the FAA people that are involved in these recommendations, and that meeting did include representatives from PASS and NATCA.

Senator MCCASKILL. Terrific. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Snowe?

STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Senator SNOWE. Thank you, Mr. Chairman.

And Mr. Sturgell, welcome. I congratulate you on your nomination as FAA Administrator. You certainly come to this position with an impressive résumé with your many years at the FAA, as well as having had experience in all sectors of aviation, both commercial and military.

So we welcome you to the Committee here today. And Mr. Chairman, I ask unanimous consent to include my entire statement in the record.

[The prepared statement of Senator Snowe follows:]

PREPARED STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Thank you, Mr. Chairman, for your steadfast leadership in facilitating the nomination before this Committee today—that of Robert Sturgell to be the Administrator of the Federal Aviation Administration (FAA). First of all, Mr. Sturgell, I would like to congratulate you on your nomination. Given your impressive resume during your many years at the Federal Aviation Administration (FAA) and prior to that, in both commercial and military aviation, there can be no doubt that the Administration has indeed selected an accomplished nominee. Unquestionably, you possess the professional acumen and broad knowledge-base central to understanding the vast complexities that are part and parcel of the world's busiest and largest aerospace and aviation sector. I thank you for your continued willingness to serve.

However, I must admit, I do not envy the tremendous challenges you will face if confirmed. As you are well aware, the reauthorization of the Federal Aviation Administration has regrettably stalled here in the Senate. Our challenge is to resolve the handful of outstanding issues, jumpstart the process, and move the bill forward because, our aviation network, which is nearly at its breaking point, hinges on our taking appropriate, swift action. Time is of the essence as the lifeblood of our economy—our capacity to transport goods and people efficiently and effectively from destination to destination—threatens to become paralyzed and imperiled.

I believe that nothing less than a transformation of the FAA culture is required to usher in a new era of aviation in this country, and accomplishing that goal will be the task placed in your hands as you manage, guide, and shepherd that change. For too long, the FAA has been in the practice of patching holes, rather than confronting systemic demands that place undue pressure on the entire aviation sector. Preeminent among these demands is the implementation of the NextGen air traffic management system that is on time and on budget. An enormous undertaking, the successful development of this system will reduce delays, improve efficiency, and accommodate the projected increases in air travelers by allowing for a greater number of aircraft. The phenomenon of the Very Light Jet, for example, is symptomatic of the necessity for a new, more flexible approach. In fact, orders are coming in for these aircraft faster than they can be built! And so, it is imperative that we create a process for handling the anticipated future growth in aircraft and passengers.

And make no mistake, we cannot afford to slacken or lessen our efforts in the interim—far from it—as the FAA must improve upon its management of an antiquated ground-based radar, curb and even reverse the rash of retirements further debilitating the already-decimated ranks of our experienced air traffic controllers, lower the record number of delays and cancellations, and restore customer service standards that have hit rock bottom. Confronting any one of these issues alone would prove to be daunting task, but addressing them all together is undeniably a herculean challenge—one which, if confirmed, you will be entrusted to accept and meet.

There are also more immediate, front-burner topics which I would like to address. For example, currently, the Administration's effort to relieve the pressure at New York City's three major airports is front and center in the media. While I'm certain many of my colleagues have questions about that particular plan, it reflects the interconnectedness of our national aviation network. Moreover, my home state of Maine has been following the Administration's plan with great interest, especially deciphering the impact that flight caps or congestion pricing could have on any non-hub communities. With more than a third of all U.S. air traffic using New York City airspace, I believe any rule established by the FAA and the Administration in advance of the 2008 summer travel season must consider the ramifications on service at smaller communities such as Portland, Maine.

Additionally, these mid-sized cities and towns are also suffering from acute understaffing at air traffic control towers. While the FAA has admitted to some trouble with staffing levels at major hub airports such as O'Hare in Chicago or Hartsfield in Atlanta, a very real problem exists at towers such as those in Bangor and Portland. To make matters worse, the FAA has repeatedly underestimated, not only the numbers of retirees among the controller workforce, but also the willingness of eligible retirees to remain with the FAA. The fact is as staffing levels diminish, fewer and fewer qualified controllers are manning the towers in communities like Bangor—a pattern which jeopardizes safety and increases fatigue among remaining con-

trollers. It is all the more paramount that we retain experienced controllers to train those individuals being brought aboard by the FAA. Merely throwing cash incentives at retiring controllers is a stop-gap measure at best, one that perpetuates the band-aid approach in the short term.

Mr. Sturgell, you appear before the committee, having served in nearly all sectors of aviation . . . U.S. naval pilot, commercial pilot, advisor for the National Transportation Safety Board, aviation lawyer, counsel and counselor to the previous FAA Administrator, Marion Blakey, and now acting Administrator. We are truly fortunate to consider a nominee with the depth and breadth of knowledge and experience concerning aviation that you possess. It is my hope that you can tackle and manage the burgeoning number of issues that have a chokehold on our gridlocked air traffic system, and return efficiency, adaptability and productivity to America's air travel. Our country and our constituents deserve no less.

Thank you, Mr. Chairman, and I look forward to hearing the positions of this very distinguished nominee.

Senator SNOWE. Mr. Sturgell, and I want to reiterate some of the issues that my colleagues have raised, most specifically my colleague from California, Senator Boxer, with whom I have joined to introduce the passenger bill of rights as part of the FAA reauthorization that, regrettably, is stalled on the floor of the Senate at a time in which this legislation should be moving forward.

Pivotal moments, of course, facing the aviation industry and certainly the FAA with a complexity of problems, it is unfortunate that this legislation has stalled. But the passenger bill of rights I think is the *de minimis*. It is the bottom line, it is the minimum standards that we ought to assert that the industry ought to meet.

I mean, they have had the opportunity for almost a decade now with the Voluntary Agreement back in 1999, where they would set minimum standards for passenger services. I mean, whether it is food and water and minimum time where they have to stay encamped on the plane on the tarmac, that hasn't happened.

And given the fact that it hasn't gotten better, I mean, after we saw what happened even in December. Complaints were up by more than 40 percent of the previous year. It was the second-worst year on record in 2007. So, obviously, the airline industry has a lot to do.

And I always maintain the amount of money people pay for passenger tickets today, they don't get much in return in terms of customer guarantees that they are going to get what they paid for. They face endless delays, certainly not much food on the aircraft, and not necessarily going to get to where they want to go.

So what is the problem with the FAA insisting, requiring the industry to meet these minimum standards? I mean, the fact is states now, like New York, have already taken action. Other states are following suit. I understand the states of Washington, New Jersey, and Arizona are in the process of also adopting some type of passenger bill of rights.

So, first of all, I would be interested to know, in your position, whether or not the FAA would honor those laws that are passed by individual states. Second, not preempting the state laws. And third, whether or not you are prepared to accept a certain standard and requiring that of the industry? I mean, hopefully, we will pass that legislation because I think the time has come.

We have given the industry, I think, a lengthy period of time, almost a decade, to follow through on these commitments, and I think these are basic issues that the industry ought to be able to

comply with. And if they can't, then we really have to—I think we have to demand it.

Mr. STURGELL. Well, Senator, thank you. And I know you and Senator Boxer have been focused on this particular issue, and it largely rests with the department. And I am a little disappointed that I am not as up to speed as I should be on the particulars to which you are asking.

But I think generally what we are trying to do is we have a proposal out that doesn't set specific requirements. We are certainly looking at the comments that will be coming in, though, and that we are working with the airlines. I know a number of them have adopted plans now for chronic delays, long delays on the tarmac.

The Secretary has recently put a task force together, which will look at some of these issues. And with respect to the state laws, again I think there are some Federal-state preemption issues involved in that. But this is an area where I would certainly be glad to go back and learn a little bit more and then follow up with you on it.

Senator SNOWE. Well, I just—I think the time has come. I think it is long overdue, frankly. I mean, we all experience many frustrations at the airports, but you really have the opportunity to witness firsthand the desperate situations that so many airline customers are faced with. And even the Inspector General said that the Voluntary Agreement of 1999 has been ineffective.

I mean, he issued a report last fall. Even in the hearing that was held here in the Committee, he testified that things have only gotten worse. So I don't see what the hesitancy is on the part of the FAA to assert certain standards ought to be the minimum we would require the industry, given the amount of money, given the investments that the U.S. taxpayer makes with respect to the aviation industry.

I mean, there is no question that the Federal Government makes an enormous commitment to the aviation industry. So I think we do have an obligation to ensure that they are operating consistent with the rights of passengers. So I hope that we don't make this a complex issue because it should be basic issues, whether it is on food or water or the limited amount of time that they should be required to stay on an airplane if it is delayed and they are sitting out on the tarmac.

I mean, I think that those are basic issues. Having operating restrooms. I just don't see what the problem is when it comes to those basic requirements. I mean, that should be simple and agreeable, and they haven't been willing to do it. The fact that some have and some haven't, we need a task force. I don't know what we need a task force about at this point. I really don't.

And you go into a store, you buy something. If it doesn't work, you can return it. With the industry, that is not necessarily so. These people are paying hundreds, if not thousands, of dollars. Ruins vacations. I mean, just we know the litany.

Now there are some things we can't control, like the weather. We understand that. But we also know there is overcongestion and the way in which these airlines have scheduled their takeoffs. And we have seen that. In fact, you indicated that in your own testimony before the House Committee. That it is clear that the way the air-

lines are scheduling today and the way they are operating it only is a prescription for disaster.

So I hope that we can—I hope that you in your leadership position can assert that leadership in making sure that it is accomplished.

Mr. STURGELL. I will certainly be discussing this with the Secretary and the Department.

Senator SNOWE. Well, I appreciate that because I think the FAA is at a point in time where you are facing a confluence of events. And bureaucratic nature is not going to be helpful to the process at a time you know the complex problems. And I think that for too long, the FAA has had to just patch the existing problems.

But we have got some systemic and fundamental issues that have to be addressed, and certainly the FAA reauthorization initiative is very important. But we have got other issues. When we are seeing that retirement is debilitating an already-decimated ranks of air traffic controllers, which is another major issue.

And even in my State of Maine and both the city of Portland and Bangor, I mean, Bangor has seven certified controllers and four are able to retire today. But they are not able to retire—I have met with them recently. They are not able to retire because that would leave three of them, and there are four pending trainees.

The same is true in the City of Portland. They have got 12. They should have probably 16 to 20, given the standards. And so, there are many waiting in the wings to retire. And yet there are not a sufficient number of trainees available to prepare so that they could retire. So that is another major issue that I hope that you are going to be addressing during the course of your tenure in an aggressive way.

Mr. STURGELL. I will, and we are doing that now. We have hired over 1,800 controllers last year and will hire 1,800 again this year, Senator. It is critical that we execute now on the training side.

Senator SNOWE. Finally, I know that—I gather that you have been part of this process evaluating what will be done in the New York metropolitan area with the three major airports and providing a cap. Have you been involved in that process?

Mr. STURGELL. I have.

Senator SNOWE. Yes. And obviously, from the perspective of my state and depending on airlines being able to go in and out of those airports, are you considering the impact on smaller areas and non-hub communities, for example, in terms of that cap and the allocation of slots?

Mr. STURGELL. We are involved in the allocation of slots, but the schedules themselves and the destinations are the responsibility of the carriers. We will certainly monitor this. We have not seen that kind of problem with the caps in Chicago. I don't expect there to be those types of problems. And as I said earlier, we are actually adding over 100 flights at JFK, even though we lowered the maximum hourly operational rate.

Senator SNOWE. So can those—can my commuters in Maine be assured that they won't be negatively affected or adversely or disproportionately affected, I should say, with respect to those caps? Because that is a major issue. I mean, smaller communities oftentimes are on the short end, and yet they are contributing taxpayers

and deserve the right to have access to major airports and consistent airline schedules.

Mr. STURGELL. Again, Senator, the schedules, the destinations themselves are the responsibility of the carriers. I know the carriers are aware of the small community service issue, and we will monitor it.

Senator SNOWE. Well, OK. I would appreciate it. But I do think the FAA does have a responsibility because every state should have the opportunity to have some access to major airports because there are only so many major airports, and you have to fly there. And I do think it is important because it is a public responsibility. It is not just simply a private responsibility since the taxpayers are financing much of the aviation industry and infrastructure that depends on it.

So I would hope that we would make sure that smaller communities and rural communities and states are considered in the context because it is only fair. Otherwise, if that is the case, if you just deny them and ignore them and overlook them. And I just think that that has to be considered in the allocation. Because there have been so many times where there have been proposals that would have adversely affected smaller communities and states as a result of the effect of those proposals.

Mr. STURGELL. Fair enough, Senator. I understand your concern.

Senator SNOWE. I appreciate it. Thank you. Thank you, Mr. Sturgell.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Lautenberg?

Senator LAUTENBERG. Mr. Chairman, I will try not to keep us very much longer. I thank you for your patience, and I thank Mr. Sturgell and Mr. Gros as well for continuing to stay with us.

We discuss population for posts filled, and there is always a disagreement, or as long as I can remember there is a disagreement, between the number of full-performance controllers and trainees and so forth. And you just talked about hiring 1,800? How many a year did you say?

Mr. STURGELL. Yes.

Senator LAUTENBERG. And when I talked before to you, we used the term "retirements." But that is not total attrition. That is not total departures.

And when we examine the record and we look back at a time when I had the opportunity to talk to Madam—to the Administrator Blakey and I asked a question about working conditions with air traffic controller workforce, there hadn't been any negotiated agreement with the representatives of NATCA, and Ms. Blakey said, "I think the effect of the work rules and pay that we put into place in September did cause an uptick in retirements last fall." That was 2006. "We saw about a 25 percent increase. I think it was a negative reaction on the part particularly of some of the controllers to that."

One of the questions that has arisen, Mr. Sturgell, is the management and the morale of FAA, and you were part of that management, very frankly. And we look at things and you are—you seem to be satisfied with your pace of replacements and so forth.

But in Sunday's *Washington Post,* there was a story that said about 14,857 controllers on the staff as of late December, 11,000 were certified controllers, or 74 percent of the workforce. In 2000—now the period that we just used was 2007—in 2000, we had 12,576 controllers, as contrasted to 11,026, when there is a lot more activity now than there was then. They were the fully certifieds out of 15,153 controllers in 2000, about 83 percent of the workforce.

Now it is being said that we have 11,026, compared to 12,576; 74 percent of the workforce are fully trained—substantially less than we had in 2000. And yet we can't seem to get an agreement from you, Mr. Sturgell, that says that we have got to do a heck of a lot more than we have.

Because there has not only been substantial retirement, but departures for other reasons, including the changes in the work rules. You were part of that, of the management team at that time. So I think we have to get this squared away. And I would like you to respond specifically to these comments made in the GAO report and in *The Washington Post.*

I have a question about what we have done to provide the safety mechanism that we should have. And it says here in the GAO report, "FAA is not following its order issued in 2002 that directs the Office of Runway Safety to coordinate and monitor activities throughout the agency to ensure that runway safety goals are met. The absence of coordination and national leadership impedes further progress on runway safety because no single office is taking charge of assessing the causes of runway safety problems and taking the steps needed to address these problems."

How do you respond to that?

Mr. STURGELL. Senator Lautenberg, as I talked to Senator McCaskill earlier, I think this is an area where you just can't let up. I do believe there has been national leadership, and I think that is why the number of serious runway incursions declined over the last several years. But this—again, this is an area where we are focused on, where we have meetings together as an agency across the lines of business, where we have reached out to the community, the associations, the carriers——

Senator LAUTENBERG. Then why is it still—why are we still in the situation that we are? That this report of very recent vintage says that it hasn't been paid attention to. How do we account for the differences of view here?

Mr. STURGELL. Well before that report came out, in the summer, we had a call to action focusing on runway safety that involved the carriers, and the labor unions. It involved FAA personnel here at headquarters and in the regions. And again, before the report came out, we were at 25 airports around the country with runway safety action teams, and very shortly we are going to be going to another 20 airports. And I expect this year we are going to be doing things like approve investment decisions for runway safety technology.

So——

Senator LAUTENBERG. Well, the report, the order, was issued in 2002, half a dozen years ago, and it sounds like we are still trying to play catch-up.

I have one more question, Mr. Chairman. That is the total cost of the New Jersey and New York Airspace Redesign project, do you know what that cost is going to be?

Mr. STURGELL. I believe it was $53 million over about a 9- or 10-year period.

Senator LAUTENBERG. Has the agency done a cost-benefit analysis and to this point in time?

Mr. STURGELL. We are not required to do the formal cost-benefit analysis for airspace redesign projects, but again, the cost we spent was $53 million. The benefits we are conservatively estimating are $300 million in savings and a 20 percent delay reduction as compared to 2011.

Senator LAUTENBERG. Three hundred million dollars in savings over what period of time, Mr. Sturgell? Three hundred million dollars in savings?

Mr. STURGELL. Right. I think that is an annual number, but I will have to get back to you on that.

Senator LAUTENBERG. And the total cost for this redesign was?

Mr. STURGELL. Fifty-three million dollars.

Senator LAUTENBERG. Fifty-three million? I will tell you what I would appreciate, I would ask you to submit it in writing to me, please, so that we have it for the record.

Mr. STURGELL. I would be pleased to do that, yes.

Senator LAUTENBERG. Mr. Chairman, thanks very much for your patience, the opportunity to review all of these questions, and we thank the witnesses for their participation.

The CHAIRMAN. Mr. Sturgell, you should get overtime pay for this performance. You have heard the frustrations of the Committee on delays and such, but we all recognize that you are not Superman. Your control over weather is limited. Your control over the budget of the U.S. Government is very limited. And you have very little control over illness in the cockpit. And so, though we may be requiring you to do the impossible, we just hope you can do the best.

And at this point, I think we should be thanking you and the agency for making the air transportation in the United States the safest in the world. People may not realize that. And in on-time landing and discharge of passengers, we lead the world. And so, there are good things that we could be speaking on.

I will be submitting a few questions, technical ones that I wanted just for clarification. Mr. Gros, you may have felt you were left out and ignored, but be happy.

Mr. GROS. I am fine. Thank you, Senator.

[Laughter.]

The CHAIRMAN. I will be submitting questions to you on something that began, I believe, in May of 2001, a process to improve maritime safety, port facilities, et cetera, SEA–21. I am certain you know of that. I just wanted to know when can we expect the package to be delivered to us?

Mr. GROS. Senator, thanks. I don't know off the top of my head, but I will be sure to get back to you.

The CHAIRMAN. And I have two questions. One on the Mexican border crossing, on trucking. We have had some disagreements. I would like to know why. And the other one has to do with Amtrak.

We seem to be disagreeing there also. And if you can give us a reason why the administration is not too keen about our legislative policy, let me know.

And with that, I would like to thank both of you for this excruciating morning. But please keep in mind that we are most grateful to you for your service to our Nation. And on that point, thank you.

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

A P P E N D I X

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

I would like to welcome both of our nominees and their families to the Committee. Mr. Chairman, I will be very brief so we can hear from our nominees.

The U.S. aviation system, despite its age and the current strains being placed upon it, remains the safest system in the world. That is something that everyone involved in aviation can be deeply proud. But, maintaining this safest system in the world is only getting more challenging.

Mr. Sturgell, you have been nominated to one of the hardest jobs in government. I do not need to tell you that fact. Unfortunately, you are not going to get a lot of support from this White House to do your job, especially this year. I think you know that too. But, the FAA Administrator's job is one of the most critical, especially right now, and I know you understand the challenge that this job represents.

I think we all recognize the U.S. must significantly expand the capacity of our Nation's air transportation system to make sure that we continue to have the most effective, safe and secure aviation system in the world.

During next week's Aviation Subcommittee hearing on the FAA's budget, I will press you specifically on how the FAA is going to meet this goal.

Although many are unaware of the issue, the FAA faces an immediate crisis regarding its ability to pay 4,000 employees after this month. In addition, the FAA has not been able to make airport infrastructure grants this year.

Mr. Sturgell, I want to commend you for the way you are working with the Committee on the current funding crisis facing the FAA. You have acted in a professional, non-partisan manner, and in the best interest of the employees of the agency. I know the Chairman shares my commitment to getting this issue resolved.

By most accounts, you have served ably as the Deputy Administrator for 5 years and as Acting Administrator for the last 6 months. But, I will be honest with you. As part of your confirmation process, you will have to answer for the Administration's policies, actions, and budgets over the last several years.

It may not fair to have to account for decisions that were not entirely yours, but as part of the FAA's leadership for the last 5 years and potentially for five more, the Committee needs to know how you are going to improve employee morale, secure adequate resources in the tight budgetary times, keep communication open between the FAA and Congress, and make sure that the modernization of our aging air traffic control system is kept on schedule and on-budget.

I do not mean to neglect our other nominee. Mr. Gros, this Administration is not known for its free flow of information to Congress. I know that the White House and OMB impose limits on your ability to communicate with us, but I would urge you to keep the lines of communication open.

I look forward to your testimony.

AIR TRANSPORT ASSOCIATION OF AMERICA, INC.
Washington, DC, February 6, 2008

Hon. DANIEL K. INOUYE,
Chairman,
Hon. TED STEVENS,
Vice Chairman,
Commerce, Science, and Transportation Committee,
Washington, DC.

Dear Chairman Inouye and Vice Chairman Stevens:

On behalf of the Air Transport Association and its member airlines, I am writing to affirm our unqualified support for the appointment of Acting Administrator Robert Sturgell as the next Administrator of the Federal Aviation Administration. As

the Committee considers this matter, I urge you to confirm his appointment at the hearing tomorrow.

Acting Administrator Sturgell is in the unique position to provide the strong leadership, vision and critical continuity that will enable the Federal Aviation Administration to meet the many challenges that it is facing, particularly the urgent need to modernize our Nation's air traffic control system. Significant, strategic decisions on system redesign and implementation priorities must be made now, not in 2 years. We cannot afford to delay this process.

As in the past, I appreciate the commitment of the Committee to ensure the safety and integrity of the national aviation infrastructure and community.

Sincerely,

JAMES C. MAY,
President and CEO.

NATIONAL BUSINESS TRAVEL ASSOCIATION
Alexandria, VA, February 5, 2008

Hon. DANIEL INOUYE,
Chairman,
Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Chairman Inouye:

On behalf of the National Business Travel Association, I urge you to support the nomination of Robert Sturgell as Administrator of the Federal Aviation Administration. His extensive experience in various sectors of the aviation community has earned him respect and confidence throughout the industry. Based on his experience and leadership at the FAA during his tenure as Acting Administrator, NBTA believes he is well qualified to advance the FAA's key policy and modernization initiatives which would improve the travel experience for the business travel community.

Sturgell has proven himself as a capable leader as Deputy Administrator from 2003–2007 and as Acting Administrator since September of 2007. With substantial challenges facing the aviation industry, it is of critical importance that the Congress provides the aviation community with long-term stability with a confirmed FAA Administrator for a full 5 year term. We believe Mr. Sturgell is able to confront those challenges and lead the FAA into the future. We look forward to further developing a strong relationship between NBTA and the FAA under Administrator Sturgell's leadership to strengthen and improve America's aviation system.

NBTA is actively involved with the U.S. Department of Transportation and the FAA as it seeks to improve the travel experience. We recently submitted comments to DOT regarding three proposed regulations aimed at alleviating air traffic congestion and improving airline customer service. While we do believe regulatory solutions are important, we also urge Congress to move quickly to enact legislation to provide the FAA with new funding mechanisms that ensure that all aircraft users of the air traffic system contribute fairly in building a 21st Century aviation system.

The authoritative voice of the business travel community, NBTA represents over 3,000 corporate travel managers and travel service providers who collectively manage and direct more than $170 billion of expenditures within the business travel industry, primarily for Fortune 500 companies. NBTA is the leading international association to represent the corporate travel community.

Sincerely,

BILL CONNORS,
Executive Director and Chief Operating Officer.

cc: Vice-Chairman Ted Stevens

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO HON. ROBERT A. STURGELL

Question 1. In a January 7, 2008, meeting at Kona Airport in Kona, Hawaii, I was assured, in person, by representatives of Federal Aviation Administration (FAA) Headquarters that funding for the Kona air traffic control (ATC) tower would be included in the Fiscal Year (FY) 2009 budget. Can you tell me where the funding for the Kona tower project is located in President Bush's FY 2009 budget request and how you plan to provide such funding? Does the FAA still anticipate completing the Kona ATC tower by 2011 as I was promised last month?

Answer. The Kona tower is expected to be completed in 2011 and commissioned in 2012 when training and other preparation for the facility are concluded. Although funding for the new Kona air traffic control tower is not in the FY 2009 budget proposal, the Federal Aviation Administration (FAA) is in the process of requesting authority to reprogram funds that would otherwise expire at the end of this fiscal year to fund the Kona tower.

This approach is consistent with the spirit of the commitment made by FAA officials to provide the resources needed to move forward on the design and build of this tower. Additionally, making use of funds that would otherwise expire makes good business sense and demonstrates FAA's desire to make the most efficient use of its resources.

In future budget submissions, we will request additional funding as necessary to complete the project on schedule.

Question 2. Why has the ASDE–X system, an air traffic control system which helps track planes on the ground at airports, not been installed at some of the largest airports in the system, such as New York's Kennedy, LaGuardia, and Newark? What is the status of the implementation of such systems at Hawaii's Honolulu International Airport?

Answer. The Airport Surface Detection Equipment, Model X (ASDE–X) is a surface surveillance system that aids air traffic controllers in tracking the surface movement of aircraft and vehicles. The FAA plans to deploy ASDE–X systems to 35 airports. Eleven systems have already been commissioned. The remaining 24 systems are in various stages of the ASDE–X implementation process. Because of my commitment to improving runway safety, I asked my team to accelerate the deployment of the remaining ASDE–X systems. This may increase the baseline cost of the system, but I believe it is a good use of taxpayers' dollars to do so.

ASDE–X was originally a less expensive surveillance system designed for second tier airports. Nevertheless, the design was so successful that in 2005, FAA decided to bring it to the busiest airports in the country. Some of the largest airports in the system, including New York's Kennedy, LaGuardia, and Newark, were not among the first sites to receive ASDE–X systems because they already had surface surveillance systems, such as Airport Surface Detection Equipment, Model 3 or the Airport Movement Area Safety System. However, I have directed my team to expedite the implementation schedule at JFK. We expect to begin initial operations of ASDE–X at JFK this summer, nearly 1 year ahead of schedule. We are working with the Port Authority of New York and New Jersey and airlines at JFK to provide additional ASDE–X ramp and gate coverage data. We plan to have preliminary ASDE–X data available by June 30, 2008.

At Newark, we are completing site preparation/construction and equipment installation. We expect ASDE–X initial operations at Newark to begin in July of 2009.

Because we are building a new airport traffic control tower at LaGuardia, we are timing the installation of the LaGuardia ASDE–X to coincide with the new tower. We expect initial ASDE–X operations to begin in December 2010.

Honolulu is scheduled to be operational in May 2010. We are currently in the engineering design phase at Honolulu. The FAA is working on obtaining leases, completing environmental requirements, ordering telecommunications, etc.

Question 3. To what extent does air traffic controller fatigue contribute to the safety incidents you have seen over the past few years, and what is the FAA doing to address the issue?

Answer. We have convened a working group on controller shift scheduling addressing potential fatigue affects on all safety-critical personnel across our entire controller and technician workforces, as well as the supervisors and managers assigned to oversee these positions.

Representatives from all FAA operational service units and technical representatives from the FAA Civil Aerospace Medical Institute (CAMI) have been invited to participate. The working group also depends on labor unions such as the National Air Traffic Controllers Association (NATCA) and the Professional Airways Systems Specialists (PASS) to provide critical subject matter expertise. These unions have had the opportunity to review relevant fatigue research, which has initiated discussions regarding possible approaches to minimize the effects of schedule-related fatigue.

In early January, I sent a letter to NATCA, asking for their views on the two specific issues raised by the NTSB: the "2–2–1" schedule, and personal fatigue management strategies. To date, there has been no response.

Additionally, fatigue awareness and countermeasures training materials are currently under development for the basic air traffic control course offered by the Air

Traffic Controller Training and Development Group in Oklahoma City in coordination with CAMI.

We are also close to signing an agreement with NATCA to establish the Air Traffic Safety Action Program (ATSAP), which will provide us with information previously unavailable to us regarding the human factor issues associated with incidents and accidents. Our ATSAP initiative with NATCA will specifically give us access to fatigue information, as it will be a part of every report. I signed the agreement on February 14, and we are waiting for NATCA's signature.

Finally, we will host a fatigue risk symposium. The purpose of this meeting is to: (1) provide senior aviation decisionmakers and managers a current understanding of fatigue physiology risk assessment and mitigation alternatives, and (2) develop proposals for near and long-term initiatives and awareness of best practices that can be embraced by the aviation community to mitigate fatigue risk.

Question 4. What are the top three things you believe the FAA needs to continue to improving safety?

Answer. I have seen the system from all angles: at Top Gun, as a commercial airline pilot, as an accident investigator and now as a regulator. Even with all of this experience, the perspective that still matters the most is that of the passenger.

The FAA must improve its ability to deliver a safe, efficient and consistent experience to the passenger. Our ability to make that happen hinges on the launch of new technology and procedures, specifically in the form of the Next General Air Transportation System (NextGen). NextGen eliminates the ground-based technology of last century and instead relies on satellites and increased automation for safety and efficiency. Implementing and operating NextGen will require effective labor-management relations and a highly trained, professional workforce.

With a billion passengers and double traffic loads headed our way, NextGen is not the luxury system of the future. Rather, it's a foundation that we must begin putting in place now to safely and efficiently accommodate the unparalleled growth that has been forecast.

Secondly, at the very core of increased safety is the transition from forensics-based analysis to a predictive approach. As the system becomes more and more safe, the causes of accidents diminish. By *sharing safety information* between and among airlines, pilots, engineers, technicians and inspectors, we are able to look at trends that point to what could become an accident. They are eliminated before they manifest themselves in tragedy.

Waiting for the accident to occur is no longer acceptable. We are integrating various databases through the Aviation Safety Information and Sharing system. This system identifies trends and risks *before* they manifest themselves in accidents. We are also close to signing an agreement with NATCA to establish the Air Traffic Safety Action Program (ATSAP), which isolates human factor issues associated with incidents and accidents.

Lastly, we must continue with our *collaborative approach to operating the system.* We now design daily airplane flow strategies with the airlines at our command center. We are also working with industry to implement an entirely new approach to improving safety, called the Safety Management Systems. This approach to safety management calls for industry to identify hazards and put risk mitigation strategies in place. Again, it is all about developing processes, procedures, and strategies to minimize risks and identify a problem *before* it leads to an accident.

Question 5. Congress has made funding for the inspector workforce a priority. What is the FAA doing to ensure adequate inspector staffing? How are you dealing with the staffing shortages?

Answer. I appreciate the support Congress has provided to the FAA through increased funding to hire additional safety employees. Historically, we have linked inspector staffing levels to growth in the industry—when industry was projected to grow 5 percent, we would estimate an increase in staffing of 1.5 percent to 2 percent. While this link has worked relatively well, we are aggressively working on an inspector staffing model that will help us forecast future needs. This model will be completed in October 2009.

In FY 2007, the FAA hired over 400 aviation safety inspectors through positions that became vacant during the year and new hires. Given attrition rates of the last 2 years of about 8 percent, I will continue to support the hiring of over 517 aviation safety inspectors in FY 2008 while leveraging the Designee Program and Safety Management Systems in order to meet industry demands and provide the necessary oversight of the expanding air transportation system.

Question 6. What is the agency's strategic plan for ensuring a fully staffed and productive workforce in light of the number of inspectors eligible to retire in 2010?

I understand that it takes at least three to 5 years for an inspector to become fully trained and productive. Has the agency figured this training period into its plan?

Answer. We believe our current attrition rate of approximately 8 percent annually will decrease to 5.5 percent in the future because of the implementation of our recruitment strategies. Also, we do not have a mandatory retirement age for our inspector workforce.

Many of our inspectors bring tremendous experience from years in private industry or the military. This experience, along with formal training and targeted on-the-job training (OJT), gives managers the flexibility to immediately use the expertise of the new employee and chart a path to full proficiency in all tasks within 3 years. The Flight Standards Service has taken a number of steps to reduce the time for inspectors to reach that level.

- We have implemented a compressed resident training schedule, which allows us to train more inspectors more quickly. We are committed to having new inspectors successfully complete their resident indoctrination training within 6 months of their entrance on duty.
- We also shifted from a classroom-based training program to a training program that uses a blend of distance delivered training and classroom delivered training. This allows our inspectors to start their formal training program after reporting to their office and provides the critical foundation for their resident training.
- Our structured OJT program helps them effectively integrate their formal training with the work they are assigned in their office.

Question 7. The National Transportation Safety Board continues to highlight the need for improved runway safety, specifically recommending that incursion alerts be provided directly to the pilots in the cockpit. What is the FAA doing to respond to this recommendation and how long will it take to make it happen?

Answer. We are developing strategies to provide alerts directly to the pilots. The development and testing of Runway Status Lights (RWSL) is one such initiative. Albeit not in the cockpit, RWSLs provide "direct pilot" alerting (described below) and are used in conjunction with the ASDE–X system scheduled for deployment at our busiest 35 airports—11 ASDE–X systems are fully deployed and the majority of the remainder will be deployed by 2010 with a few final implementations scheduled for 2011.

When the ASDE–X system detects traffic creating a potential problem, the RWSLs will illuminate, giving the pilots direct warning of the situation. RWSL deployment is on schedule with a prime contract to be awarded in the summer of 2008 and deployment to 21 sites to be completed FY 2011.

We are also testing a system to alert pilots when a runway they are about to land on is occupied. This direct pilot alert lighting system is called the Final Approach Runway Occupancy Signal or FAROS. The test has been successful at Long Beach Airport and I am expanding the test to Dallas-Fort Worth to include some new system capabilities, such as an interface with the RWSL safety logic. If the tests are successful, this system could be deployed as early as 2012.

We recognize that ground surveillance technology is foundational to any ground movement safety system that provides direct pilot alerting capability and we are pursuing cost-effective ways to make this technology more widely available throughout our system. To that end, I have directed the establishment of a pilot program to evaluate Low Cost Ground Surveillance (LCGS) systems that can be installed at small- and medium-sized airports where ASDE–X technology may not be a cost-effective solution. Under this pilot program, we will install and evaluate commercially available LCGS products at six airports during 2009. We expect that this pilot will lead to technology solutions that we can deploy more broadly to enable pilot alerting tools like RWSL and FAROS at airports where these capabilities are needed. Earlier this month, we began this process by releasing a market survey to identify potential industry participants and we expect to award contracts to acquire and install selected LCGS systems during the summer.

In the long term, the FAA has issued a Notice of Proposed Rulemaking (NPRM) that would make Automated Dependent Surveillance-Broadcast (ADS–B) equipage required by 2020 for operations in certain airspace. This system, when fully developed and deployed, is capable of directly informing and alerting pilots of aircraft and vehicles operating on and around an airport. Standards for this direct pilot alerting capability are under development, with laboratory simulations scheduled in 2008 and a planned operational evaluation at Philadelphia International Airport (PHL) in 2010.

I have also taken steps to significantly streamline the certification of Global Positioning System (GPS) moving map technology to improve a pilot's situational awareness while operating on an airport. The standards for such a system are approved for use in a pilot's electronic flight bag, and it is anticipated that several manufacturers will achieve fully certified capabilities this year.

Question 8. What specific steps is the FAA taking to address congestion and delay in the New York region? How much progress has the FAA made in achieving these measures?

Answer. The FAA's preferred approach to addressing congestion and delay is to increase capacity to meet demand. Long-term, the capacity improvements that the NextGen system makes possible will combat congestion in New York and around the country. However, the New York metro airports are near saturation and will not be able to increase physical capacity at a sufficient level to keep pace with current and future demand.

On December 19, Secretary Peters announced new actions designed to reduce congestion in the New York area starting next summer. The new measures developed at the direction of President Bush last Fall included:

- The New York Aviation Rulemaking Committee (ARC) was developed in late September and concluded on December 10. This Committee had representatives from airlines, interest groups, the Port Authority of New York and New Jersey, and the State of New York. The ARC held weekly meetings from September to December and discussed a wide-range of options for reducing delays and managing congestion in the New York region.
- Among other things, the New York ARC identified 77 initiatives to improve the operational efficiency of one or more New York airports. Many of these initiatives were identified in collaboration with the Port Authority of New York and New Jersey.
- A voluntary order was issued on January 16, 2008, to cap hourly operations at John F. Kennedy International Airport (JFK). Flights are capped at an average of 82 to 83 per hour during the peak period. At the same time, about 50 additional flights will be accommodated by moving flights from peak times to other times during the day. The hourly caps will take effect March 30, 2008, and will be in place for 2008 and 2009.
- Negotiations on a voluntary cap for summer 2008 and 2009 at Newark Liberty International Airport (Newark) are ongoing.

Other ongoing actions include:

- Further implementation of airspace redesign to have more efficient approach and departure paths for JFK, Newark, and LaGuardia airports;
- Development of a New York Area Program Integration Office. An aviation "czar" was recently appointed to serve as director of the newly-created office; and
- A new Federal advisory task force that will help airlines and airports better coordinate when unexpected weather strands passengers on tarmacs and in airports.

In addition to the actions announced by the Secretary on December 19, the Department of Transportation issued a proposal on January 11 that would amend the FAA's "Policy Regarding the Establishment of Airport Rates and Charges." These proposed amendments are intended to provide greater flexibility to operators of congested airports. The public comment period on these proposed changes closes April 3, 2008.

The FAA also intends to propose regulations to limit the number of unscheduled flights and to require a reservation to operate during controlled hours for JFK, LaGuardia and Newark airports to further aid in dealing with delays.

Finally, the Department of Transportation is pursuing a rulemaking for longer-term congestion mitigation in New York. The Administration is interested in the possibilities of market-based measures and will proceed with notice and comment to all the stakeholders as we move forward.

Question 9. What are your views on congestion pricing and slot auctions? Can you point to any specific examples where the benefits have been proven in prior initiatives that have incorporated either of these concepts?

Answer. The need to address airport congestion and delay remains an important policy focus of the Administration. I believe increasing capacity is the most appropriate response to the public's needs in the long run. While congestion pricing and

slot auctions could serve to reduce delays where capacity is constrained, they would not serve to accommodate growth. This is why NextGen is so important.

Even though FAA is taking steps to address congestion, forecasts indicate that some areas of the nation, in particular New York, will have difficulty in meeting air-traffic demand in the coming years. Over the past several years, FAA has undertaken extensive research efforts to explore the feasibility of various market-based mechanisms (such as auctions and congestion pricing) to manage congestion at capacity constrained airports where expansion is not feasible.

We believe that pricing mechanisms, like congestion pricing and slot auctions, may be the most efficient way to allocate a scarce resource, because they make the resource available to those who value it the most. Pricing can balance demand with available capacity, resulting in more reliable schedules. Also, pricing sends better signals as to where the system needs extra capacity, and it can supply the revenues to add such needed capacity. That is why we are looking at market-based measures for longer-term solutions to congestion, particularly in New York. Although the airline industry is complex, we believe it is worthwhile to examine the benefits of applying these models to aviation.

Every private industry uses pricing as a means to address demand. There are two examples of the use of pricing in the U.S. for aviation. First, Boston's Logan International Airport has a peak pricing plan that will give airlines the option to reschedule flights to less congested times or pay a fee for flying during peak periods. This plan will be implemented when the airport reaches a certain level of congestion. Second, the Port Authority of New York and New Jersey currently charges a nominal congestion fee. These fees were initially effective in changing behavior. Additionally, airlines use a pricing model in the sale of plane tickets. Flights at less attractive times are priced lower than flights at popular times.

Question 10. The Department of Transportation recently proposed changes to the regulations governing the airport rates and charges to permit them to impose congestion charges. Are there examples where congestion charges have been used successfully at airports to manage congestion?

Answer. On January 14, the Department published a *Federal Register Notice of Proposed Amendments to the Airport Rates and Charges Policy.* The notice proposes two changes and one clarification to the Rates and Charges Policy, and to add a definition of "congested airport."

The first change would clarify that airports may use a "two-part" fee structure with an operation-based and weight-based element. The second change would permit an operator of a congested airport to charge for work under construction. Finally, the third change would expand the authority of an operator of an airport system to charge users of the congested airport in the system for the airfield costs of other airports in its system.

If adopted, the amendments will allow a congested airport to raise the price of using its runways. This, in turn, could provide a financial incentive to aircraft operators to consider alternatives, such as scheduling flights outside of peak demand times, increasing aircraft size to use the congested runways more efficiently or meeting regional air service needs through alternative, less congested facilities.

We are only aware of two prior examples of congestion charges, both of which are noted in the preamble to the amendments. The peak period pricing program established for Boston Logan Airport has not yet been triggered. I believe this is the first time the second and third changes have been considered to help airports relieve congestion. I believe these policies can effect a change to move at least a small number of aircraft operations out of peak periods at the most congested airports. The rescheduling of just a few flights to non-congested periods could have a significant impact on delay reduction.

Question 11. To what extent would the FAA's proposed New York and New Jersey airspace redesign address congestion and delays in the area and across the nation?

Answer. The 20 percent delay reduction described in the Record of Decision (ROD) is the extent to which congestion and delay will be addressed when Airspace Redesign is fully implemented. The analyses that supported the ROD did not cover the entire nation. However, more than 20 percent of the delays in the United States in 2007 occurred in the New York/New Jersey/Philadelphia area. Approximately one-third of the Nation's flights and one-sixth of the world's flights either start or traverse the airspace that supports the New York and New Jersey regions. As a result, any reduction in the delays for flights in the New York/New Jersey region will have a significant, positive impact on local, national, and global air traffic efficiency.

Question 12. What assumptions are being made regarding aircraft equipage, pilot training, and air traffic controller training for each phase of this plan if there is to be absolutely no degradation in safety?

Answer. We are not assuming any mandated aircraft equipage or equipment, but we do see some of the highest advanced navigation equipage levels in the New York/New Jersey/Philadelphia areas. As we do with all new procedures and airspace designs, training is provided to our workforce. We will continue to work with the aviation community to educate our customers on these changes and to ensure pilot training meets expected levels. We anticipate that each stage of implementation of the selected project will take approximately 12–18 months. Education and training are two crucial steps in our implementation planning processes.

Question 13. Could you describe the methodology the FAA used to reach that conclusion, the estimated amount of time saved per flight if the redesign is implemented, and what alternative methods for addressing airline delays FAA considered and rejected?

Answer. We did not estimate the delay reduction per flight since delay is not a linear concept. Instead, we looked at delay as a whole across the New York/New Jersey/Philadelphia metropolitan area. The time saved under redesigned operations, compared to a future in which no action is taken, was estimated from the output of simulations of the various possible alternative airspace designs, using state-of-the-art modeling techniques. Appendix C of the Environmental Impact Statement (EIS) provides the details. This document can be found at: *http://www.faa.gov/airports_airtraffic/air_traffic/nas_redesign/regional_guidance/eastern_reg/nynjphl_redesign/feis/appendix.* As described in chapter 2, section 2.3, of the EIS, the FAA considered alternatives to airspace redesign including increased use of alternative modes of transportation and communication; increased use of satellite airports; improvements to airport infrastructure; congestion management programs; and improved air traffic control technology. All alternatives but airspace redesign were rejected because they did not meet the purpose and need for the project.

Question 14. What methodology did the FAA use to evaluate these environmental impacts? Could you describe the noise mitigation strategies the FAA intends to employ in affected communities? Did the FAA's analysis take into account the increase in noise likely to result from dramatically increased air traffic over the next 10 years?

Answer. The analysis of environmental impacts used in the EIS is based on established methods, techniques, and practices that have been developed and refined in the industry (by both the government and private sector) over many decades. For noise analysis, the FAA used the Noise Integrated Routing System (NIRS) for regional noise analysis, which has at its core, the Integrated Noise Model (INM). INM is the primary tool used by the FAA (and about 1,100 users worldwide) to compute airport community noise exposure.

The FAA took into account the forecast growth in aviation over the 10 years between the project baseline and 2011. The analysis in the EIS forecast the same level of traffic growth both with and without the project. Impacts, including noise impacts, were calculated for the No Action Alternative and appear in chapter 4 of the EIS.

The noise mitigation measures included in the selected project are described in detail in Appendices O and P of the Final EIS, which can be found at: *http://www.faa.gov/airports_airtraffic/air_traffic/nas_redesign/regional_guidance/eastern_reg/nynjphl_redesign/feis/appendix.* The approach to mitigation was to look for opportunities to refine the Integrated Airspace Alternative with Integrated Control Facility to mitigate noise impacts without sacrificing safety or the efficiency gains of the alternative. FAA refined headings to lessen the noise impact while maintaining the efficiency gains. Additionally, use of the headings was limited to those times when they were essential to maintain efficiency. For example, at PHL, we reduced the number of departure headings for east and west flow traffic. The headings chosen for noise mitigation tend to be grouped closer to the river corridors and thus minimize the number of people exposed to potential noise impacts caused by the selected project.

Question 15. How do you rate the progress of NextGen to date? What are the primary obstacles FAA is encountering in the implementation of NextGen?

Answer. The FAA has made good progress on NextGen to date. We have begun building the NextGen system with five "foundational" NextGen programs: Automatic Dependent Surveillance-Broadcast (ADS–B), Data Communications, System Wide Information Management (SWIM), NextGen Network Enabled Weather (NNEW) and the National Airspace System (NAS) Voice Switch.

ADS–B and SWIM were the first NextGen projects and were introduced with the FY 2006 budget. A contract for the ADS–B ground infrastructure was awarded in August 2007. By December 2009, the agency expects to make the "in-service decision" that essentially commissions ADS–B for the NAS and certifies its use for air

traffic control separation services. ADS–B is on track to be deployed nationwide by 2013.

Significant progress has also been made with the SWIM program. The first segment of the SWIM program allows various FAA automation systems to exchange weather and flight data management information. A contract for a new Terminal Data Distribution System is expected to be awarded later this year. Initial capabilities will be available beginning in 2010.

Data Communications funding began in FY 2007. The FAA has been working directly with the airspace users to vet the proposed program in anticipation of an Initial Investment Decision this summer. The FAA will begin integrating Data Communications into our high-altitude air traffic automation systems in 2010 and offer air-to-ground data services in 2014.

The FAA began funding NNEW and the NAS Voice Switch in FY 2008. These projects begin by translating operational needs into requirements and a concept of use that supports the NextGen vision. During this phase, the FAA works with stakeholders, including air traffic controllers, to develop requirements and assess alternative solutions that may satisfy our needs. Acquisition does not begin until these important steps have been completed.

It is critically important that the work on all five NextGen foundational programs is underway today so that they will be operational in the NAS in time to meet projected traffic increases in the 2016 timeframe. However, we are beginning the transition to NextGen in advance of delivery of these programs. The transition to NextGen is actually occurring now as the FAA continues to move to space-based operations. New capabilities are being integrated into many of our existing systems to improve operations today.

We are also expanding the use of advanced aircraft capabilities to provide safer and more efficient operations. We've deployed a new oceanic air traffic control system that uses satellites and electronic reporting of aircraft positions. We have reduced the separation requirements in the West Atlantic for aircraft equipped with advanced avionics. We have also established satellite-based routes on the West Coast.

We have already completed a number of airspace projects that take advantage of advanced avionics and satellite-based technologies today. The Dynamic Airborne Reroute Procedures (DARP) allows aircraft to take advantage of updated flight information to re-route to a more advantageous flight plan while airborne. Satellite-based ADS–B is being used to separate aircraft in Alaska. The introduction of satellite-based required navigation performance (RNP) approaches with lower minima in Alaska allows Alaska Airlines to access Juneau with far greater frequency than they have realized in the past. In Houston, the new Houston Area Air Traffic System (HAATS) and airspace redesign proposes to revamp Houston terminal and surrounding en route airspace. It includes new dual arrival routes and three new departure routes. The O'Hare Modernization Project includes new departure routes, new en route sectors and new arrival procedures to support triple arrivals in addition to new runways.

This evolutionary approach provides for a smooth transition for pilots and controllers from operations of today to the changes required to fully achieve NextGen capabilities. This approach also allows for improvements throughout the NextGen investment period rather than waiting until 2025 to see benefits.

The FY 2009 budget request includes funding that will be dedicated to refining operational concepts of use and performing other pre-implementation analyses. This work will determine how the foundational NextGen programs will combine with new procedures, airspace and facility design, standards development and certification to change the performance of the air transportation system.

NextGen Challenges

We must maintain the safety of today's air traffic control system while still developing new NextGen capabilities. This is a challenge. We have to use our resources to keep the NAS running while soliciting expertise from those same resources to support NextGen development.

The complex NextGen enterprise and the difficulties posed by the required integration of the diverse elements of the system pose a significant challenge. We also face the challenge of merging today's facilities into NextGen facilities. Moreover, we have to obtain the human resources with the right skills sets needed to implement NextGen operational improvements.

Question 16. The FAA has a history of mismanagement, cost overruns, and delays, in handling modernization programs. Is the agency experiencing problems with managing any of the current modernization projects?

Answer. Since implementing new acquisition management policies over the past 5 years, we have taken significant steps to address key factors contributing to legacy cost, schedule and performance shortfalls. These steps include:

- Implementing the Integrated Acquisition Management System (AMS) and OMB's Capital Planning, Budgeting, and Acquisition control process to track, analyze, and assess the risks associated with FAA major capital investments;
- Segmenting large or complex capital programs into manageable phases to improve executive oversight and control. By segmenting programs into phases such as development, demonstration, and production, the Joint Resources Council (JRC) is able to review incremental progress against cost and schedule baselines and approve subsequent program phases based upon program performance achieved to date;
- Revising AMS to ensure that funding for contract audits throughout a project's lifecycle are included in the acquisition program baseline;
- Requiring the use of Earned Value Management (EVM) techniques for contracts where there are significant risks to the government. EVM provides a consistent methodology for measuring program progress and detection of underlying problem areas. Major programs were assessed against the industry standards for EVM compliance;
- Requiring major acquisition program managers to be certified by the Project Management Institute based on the industry standard of the Program Manager's Body of Knowledge. Currently all major capital acquisitions are managed by qualified, certified program managers;
- Launching a new graduate certification program in system engineering to prepare engineers for NextGen;
- Establishing a Capital Investment Team (CIT) within ATO to review and evaluate the costs and benefits of existing and proposed capital investments. The CIT also provides guidance and recommendations for those investments seeking approval from the JRC;
- Implementing quarterly reviews within ATO with the Senior Vice President for Finance and the ATO Service Unit Vice Presidents responsible for management of the capital programs within their domains. Financial status, acquisition baseline milestones, annual milestones, earned value management performance data and technical requirements stability are covered in the reviews; and
- Reviewing contract awards, including contract modifications to existing contracts greater than $10 million, within ATO Finance and by the FAA Chief Financial Officer prior to approval.

Although we acknowledge problems with some of the major acquisitions in the past, many steps have been taken in recent years to ensure all of our programs are managed well and meeting performance metrics and goals, and additional oversight is maintained through the life of the program until completion.

Question 17. What primary steps would you take to ensure the air transportation system is modernized in an efficient and effective manner?

Answer. The FAA has put into place a management and governance structure that will support efficient and effective integration and implementation of NextGen operational improvements. Under my guidance and direction, the ATO Vice President for Operations Planning is responsible for the integration and implementation of NextGen projects and capabilities.

The Operational Evolution Partnership (OEP) Integration and Implementation Office is responsible for NextGen portfolio development and management, schedule and milestone tracking, and commitment monitoring. The office also ensures appropriate alignment and integration of diverse activities agency-wide.

Additionally, we expanded the scope of the previous Operational Evolution Plan to encompass NextGen domains and solution sets. The OEP has an excellent track record of meeting commitments—due in part to the cross-agency support and regular attention of the OEP Associates Team. The new OEP Associates Team is chaired by the Deputy Administrator and comprised of all of the FAA Associate Administrators, ATO Vice Presidents, the Director of the Joint Planning and Development Office, and representatives from MITRE, PASS and NATCA.

Question 18. To what extent have air traffic controllers been involved in modernization efforts?

Answer. Our air traffic controllers are highly skilled, dedicated, and passionate about what they do, and we are taking advantage of this fact as we undertake the research and technology development leading us to NextGen. Through ongoing for-

mal channels, the FAA involves controllers, technicians and the aviation community, so that their input is heard as the FAA develops the NextGen.

NATCA participates in four committees shaping NextGen. The groups range from serving as one of 16 members on the Institute Management Council, established by Congress to ensure key aviation stakeholders have input into the NextGen system, to the Air Traffic Management Advisory Committee, which advises the FAA on all NextGen investments through the auspices of the Radio Technical Commission for Aeronautics (RTCA).

NATCA also participates in the Air Traffic Procedures Advisory Committee—advising the FAA on air traffic procedures; as well as the Operational Evolution Partnership (OEP)—the group that validates NextGen technologies and oversees their transition into the NAS.

Controller Subject Matter Experts

Since 2005, thousands of air traffic controllers and academy students have participated in the testing of NextGen technologies. In addition to tests done at local facilities and the FAA Academy in Oklahoma City, the FAA brings controllers to the research and development facility at the William J. Hughes Tech Center to test new equipment and procedures.

Air traffic controllers provide technical expertise on new FAA programs that form the foundation for NextGen, from computing to surveillance. Some specific projects include:

- Performance-Based Air Traffic Management;
- High Altitude Trajectory-Based Operations;
- Airspace redesign projects—New York and Chicago;
- En Route Automation Modernization (ERAM);
- Runway Status Lights (RWSL);
- Advanced Technologies and Oceanic Procedures (ATOP);
- User Request Evaluation Tool (URET);
- Low Cost Surface Surveillance (LCSS); and
- Performance standards for training developmental controllers.

NextGen research and development takes advantage of the unique skill sets of controllers without introducing present day biases. By introducing potential NextGen concepts and assessing how today's controllers perform under simulated NextGen conditions, we learn a lot about human reactions and interactions and apply that to the design of new systems. Controllers will also be used in our evaluation of future designs and redesigns.

NextGen requires a far more transformational view than those exhibited in the past and our workforce is capable of this transformation. Their participation in our analysis and testing is proving that.

Question 19. What are your plans for ensuring that FAA unions are not omitted from participation in the future during the NextGen initiative? Have you made any plans to approach unions to participate on current projects from which they were excluded?

Answer. I intend to ensure our employee unions are involved in the development of NextGen, through ongoing formal channels.

NATCA currently participates in four committees shaping NextGen. The groups range from serving as one of 16 members on the Institute Management Council established by Congress to ensure key aviation stakeholders have input to the NextGen system, to the Air Traffic Management Advisory Committee—advising the FAA on all NextGen investments through the auspices of the Radio Technical Commission for Aeronautics (RTCA).

NATCA also participates in the Air Traffic Procedures Advisory Committee—advising the FAA on air traffic procedures; as well as the Operational Evolution Partnership—the group that validates NextGen technologies and oversees their transition into the NAS.

PASS also has a seat on the OEP Associates Team, the primary governance body for NextGen in the FAA. From this vantage point they participate in developing NextGen strategic plans and monitoring progress. The OEP is the foundation document for developing and implementing NextGen programs, and thus a seat at the table can significantly influence the shape of the future NAS.

Additionally, FAA has traditionally recruited subject matter experts from the technician workforce to help design new equipment, including those comprising NextGen Systems. Examples of current and past projects involving technician subject matter experts include runway surface surveillance systems (ASDE/AMASS),

Advanced Technologies and Automated Procedures for Oceanic Airspace (ATOP), and most recently, the En Route Automation Modernization Program (ERAM) under NextGen.

Question 20. What changes do you believe should be made to improve the relationship between FAA and its employees/unions? Are there any efforts currently underway to improve these relationships?

Answer. Good labor-management relations at the FAA have resulted in several voluntary agreements just in the past year. Although we were unable to reach an agreement with NATCA on the air traffic controllers contract in 2006, we were able to reach a voluntary agreement with NATCA on the Engineers and Architects contract last year. We also reached a voluntary agreement last year with the National Association of Government Employees (NAGE) and are optimistic that the current negotiations with the American Federation of State, County and Municipal Employees (AFSCME) will result in a voluntary agreement. However, we are always looking for ways to improve our labor-management relations.

I am also continuing to work with the unions to improve our communications on issues of concern to the FAA, the employees, the unions, and the flying public. I am endeavoring to foster a feeling of inclusiveness by acknowledging the unions' contributions, while emphasizing our common goals. The introduction of NextGen will usher in a new era at the FAA. It will be a period of change and challenge. I do not condone simply telling our employees and their labor organizations about changes, but engage them in dialogue and address their concerns as we move forward. To this end, I plan to visit facilities in the coming year not only to speak to our employees and their representatives but also to listen to them and take key issues back for consideration. It is only when we work in a spirit of cooperation and understanding of each party's positions will we develop a relationship of trust and mutual respect.

I have initiated a number of efforts to positively affect the relationship with all of our unions. In December 2007, the FAA submitted a substantial settlement offer to NATCA in an effort to resolve lingering issues associated with the 2006 contract. As of this date, there has been no response by the union. This is the second offer of settlement that I have proposed to the union. Additionally, NATCA submitted two proposals during negotiations dealing with Child Care Subsidies and a Student Loan Repayment Program. While these proposals were not adopted during the negotiations process, I am now implementing programs on Child Care Subsidies and Student Loan Repayment for all eligible employees of the FAA and not just NATCA-represented air traffic controllers. We will work with NATCA on implementing the programs for our controllers.

I have also invited the unions to participate with us in safety programs. For example, the National Occupational Safety, Health, and Environmental Compliance Committee (OSHECCOM), of which NATCA President Patrick Forrey is Vice-Chairman, and in which other unions participated, recommended—and I concurred—to begin installation of automated external defibrillators in many of our locations. NATCA and PASS are also both participating with us on our runway safety initiatives. I have also asked NATCA, in a letter on January 2, 2008, for their input on air traffic controller fatigue issues and to sit down with the FAA to address the National Transportation Safety Board's (NTSB) fatigue concerns.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN F. KERRY TO HON. ROBERT A. STURGELL

Question 1. What data and what processes were used by the Agency to make air traffic controller staffing determinations at each facility?

Answer. The FAA's process for establishing controller ranges by facility involves the use of several data sources. For example, in developing these ranges, we considered our industrial engineered standards, past facility performance, the performance of other similar facilities, productivity improvements, recommendations from the National Academy of Science, as well as input from managers in the field, overtime trends, time-on-position data, traffic forecasts, and expected retirements.

In the last version of the Controller Workforce Plan, the FAA published controller staffing ranges for all 314 FAA operated Air Traffic Controller facilities. Our staffing ranges provide the number of controllers needed to perform the work and include all position-qualified controllers. Most facilities will be in a period of transition over the next few years and will be staffing with a combination of certified professional controllers (CPCs), CPCs-In Training, and a large number of developmental controllers who are proficient, or checked out in specific sectors or positions.

Developmentals have always handled live traffic, and in fact, this is a requirement to maintain proficiency as they progress toward CPC status.

Each facility is reviewed to evaluate headcount, operational activity, and productivity trends. Productivity trends are then compared with appropriate peer facilities. These "peers" are determined by the facility type and level.

Exceptional situations, or outliers, are removed from the averages (for example, if there has been a change in the type or level of facility over the period of evaluation). By analyzing the remaining data points, staffing ranges are generated for each facility.

Question 2. How are you involving employee representatives, specifically the users of the equipment like air traffic controllers, in any future plans with regards to technology, procedures and new staffing levels? This is something that both the GAO and IG have cited as needed.

Answer. The FAA routinely utilizes bargaining unit employees to field test new technology, and to provide subject matter expertise on a wide range of issues such as planning new procedures, airport layouts and human factors in the design of equipment/technology. The current contract contains provisions that permit the National Air Traffic Controllers Association (NATCA) to recommend the bargaining unit employees to be utilized in these workgroups. A similar process was contained in the previous contract. However, a labor-management dispute in July of 2005 led NATCA to refuse to exercise their right to make those determinations as to which employees would participate in workgroups, leaving the FAA with having to make those determinations as assignments of work.

I believe the users of the equipment are the best qualified people to give us feedback, ideas and recommendations on procedures for implementing new technology and assessing the performance of that new technology. Employees will continue to be used to field test new technology, and as subject matter experts. I hope NATCA will rejoin this process as allowed by the collective bargaining agreement. More importantly, I am firmly committed to including our employee unions in planning the direction the FAA will take with respect to airspace design and technology necessary to accomplish our mission now and in the future.

NextGen Development

Through ongoing formal channels, the FAA involves controllers, technicians and the aviation community so that their input is heard as the FAA develops the NextGen. Our air traffic controllers are highly skilled, dedicated, and passionate about what they do, and we are taking maximum advantage of this fact as we undertake the research and technology development leading us to NextGen.

NATCA participates in four committees shaping NextGen. The groups range from serving as one of 16 members on the Institute Management Council established by Congress to ensure key aviation stakeholders have input to the NextGen system, to the Air Traffic Management Advisory Committee—advising the FAA on all NextGen investments through the auspices of the Radio Technical Commission for Aeronautics (RTCA).

NATCA also participates in the Air Traffic Procedures Advisory Committee—advising the FAA on air traffic procedures; as well as the Operational Evolution Partnership—the group that validates NextGen technologies and oversees their transition into the National Airspace System (NAS).

Controller Subject Matter Experts

Since 2005, thousands of air traffic controllers and academy students have participated in the testing of NextGen technologies. In addition to tests done at local facilities and the FAA Academy in Oklahoma City, the FAA brings controllers to the research and development facility at the William J. Hughes Tech Center to test new equipment and procedures.

Air traffic controllers provide technical expertise on new FAA programs that form the foundation for NextGen, from computing to surveillance. Some specific projects include:

- Performance-Based Air Traffic Management;
- High Altitude Trajectory-Based Operations;
- Airspace redesign projects—New York and Chicago;
- En Route Automation Modernization (ERAM);
- Runway Status Lights (RWSL);
- Advanced Technologies and Oceanic Procedures (ATOP);
- User Request Evaluation Tool (URET);
- Low Cost Surface Surveillance (LCSS); and

- Performance standards for training developmental controllers.

As to the issue of staffing, the determination of the appropriate level of staffing is a management responsibility for which the FAA alone is accountable. In setting staffing levels, we consider industrial engineering standards, past facility performance, the performance of other facilities, productivity improvements, recommendations from the National Academy of Sciences, as well as input from the facilities themselves.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BYRON L. DORGAN TO HON. ROBERT A. STURGELL

Question 1. Given the heightened importance of unmanned aircraft in the overall central mission, do you feel that the Unmanned Aircraft Program Office is in need of additional funding?

Answer. The FAA applies resources first to meet our primary mission of supporting the continued operational safety of the civilian fleet in our National Airspace System (NAS). To address the potential that Unmanned Aircraft Systems (UAS) have on the airspace, the Aviation Safety Organization established the Unmanned Aircraft Program Office in FY 2006. For the past 2 years, the program office has focused its resources on meeting the most urgent needs: safely providing military access, developing standards to integrate UAS into the NAS, granting civil access and providing international leadership to harmonize UAS standards and airspace access with the global community.

The advent of UAS has challenged the aviation community. It is critical that the record-setting safety levels experienced in the U.S. today continue. UAS need time to mature as any other new technology. I am committed to working as diligently as possible to allow for the safe, progressive integration of UAS into the national airspace.

Question 2. What role do you feel that universities play in contributing toward the advancement of unmanned aircraft in the National Airspace System?

Answer. The FAA has enjoyed an outstanding relationship with academic institutions for several years. We envision universities playing a key role in the development of UAS. In fact, the University of North Dakota, Rutgers University, and New Mexico State University are prime examples of the valuable working relationships that I have been fostering with academia over the past several years through the Technical Cooperation Research Group (TCRG).

An example of this cooperative effort is the agreement established by the FAA with the Center of Excellence for General Aviation Research (CGAR) to organize, conduct research, and report the results and recommendations for a set of regulatory guidelines to be used with UAS vehicle design and certification to allow for the safe and efficient operation of UAS in the NAS.

The CGAR team consisted of representatives from University of Alaska Anchorage, University of Alaska Fairbanks, Embry-Riddle Aeronautical University-Prescott, and the University of North Dakota. The team spent approximately 18 months evaluating the existing regulation and certification guidelines. The report was a high level effort that provides the FAA with an initial assessment of Federal Aviation Regulations, which may need clarifying or modifying to accommodate UAS.

These outstanding institutions and others will contribute to FAA's development and issuance of standards and policies to enable the safe integration of UAS into the NAS.

Question 3. As you know, Unmanned Aerial Vehicles are an increasingly valuable tool in our national security and homeland defense arsenal, and are potentially useful for civil applications such as dealing with wildfires. DoD is rapidly expanding their development and use of UAVs worldwide. We have heard that the FAA is approving special use of UAVs for some government missions and for some specific civil applications under very restrictive conditions. What is your plan to integrate UAVs into the national airspace more quickly and smoothly?

Answer. For UAS to be completely integrated into the NAS, avionics standards as well as certification standards need to be developed. In order to expedite the process, we are currently reviewing all existing regulations to determine if there are existing standards that can be applied to UAS.

I have directed the program office to focus first on the immediate need of regulations for small UAS. We are establishing an Aviation Rulemaking Committee made up of a broad representation of industry, government, and academia to draft potential regulations for small UAS. This activity is projected to be completed in approximately 2 years. These UAS will be operated in daylight hours, visual line of sight

from the pilot, and at a relatively low weight and speed. The program office will then focus on developing safety and certification standards for larger, more complex UAS.

Avionics standards are being developed by the Radio Technical Commission for Aeronautics (RTCA), an industry forum recognized as a Federal Advisory Committee. Minimum aviation system performance standards necessary for complete airspace access are scheduled for delivery around 2019.

Question 4. What role do you see Collegiate Training Initiative (CTI) schools playing in the future of air traffic controller training?

Answer. My vision for the Air Traffic Collegiate Training Initiative (AT–CTI) program is that it will continue to grow and become a more significant source for hiring air traffic controllers. The number of AT–CTI graduates hired into controller positions has rapidly increased from 195 of 519 new hires in FY 2005; to 1,019 of the 1,815 new hires in FY 2007.

During my tenure at the FAA, the number of approved AT–CTI schools has also grown. In October 2007, the FAA chose nine new colleges and universities to be part of the AT–CTI program. It is the first expansion of the AT–CTI program in more than a decade. We expect this increase to produce a significant number of prospective air traffic controllers. Thirty-three institutions, including those already in the program, submitted applications in May 2007. Currently, there are 23 schools in the program including the nine new schools. This program is being announced again now—allowing more schools to apply for FY 2008.

My goal is to have 35 AT–CTI schools in the program graduating between 2,000–2,500 students per year by FY 2010. This is a hiring source of growing significance, providing controllers with college degrees, which I believe is important for the long-term health of the controller workforce.

Question 5. Do you envision the new Air Traffic Controller Optimum Training Solution (ATCOTS) contract will allow the vendor to operate some of that training at University of North Dakota?

Answer. My goal for the Air Traffic Controller Optimum Training Solution (ATCOTS) program is to improve the way FAA meets ATC training needs by streamlining our current contract structure. I believe that by better leveraging private-sector resources, we will be able to train controllers in a cost effective, timely manner. The ATCOTS contract will provide resources to the FAA Academy and to our air traffic control facilities to train new controllers.

We expect the ATCOTS vendor to continually incorporate the best approaches and resources into our overall technical training and development for controllers. We will continue to use the resources of the FAA Academy, but that does not preclude us from taking advantage of other potential outside resources, new technologies, programs, and expertise. We expect our vendor to make recommendations for continuous improvement throughout the life of the contract. At this time, however, we cannot predict what those recommendations or improvements will be or where they will come from.

I envision that the University of North Dakota, and all of our CTI schools, will continue to benefit from changes we are making in our curriculum, such as the Air Traffic Basics course currently being taught at the FAA Academy. These changes will help the University of North Dakota in recruiting and training students to be competitive candidates for the FAA.

Question 6. Do you support a restoration of retirement benefits for the Flight Service Controllers who lost Federal employment as a result of the FAA's 2005 reduction in force?

Answer. The FAA aggressively pursued actions authorized under law to minimize the negative impact on employees that were separated due to the contracting out of the Automated Flight Service Station (AFSS) facilities. This included:

- *Filling internal vacancies.* More than 694 announcements were published for internal vacancies, and AFSS displaced employees were eligible to apply. The placement programs were effective in ensuring all internal recruitment activity was extended to those qualified employee applicants. In total, 456 Flight Service employees were selected for continuing FAA positions prior to the conduct of the reduction-in-force on October 3, 2005 and 96 employees were rehired under the FAA's Selection Priority Program.
- *Offering Voluntary Early Retirement Authority.* The Voluntary Early Retirement Authority (VERA) program helped minimize the involuntary separation of employees by allowing them to qualify for voluntary early retirement. Seventeen employees chose this option.

- *Offering separation incentives.* Voluntary Separation Incentive Payments (VSIP) or "buy-outs" were authorized to allow agency management the flexibility to manage its workforce through change. Buy-outs were made available to AFSS employees in the Alaska Region from June 6–20, 2005, to create placement opportunities for affected employees.
- *Retirement opportunity for employees within 2 years of reaching retirement eligibility.* The FAA implemented Public Law 109–115 Section 179(a.), which is known as the "Snowe Amendment." This amendment allowed 99 separated AFSS employees who were within 2 years of retirement to be rehired to meet the age and service requirements for either an optional or a discontinued service retirement.

The retirement provisions are administered pursuant to law. FAA does not have discretionary authority to grant retirement service credit for those employees, which includes flight service controllers, who do not meet the age and service requirements under the law.

I would also like to note that this response is in regard to those Flight Service Station Specialists, as defined in 5 U.S.C. § 2109(1)(A)(ii) and are covered under the National Association of Air Traffic Specialists (NAATS) contract. Flight Service Station Specialists are not air traffic controllers, as defined in 5 U.S.C. § 2109(1)(A)(i), who are covered under the NATCA air traffic controllers contract.

Question 7. A critical asset of our aviation system is the air traffic control workforce. Under extraordinary pressure, these workers are instrumental to the safety and efficiency of our Nation's airways. I am concerned that while you are in dire need of recruiting new controllers and should be encouraging the current air traffic controllers to stay in their jobs, the FAA has imposed a contract and the controllers are unhappy and retiring. They are tired and aviation safety is at risk. What could have been done differently with the contract negotiation? What should be done now?

Answer. Recruitments are up. In fact, we are exceeding our recruitment goals. Our retirement numbers are attributable primarily to the increased number of controllers who have reached retirement age as a result of the mass hiring of controllers in the 1980s; and because of certain provisions of a very unique and generous retirement plan. In terms of safety, we are in the safest period of aviation history.

In reality, the amount of overtime has increased very little from 2004 to 2007, and last year, FAA controllers used nearly 95 percent of all the annual leave they earned. Not a single FAA facility is in a leave exigency program. In addition, we were staffed sufficiently to grant 24,590 days of leave without pay, which is the equivalent of 95 full time positions. In 2005, under the previous contract, overtime usage was 1.6 percent of total work hours. In 2007, overtime was 1.7 percent of total work hours. This increase is primarily attributable to the significant increase in training hours as a result of the increase in new hires. Currently, controllers average 4 hours and 46 minutes on-position. For the remaining 3 hours and 14 minutes, no control separation duties are assigned.

That said, we are in a transition period with this long-predicted "wave" of controller retirements. While the system-wide numbers remain fairly consistent with prior years, we are focused on some individual facilities that have greater staffing needs and priorities.

As recommended by the NTSB, the FAA met with NATCA on December 4, 2007, to discuss strategies to reduce the potential for controller fatigue. Following this meeting, I wrote to NATCA President Patrick Forrey seeking NATCA's views and analysis of the NTSB's issues. As of this date, I have received no response.

With respect to our negotiations on the air traffic controller contract, we have worked diligently to obtain a mutual agreement with NATCA representatives. After many months of negotiations and weeks with a Federal Mediator assisting us in our attempt to work toward a reasonable solution, our dispute was submitted to Congress as required. Although over 90 percent of the issues were agreed to, an impasse was declared. It was not an issue of needing more time, but a genuine difference in opinion regarding the few remaining articles. Pay was the issue that the parties disagreed over the most. The Federal Labor Relations Board has ruled on several occasions that the FAA bargained in good faith and in accordance with the law.

In FY 2007, controllers made an average of $131,800 in cash (salary and premiums), which was substantially higher than the rest of the FAA and the rest of government. The top 5,000 controllers averaged $168,000 in cash. As stewards of taxpayer dollars, we simply could not agree to perpetuate continued excessive cost growth. The FAA could not move forward, if salaries continued at this rate. The Inspector General, the Government Accountability Office, and Congress have all criticized the FAA for its past growth in operating costs.

I will continue to work with NATCA to find a solution to our differences. I have on two occasions offered substantial settlement offers to NATCA, which would raise new hire pay, provide base pay increases for experienced controllers, increase premium pay for instructors and preserve controller incentive pay. I am hopeful that NATCA will respond favorably to the most recent offer. Separately, we will be discussing with NATCA, the implementation of new programs providing childcare subsidies and tuition reimbursement to our employees. To help with our recruitment and retention initiatives, I have authorized use of retention and recruitment incentives and bonuses in those limited areas where we have staffing challenges. These are the concerns about the 2006 contract as I understand them from NATCA.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARBARA BOXER TO HON. ROBERT A. STURGELL

Question 1. Global Hawk UAV flights out of Beale Air Force Base are limited to just two a week. I understand that one reason for this restriction is because the FAA lacks sufficient manpower to process and track Global Hawk flights. What are you doing to solve the flight restrictions at Beale AFB? Are you working to acquire sufficient manpower resources to allow more UAV flights? What are your overall plans to safely integrate the growing fleet of UAVs into the national airspace?

Answer. The FAA is working closely with the U.S. Air Force to solve the operational concerns at Beale AFB. Global Hawk, while undoubtedly a critical military asset, was not designed to fly and be integrated into the National Airspace System (NAS). The system was designed to fly in and over a theater of war where airspace is tightly controlled by the military and no civil traffic is allowed. The FAA worked closely with the Air Force to find adequate methods to safely protect the flying public and people on the ground. The restriction to limit flying to 2 days per week was due to a technical flaw in the Global Hawk system that required the implementation of extra separation precautions by FAA ATC to ensure an appropriate level of safety is maintained.

Now that the technical flaw has been corrected, the FAA is participating with the Air Force in test flights to ensure that all known technical issues have been resolved. Once satisfactorily completed, we will collaborate with Beale AFB to address their need for increased operational missions.

The advent of UAS has challenged the aviation community. It is critical that the record-setting safety levels experienced in the U.S. today continue. UAS need time to mature as any other new technology. I am committed to working as diligently as possible to allow for the safe, progressive integration of UAS into the national airspace.

The FAA is applying resources first to meet our primary mission of supporting the continued operational safety of the civilian fleet in the NAS. To address the potential that UAS have on our nation, the Aviation Safety Organization established the Unmanned Aircraft Program Office in FY 2006. For the past 2 years, the program office has focused its resources on meeting the most urgent needs: safely providing military access, developing standards, civil access and international leadership. The following summarizes highlights of each of the four areas:

- *Military Access.* The FAA continues to work with the Department of Defense to find ways of safely approving military access of UAS into the NAS. For example, we recently signed a Memorandum of Agreement with DOD that provides unprecedented access for a large segment of their arsenal.
- *Standards Development.* For UAS to be completely integrated into the NAS, avionics standards as well as certification standards need to be developed.
  - The FAA is focusing first on the immediate need of regulation for small UAS. We are establishing an Aviation Rulemaking Committee made up of a broad representation of industry, government, and academia to draft potential regulations for small UAS. This activity is projected to be completed in approximately 2 years. These UAS will be operated in daylight hours, visual line of sight from the pilot, and at a relatively low weight and speed. The program office will then focus on developing safety and certification standards for larger, more complex UAS.
  - Avionics standards are being developed by the Radio Technical Commission for Aeronautics (RTCA), an industry forum recognized as a Federal Advisory Committee. Minimum aviation system performance standards necessary for complete airspace access are scheduled for delivery around 2019.

- *Civil Access.* The FAA has granted 17 experimental airworthiness certificates over the past 2 years, and continues to look for better ways to grant civil access for UAS. We developed an agreement with the New Mexico State University (NMSU) in Las Cruces, New Mexico that creates the first UAS Flight Test Center. The Flight Test Center will allow research and development activity to be conducted by companies that are not ready for the experimental application process. This agreement provides access for companies by allowing NMSU to establish individual agreements with them. The FAA will be provided with critical data that will enable the development of future standards.
- *International Leadership.* The FAA continues to lead the world in access to airspace for UAS, and plans to play a leadership role as the international community looks toward standards development. Recently, the Manager of the FAA Program Office was named as the U.S. Delegate to the newly formed International Civil Aviation Organization UAS Study Group. In addition, the FAA was specifically asked to be the Deputy Chairman of the European Standards body, EUROCAE WG–73. We plan to utilize these opportunities to harmonize UAS standards and airspace access with the global community. Harmonized standards are vital to the success of U.S. manufacturers.

Question 2. Why does the President's FY09 Budget cut funding for the Airport Improvements Program even though the December 2007 GAO report found runway incursions have increased?

Answer. Before proposing the $2.75 billion AIP level for FY 2009, we looked closely at the impact on airport capital development and our ability to meet high priority projects, such as those targeted at reducing runway incursions.

The FAA's reforms for the AIP program contained in our reauthorization proposal strategically target Federal dollars to the airports where they will have the most impact. While large and medium hub airports have a greater ability to finance their own capital requirements with revenue from passenger facility charges and their own rates and charges, small primary and general aviation airports rely more heavily on AIP funding to help meet their capital needs and complete critical projects. We have proposed changes to the Federal funding program that will stabilize and enhance these funding sources for airports. With our proposed programmatic changes, the $2.75 billion proposed in our budget will be sufficient to finance airports' capital needs and meet national system safety and capacity objectives. FAA will be able to reach all high priority safety, capacity, security and environmental projects in FY 2009, including funding all projects identified by Runway Safety Action Teams (RSATs).

The FAA has been very focused on improving runway safety and has spent millions of dollars toward this initiative. Our coordinated efforts, involving AIP and projects accomplished through other funding, have helped reduce the most serious of runway incursions by 55 percent between 2001 and 2007, even though the total number of runway incursions increased in 2007. We are currently deploying Airport Surface Detection Equipment-Model X (ASDE–X) to 35 of our busiest airports (11 systems are fully operational today) and we are expanding the testing of Runway Status Lights (RWSL) targeted for installation at 21 of those 35 airports. We are testing two Low Cost Ground Surveillance (LCGS) technologies and are expanding this test to 6 additional airports.

The combination of AIP projects and other agency projects address the runway incursion problem in FY 2009.

Question 3. The December 2007 GAO report mentioned the FAA may not be accurately reporting the number and the details of runway incursions across the country. Why did the FAA not immediately investigate a possible runway incursion at San Diego airport last month? Please provide a detailed account of the San Diego incident.

Answer. I am committed to fostering a safety culture within the FAA that emphasizes full and timely investigations of all safety issues, particularly runway incursions.

The incident at San Diego occurred on January 16, 2008, and was immediately entered in the towers daily log by the Controller in Charge. The Tower Manager returned to the facility after hours specifically in order to assist in the preliminary investigation of the incident. The manager reviewed the voice recordings and then requested a technician be recalled in order to playback the Airport Movement Area Safety System (AMASS) recording. After reviewing the AMASS recording the manager determined there was a loss of separation, since the arrival aircraft had stopped on the runway instead of exiting as instructed due to an aircraft problem.

The preliminary investigation at the facility concluded that one aircraft had landed on Runway 27 and when it appeared that the landing aircraft had turned off the

runway onto the taxiway as instructed the tower controller cleared a departure aircraft for take off. The incident was initially called in as required and was briefed to the Western Area Service Center Safety Assurance Specialist as an operational error. The Safety Assurance Specialist on duty was provided a briefing, including information obtained from the pilot of the arrival aircraft that an engine reverser would not stow.

The Safety Assurance Specialist first thought this to be a Pilot Deviation (PD) but after further discussion decided that only a Quality Assurance Review (QAR) entry in the daily log would be required. The Acting Manager complied and completed the QAR as per FAA Order 7210.56 and SAN Order 7210–5 SAN ATCT Quality Assurance Review. The manager appropriately did not close the QAR pending further investigation. When the headquarters staff began another review with the Western Service Center and the facility, more data was ordered and analyzed. It was discovered that the landing aircraft was on the left side of the runway and not clear. The final investigation determined the controller had not ensured the runway was clear but only anticipated it would be and had cleared the departure aircraft for take off.

The incident was initially thought to be caused by a mechanical problem that led to a pilot deviating from the instructions given by air traffic control. However, upon further investigation, it was determined that the primary cause of the incident was a controller operational error that resulted in a loss of separation.

It is not unusual for investigations to result in changes to the preliminary reports of incidents as additional facts and expertise are brought to bear on the event. The results of this investigation demonstrated our ability to establish the real root causes of serious safety concerns and will help to better prevent recurrences.

Question 4. It is my understanding Los Angeles was recently upgraded to an ACT–12 center. Local controllers have brought to my attention that management at the facility received a pay increase as a result of the documented rise in traffic; however, controllers at Los Angeles did not see similar compensation for the increased workload. When can controllers at Los Angeles Center expect to receive compensation for the increased traffic at LAX?

Answer. All employees at Los Angeles Center who were not already being compensated at or above the top of the ATC–12 pay band received a pay raise to the ATC–12 pay band as a result of the upgrade of the facility level.

While management and controller pay rules are different, there are limits on both. Overall, 58.36 percent of the controller workforce received a pay increase, and 57.41 percent of the management workforce received a pay increase at Los Angeles Center.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO HON. ROBERT A. STURGELL

Question 1. Last October, a number of us became aware of the existence of NASA's air safety study conducted by the Battelle Memorial Institute. The study was based on surveys of about 8,000 commercial and general aviation pilots per year from 2001 until the end of 2004. As you may recall, the reason the whole issue came to light is that NASA asked those affiliated with the project to turn over any data back to the agency and delete survey information from their personal computers. At the time, it was alleged that the survey was turning up many more reports of incidents than were officially reported to the FAA. In the end, NASA released the survey data on December 31, 2007, in less than user friendly format. Has the FAA reviewed the data from NASA's air safety study?

Answer. NASA provided preliminary summaries of the survey however; the summaries were very high level and did not provide specifics that would have allowed us to correlate with our internal information systems. Subsequently, the FAA has obtained the data set made available to the public by NASA. However, the data format makes it difficult to integrate with our internal databases. My plan is to continue to review the data along with other safety information systems to identify any safety issues and take appropriate action, if necessary.

Question 1a. If so, is the NASA data regarding the type and frequency of incidents consistent with the type and frequency of incidents officially reported to the FAA?

Answer. From these preliminary summaries, it appears that the numbers for some examples, such as runway incursions, near misses, bird strikes, and engine failure events, deviate significantly from other databases with non-elective reporting requirements.

Question 1b. If there is significant difference in the type and frequency of incidents, can you explain the reason for this difference?

Answer. Event rates were calculated using analyses that were based upon extrapolation methods to estimate absolute numbers of events occurring within a given time period. Given that the extrapolated numbers deviate significantly from other databases, there is reason to question the validity of this methodology in determining event rates. I believe that results from the NASA study should be validated by comparing the survey results, where possible and appropriate, with other information that was independently gathered. (*Note:* Congress has directed NASA to release the raw data to the GAO for analysis by their aviation experts.)

Question 1c. In press accounts, you have expressed concerns over the survey's methodology. Can you point to two or three specific issues with respect to the survey's methodology?

Answer. A review of the questionnaire by the FAA and members of the Commercial Aviation Safety Team found many of the questions to be subjective and to rely heavily upon recollections and perceptions of flight crews over a period of 2 to 3 months. In addition, many questions were vague or too broad and as a result are of limited value.

Question 1d. It is my understanding that the original study was terminated before moving on to interview flight attendants and air traffic controllers, as originally proposed. Do you think surveying flight attendants and air traffic controllers would have yielded useful information about flight safety?

Answer. We believe voluntarily submitted reports from flight attendants and air traffic controllers can yield very useful information about aviation safety. Since the time of the NASA study, the FAA and the industry have developed more robust reporting mechanisms, including the Aviation Safety Action Program (ASAP), which encourages pilots, dispatchers, flight attendants, and maintenance personnel to report events without fear of retribution. Eleven air carriers have FAA approved ASAPs in place for their flight attendants. The FAA Air Traffic Organization is in the process of establishing an ASAP for air traffic controllers by the Spring of this year. My goal is to incorporate these segments of the NAS into a formalized process in which safety information can be accessed through secure networks under mutually agreeable rules of engagement and to develop a process that will make this safety information available to decisionmakers to help them in their efforts to manage risk.

Question 2. Mr. Sturgell, I am concerned about the number of certified air traffic controllers and how that impacts the FAA's ability to handle record amounts of air traffic and mitigate delays. I have been told that there are fewer certified controllers now than any year since 1996. An agency spokesman has been quoted as saying that there is no such thing as an unsafe staffing level because the FAA will slow traffic and put more space between planes if staffing got too low. If confirmed, would that be your policy as FAA Administrator?

Answer. I am committed to making the safest system in the world even safer.

We are now overseeing the largest hiring and training initiative that the FAA has undertaken in decades. Last year, we hired 1,815 new controllers and are in the process of hiring a similar number this year. In 2004, we released a comprehensive Controller Workforce Plan that outlines our hiring and training initiatives, and tracks actual retirements as well as projecting future losses. The plan can be found on the FAA website at *http://www.faa.gov*.

Our staffing ranges provide the number of controllers needed to perform the work and include all position-qualified controllers. Most facilities will be in a period of transition over the next few years and will be staffing with a combination of certified professional controllers (CPCs), CPCs-In Training, and a large number of developmental controllers who are proficient, or checked out in specific sectors or positions. Developmentals have always handled live traffic, and in fact, this is a requirement to maintain proficiency as they progress toward CPC status.

Before the 1981 controller strike, the FAA experienced trainee ratio percentages ranging from 23 to 44 percent. Following the strike through the end of the hiring wave in 1992, the trainee percentage ranged from 24 to 52 percent. Because of the mass hiring throughout the 1980s, hiring and training in recent decades have been at low levels. As such, the ratio of developmentals to controllers has also been unusually low. Hiring done since 2004 has driven up the ratio again, but nowhere near the levels experienced by the agency following the strike. While the FAA's goal is to keep the ratio below 35 percent, the agency has operated safely with ratios above 35 percent.

It is a real challenge to replace the majority of our controller workforce over the course of 10 years, but it is a challenge that we anticipated and for which we planned. We are working aggressively to stay on top of this challenge through a number of initiatives. These initiatives target retaining existing controllers (reten-

tion bonuses), attracting veteran controllers (recruitment and relocation bonuses), and attracting qualified new employees.

During this period of increased hiring and training, the FAA has continued to keep safety as its top priority. Our current and future success is all about our people. Their continued professional commitment to safety and performance is critical.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO HON. ROBERT A. STURGELL

Question 1. Do you believe that the FAA is facing a staffing crisis concerning the air traffic controller workforce?

Answer. No, I do not believe the FAA is facing an air traffic controller staffing crisis. However, we are in the midst of the long-expected retirement "wave" of air traffic controllers and it does present us with a tough management issue. In 2004, the FAA issued the first comprehensive controller staffing plan. The Congressional report, *A Plan for the Future: a 10-Year Strategy for the Controller Workforce,* detailed the resources needed to keep the controller workforce appropriately staffed. We update that plan every year to ensure that the hiring and training of this critical workforce remains on track.

That said, the next several years will be a challenging transition period. FY 2007 was long projected to be a peak year for retirements of controllers hired in the years following the controller strike of 1981. Our retirement projections were not that different from actual numbers, although actual numbers were 128 higher. Much of that increase can be attributed to the fact that more than 100 retired controllers became contract training instructors in FY 2007, allowing FAA to retain their valuable expertise to train the next generation of controllers.

Still, we are hiring more controllers than we originally projected and we have launched massive recruitment and training initiatives. In addition, we have created retention and job enhancement strategies to attract and retain controllers. We were able to hire more than 1,800 controllers last year, a third of them with previous air traffic control experience from the military.

Some facilities do have greater staffing priorities and needs. We are working aggressively to buildup staffing at those facilities through a number of initiatives targeted toward retaining existing controllers (retention bonuses), attracting veteran controllers (recruitment and relocation bonuses), and bringing onboard qualified new hires.

Question 2. Do you believe that the use of a higher percentage of trainees versus fully certified controllers will impact the operation of the national air traffic control system?

Answer. No, I do not. Historically, the FAA has operated safely with ratios much higher than we are seeing today. Before the 1981 controller strike, the FAA experienced trainee ratio percentages ranging from 23 to 44 percent. After the strike, through the end of the hiring wave in 1992, the trainee percentage ranged from 24 to 52 percent.

Only after the wave of post strike controllers progressed to certified professional controllers did the trainee percentage drop below 20 percent. Now that we're back to consistently hiring a large number of new controllers each year, the trainee percentage will naturally return to higher levels. Our hiring plan strives to keep trainees below 35 percent of the controller workforce.

Our staffing ranges provide the number of controllers needed to perform the work and include all position-qualified controllers. Most facilities will be in a period of transition over the next few years and will be staffing with a combination of certified professional controllers (CPCs), CPCs-In Training, and a large number of developmental controllers who are proficient, or checked out in specific sectors or positions. Developmentals have always handled live traffic. In fact, this is a requirement to maintain proficiency as they progress toward CPC status.

Question 3. On how many occasions since being named Acting Administrator have you met directly with National Air Traffic Controller Association officials concerning negotiation of a collective bargaining agreement?

Answer. I have met personally with the senior executives of NATCA on at least one occasion in an attempt to work toward a settlement on the air traffic controllers' contract. In addition, I have discussed contract issues and the resolution of those issues with NATCA's leadership. I have also directed three FAA executives to meet with various NATCA officials to find a common ground and solutions to this dispute. Additionally, Secretary Peters, NATCA President Patrick Forrey, and I have met or talked with leadership from the House Transportation and Infrastructure Committee several times in hopes of achieving a settlement.

Question 4. Are you interested in reaching a voluntary agreement with the air traffic controller employee representatives?

Answer. I would like for every collective bargaining agreement at the FAA to be voluntary and we have achieved two such voluntary agreements with NATCA and NAGE in 2007. However, the negotiations process does not guarantee a voluntary agreement in every instance. In fact, Congress envisioned this when it created the statutory impasse procedures for the FAA. The parties were simply too far apart to reach an agreement on the remaining issues, especially pay. At this point, the FLRA has ruled the FAA bargained in good faith and a legally binding contract exists. That said, I have been working with NATCA in an attempt to settle lingering issues. Although we failed to reach a voluntary agreement, NATCA and the FAA agreed to 101 of the 110 contract articles. Additionally, NATCA submitted two proposals during negotiations dealing with child care subsidies and a student loan repayment program. While these proposals were not adopted during the negotiations process, I am now implementing programs on child care subsidies and student loan repayment for all eligible employees of the FAA and not just NATCA-represented air traffic controllers. We will meet our bargaining obligations with NATCA on these two programs.

My efforts have not stopped there. I have also made two settlement offers to NATCA and am awaiting a response on our latest offer. I will continue the dialogue with NATCA in hopes of reaching a resolution to our differences.

Question 5. Why hasn't FAA published new procedures for overflow arrivals on Newark Airport's Runway 29 that would ensure aircraft separation in the event of lost communications? Did you approve the decision to allow the approach without publishing the new procedures? When will FAA publish these procedures?

Answer. FAA Order 7110.65 prescribes the procedures for visual approaches to multiple runways. At Newark, this order is supplemented by standard operating procedures, a Letter of Agreement with the New York Terminal Radar Approach Control facility, and daily coordination regarding procedures and required spacing between aircraft. In addition, 14 CFR Federal Aviation § 91.185 specifies pilot actions during two-way radio communications failure. Application of these procedures and regulations ensures safe aircraft separation.

I asked representatives from ATO and the office responsible for oversight of air traffic services, Air Traffic Safety Oversight Service (AOV), to review and approve the revised Runway 29 overflow operations. Below is some additional background on the work completed.

In January 2008, Newark Tower and New York Terminal Radar Approach Control (TRACON) personnel met with senior members of the New York District facilities to review overflow operations to Runway 29 at Newark. To enhance safety on the Runway 29 operation, restrictions, conditions, and limits were established. Overflow operations can only be conducted to Runway 29 in visual meteorological conditions, and traffic advisories are issued to all aircraft on approach to Newark. Procedures were approved on the basis that they improve operational safety at Newark and ensure the safe and efficient control of aircraft serviced by New York TRACON and adjacent airports.

A clearer and more comprehensive understanding of responsibilities, roles, and actions emerged for conducting safer overflow operations to Runway 29 at Newark. New York TRACON developed a facility directive for this operation, called "N90 Notice N7110.885, Newark Arrivals to Overflow Runways on Northeast Flow." All managers and operational personnel at New York TRACON were briefed on this notice.

Question 6. Why hasn't FAA published new procedures for updated Standard Instrument Departure (SID) dispersal headings on Newark Airport's Runway 22? Did you approve the decision to allow the new headings to be used without publishing the new procedures? When will FAA publish these procedures?

Answer. No new published procedures were required to implement the dispersal headings that were recently implemented as part of the Airspace Redesign effort because dispersal headings are used throughout the system and are allowed under existing conventional procedures and practices. As part of the implementation, we issued internal procedures (a Tower Order and Letter of Agreement) to address the dispersal headings. We are following up with an amendment to the Standard Instrument Departure (SID) noting additional headings may be assigned when flying the SID. This information will also be communicated via Notice to Airmen (NOTAM) and an automatic terminal information service (ATIS) announcement and will remain in place until new Area Navigation (RNAV) procedures are in place. We have begun the effort to develop RNAV procedures that will augment the use of the dispersal headings. This effort will take up to 18 months.

Question 7. With major changes to the operations in the New Jersey-New York region due to FAA's implementation of its airspace redesign plan, how will you ensure safety levels are not decreased?

Answer. Safety is paramount to the operation of the air traffic system. It has been the cornerstone of my tenure and will continue to be my focus. As you may recall, enhanced safety is one of the objectives for the airspace redesign and procedural enhancements in this vital area of air traffic. We evaluated several indicators of safety as part of the decision process for the airspace redesign.

We continually monitor safety as a day-to-day operational metric and are continuing to adapt and enhance our safety evaluation techniques. The Safety Risk Management process that has been adopted in the last few years serves as a primary mechanism to assessing and mitigating potential safety risks.

Question 8. How will FAA ensure that all pilots and controllers are aware of the new procedures as a result of the agency's NY/NJ/PHL Airspace Redesign project and that they have sufficient training to ensure no safety problems are encountered as a result of the change in procedures?

Answer. As we do with all new procedures and airspace designs, we will ensure that the appropriate levels of training are provided to our workforce. We will continue to work with the aviation community to educate our customers on these changes and to ensure pilot training meets expected levels.

Education and training are two crucial steps in our implementation planning processes. Each stage of implementation will last approximately 12 to 18 months, which will ensure that users and controllers are familiar with the procedures introduced during that stage before additional new procedures are introduced as part of an ensuing stage. We will be applying our Safety Risk Management process to every phase of implementation to identify and mitigate any potential safety risks.

For example, before we implemented the departure dispersal headings at Philadelphia, all controllers were trained and briefed on the procedures over a period of 30 days. In addition, a NOTAM was issued to local operators for pilot education.

Question 9. Please describe in detail the delay reductions FAA expects to occur as a result of each implementation of each stage of the NY/NJ/PHL Airspace Redesign project. What methodology did FAA used to reach its projections, and what alternative methods for addressing airline delays in the New Jersey-New York region has FAA considered and rejected?

Answer. We did not calculate delay reduction for each stage of implementation, but did calculate delay reduction once Airspace Redesign project is fully implemented. The time saved under redesigned operations, compared to a future in which no action is taken, was estimated from the output of simulations of the various possible alternative airspace designs, using state-of-the-art modeling techniques. Appendix C of the Environmental Impact Statement (EIS) gives the details. This document may be found at: *http://www.faa.gov/airports_airtraffic/air_traffic/nas_redesign/regional_guidance/eastern_reg/nynjphl_redesign/feis/appendix.* As described in chapter 2, section 2.3, of the EIS, the FAA considered alternative methods including alternative modes of transportation and communication; increased use of satellite airports; improvements to airport infrastructure; congestion management programs; improved air traffic control technology; and airspace redesign. All but the last were rejected because they did not meet the purpose and need.

Question 10. What assumptions concerning short-term and long-term growth in air traffic in the New Jersey-New York region did FAA make in making its decision to go forward with the NY/NJ/PHL Airspace Redesign project? Do you believe these projections are consistent with other air traffic projections for the region which FAA and the Port Authority of New York and New Jersey have made?

Answer. A specific forecasting effort was undertaken as part of the EIS process. This effort was based on an analysis of the market factors that have historically driven the air traffic demand in the area. Among the factors that it considered were passenger and jet airway demand, schedules, and type of equipment. The forecasts, which were developed early in the project, focused on the 2006 and 2011 planning horizons. As part of our development of these forecasts, we took into account information from other sources such as the Port Authority of New York and New Jersey. These projections were generally consistent with other projections made for the area at the time of the analysis. Additionally, prior to issuing the Final EIS (FEIS), we conducted a sensitivity analysis, which appears at appendix B–2 of the FEIS, to determine whether the project forecasts remained reasonable. They are consistent with forecasts used by other entities to make their own planning decisions. Based on our analyses, the forecast assumptions are accurate, the variations in the forecasts are explainable, and they are reasonable forecasts to rely upon for decision-making.

Question 11. How many annual flight operations at Newark Liberty International Airport does FAA expect in 2009, 2010, 2011, and 2015, and 2020? What is the maximum number of hourly flight operations during peak hours that FAA expects at the airport during these years?

Answer. The latest FAA forecast (released December 2007) is an unconstrained, economic demand projection. Forecast annual flight operations at Newark Liberty International Airport are 465,636 in FY 2009, 476,500 in FY 2010, 487,636 in FY 2011, 535,006 in FY 2015, and 601,172 in FY 2020.

According to a recent study completed by MITRE's Center for Advanced Aviation System Development, which covered the 12 months ending August 2007, the average adjusted capacity for Newark was 83 operations an hour. See 72 *Federal Register* 73418 December 27, 2007).

Question 12. Are you aware of the full cost of the NY/NJ/PHL Airspace Redesign project? How much has the agency spent on the project? How much does the agency believe it will spend on the project in future years, and specifically in FY 2008 and FY 2009?

Answer. The FAA has spent over $53M over the last 10 years on the redesign effort, the majority of that going to the environmental process and to resources to support full participation of the controller workforce in the design effort (backfill overtime and travel). We expect to spend approximately $3M each year in Fiscal Years 2008 and 2009, which are operations costs for developing procedures and training. Future spending plans are being developed along with the planning for each stage of the implementation.

Once fully implemented, we conservatively estimate over $300 million dollar annual savings in direct operating costs.

Question 13. Why didn't FAA complete a cost-benefit analysis before moving forward with the NY/NJ/PHL Airspace Redesign project? Do you believe that the FAA should complete cost-benefit analyses before moving forward with major non-safety-related projects that will affect hundreds of thousands of people? Is FAA conducting a cost-benefit analysis? If so, when will it be made public?

Answer. A cost-benefit analysis was not completed for the Airspace Redesign project, as it was not required as part of the National Environmental Policy Act (NEPA) process. This does not mean we are not aware of the benefits of this project. Once fully implemented, airspace redesign will reduce delays by 20 percent, reduce the number of individuals exposed to noise by over 600,000, and reduce fuel burn.

Question 14. Do you feel that FAA should comply with Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 CFR 19883, April 23, 1997) or Appendix A, Section 16.1b of FAA Order 1050.1E, which specifically require the FAA to focus on the vulnerability of children to noise? In its implementation of the NY/NJ/PHL Airspace Redesign project, has the FAA complied with this Executive Order and FAA order? If not, why not? If so, please state how the FAA has complied.

Answer. We are in compliance with both Executive Order 13045 and FAA Order 1050.1E. Once fully implemented, the selected project would not result in significant noise impacts to any residents including children within the study area. Additionally, the noise analysis included considering noise impacts to schools and parks in the study area. No schools or parks were identified as significantly impacted by the selected project. Last, there would be a net benefit to air quality as a result of the selected project.

Question 15. On May 1, 2007, the FAA promised in a public meeting last year in Tinicum, Pennsylvania, that a comprehensive safety risk assessment of the implementation of the new headings under the NY/NJ/PHL Airspace Redesign plan would be conducted before the new headings were implemented. Were you aware of this promise? Do you believe the FAA should complete this risk assessment before implementing the new headings? Has this risk assessment been completed? If not, has it been made available to the public for comment? Please provide the Committee with the assessment, any comments received, and FAA's course of action?

Answer. I am aware that safety of the implementation of the NY/NJ/PHL Airspace Redesign was, and is, a concern. I am committed, as are all the FAA leaders associated with this effort, to ensuring the highest levels of safety as we implement this important project. Assignment of headings to a departure is a technique that is used by air traffic controllers throughout the country and is a safe procedure. After the partial implementation of the dispersal headings on December 19, 2007, at Philadelphia International and Newark Liberty International Airports, we began developing formal departure procedures using area navigation (RNAV) techniques. On May 1, 2007, at an FAA-sponsored public meeting on the proposed noise mitigation strategies, this issue about a safety review was raised by one of the attendees.

In response, my project manager described the RNAV process and indicated that one of the steps in the development of these procedures is a safety review consistent with the Safety Risk Management process described previously. The safety review is an internal process to the FAA and is not normally distributed to the public for comment. This safety review will be completed for all appropriate elements of the Airspace Redesign.

Question 16. How will the policies you pursue as FAA Administrator differ from policies pursued under Administrator Blakey?

Answer. There's one question that all FAA Administrators wrestle with every day—what can I do to make flying safer? I'll be no different.

If confirmed, I pledge to keep the United States at the forefront of aviation safety. No other nation comes close to matching what we've done to save lives and prevent accidents. In partnership with you and our stakeholders in the private sector, I will work to:

- Continue to improve what is already the safest transportation system in history. My highest priority is safety. I have focused on it throughout my career in the Navy, as a commercial pilot, and at the NTSB and FAA. We are addressing the problem of runway incursions. But that is by no means all. I make a personal commitment to you that the FAA will continue to lead the world in setting the highest standards of safety for the aviation industry.
- Ensure that the FAA has a workforce second to none. We have launched a massive recruitment and training initiative, and have created retention and job enhancement strategies. I intend to make sure that the FAA has the safety professionals, controllers and other experts we need to keep the system safe and efficient. I want to assure you that I will continue to rely on the experts in our workforce and seek their advice on issues ranging from implementation of NextGen to operational safety.
- Address congestion and delay in our aviation system. My vision is that aviation must remain an enabler of economic growth, not a chokepoint. We must expand capacity to meet demand. Our capital programs are on track, and I intend to keep them that way. NextGen is the key to the aviation system's future, and I want to push development as hard as we can. System-wide, we are introducing new technologies ranging from satellite-based navigation and air traffic management to runway lights. We are taking steps to reduce delay at the Nation's most congested airports, with particular focus on New York. Meanwhile, we are working to expand capacity at other airports around the country.

Question 17. Does the FAA use noise assessment models which are consistent with those currently used by the Environmental Protection Agency? If not, why not?

Answer. The responsibility for local, regional, and global aircraft noise impact analyses lies with the FAA, not the Environmental Protection Agency (EPA). FAA thus assumes the responsibility for developing and using aircraft noise assessment models. FAA's model is the *de facto* standard for aircraft noise modeling around the world, with over 1,100 users including 72 countries. If EPA were to conduct an aircraft noise assessment, EPA would use FAA's model.

Question 18. Why does the FAA continue to use the Schultz Curve noise assessment model? Do you believe use of this model accurately portrays air noise exposure by residents?

Answer. The Schultz Curve is not a noise assessment model. It portrays the statistical percentage of the population that is likely to be highly annoyed by various levels of transportation noise, based on a body of social surveys. The Schultz Curve was subsequently reaffirmed by a study done by the U.S. Air Force, and it remains today as the best available approach in use for predicting community reaction to noise exposure.

Question 19. Why does the FAA continue to rely exclusively on the Day-Night sound Level (DNL) noise metric? Do you believe this model effectively accounts for very loud noise exposures?

Answer. FAA uses DNL as the primary metric to quantify noise exposure because there are no other metrics with sufficient scientific standing to substitute for DNL. DNL does account for very loud noise exposure because the calculated DNL level is heavily governed by the loudest aircraft events. FAA also uses other supplemental metrics in addition to DNL on a case-by-case basis. Supplemental noise metrics include single event metrics such as SEL (sound exposure level) and Lmax (maximum sound level), cumulative or time based metrics such as Leq (equivalent sound level), TA (time above), audibility, and SPL (sound pressure level). FAA uses these metrics to help the public understand noise impacts and to develop noise analyses for sleep

disturbance, speech interference, and special areas such as national parks, and for assessing the effectiveness of soundproofing.

Question 20. What is the maximum number of hourly flight operations which can be accommodated at Newark Liberty International Airport, given its current physical layout constraints? Do you believe that the NY/NJ/PHL Airspace Redesign project will allow for more hourly operations than can currently be handled by this airport given its current layout?

Answer. According to a recent study completed by MITRE's Center for Advanced Aviation System Development, which covered the 12 months ending August 2007, the average adjusted capacity for Newark was 83 operations an hour. See 72 *Federal Register* 73418 (December 27, 2007).

The Airspace Redesign project is intended to increase the efficiency of the airspace. To the extent that delays in the airspace have historically resulted in airport delays, increases in airspace efficiency will permit the optimal use of existing airport capacity.

Question 21. Why did the FAA omit noise and emissions mitigation from the NY/NJ/PHL Airspace Redesign project's "purpose and need" statement?

Answer. The FAA complies with NEPA regulations issued by the Council on Environmental Quality (CEQ) with respect to the content and format of NEPA documents. According to CEQ regulations, the Purpose and Need section of a NEPA document explains why the agency is proposing the alternatives, including the proposed action. The redesign of New York/New Jersey/Philadelphia airspace was needed to accommodate aviation growth while maintaining safety and mitigating delays, and to accommodate changes in the types of aircraft using the system. Although reduction of noise was not included in the purpose and need for the project, the FAA recognized that aircraft noise was the major issue raised in agency and public comments throughout the EIS process. During the environmental process, FAA committed to using the various techniques to reduce aircraft noise and other potential environmental impacts, including increasing altitudes, dispersing or concentrating tracks where appropriate, reducing flying time, and routing aircraft over less noise-sensitive areas where feasible. In addition, a reduction in delay will generally equate to a reduction in emissions.

Question 22. Do you believe that the NY/NJ/PHL Airspace Redesign project will increase airport capacity?

Answer. Actually, the project is not designed to increase airport capacity. Airport capacity is a direct result of the available ground facilities at a given airport. Any project that does not directly increase these facilities cannot increase airport capacity.

Similarly, airspace capacity is a direct function of the boundaries and volume of available airspace. Any project that does not increase the volume of airspace cannot increase airspace capacity. A project such as the NY/NJ/PHL Airspace Redesign seeks to use that available airspace capacity in a more efficient way. It does not increase airspace capacity. It does, however, improve efficiency and throughput—resulting in less delay.

Question 23. Do you believe that air quality will be affected by the NY/NJ/PHL Airspace Redesign project?

Answer. The fuel burn analysis conducted for this project showed that when compared to the "No Action Alternative," our redesign would reduce aircraft fuel consumption by approximately 23 million gallons annually or 194 metric tons per average day once fully implemented. This, in turn, reduces emissions.

Question 24. Do you believe it is fair to the residents of the City of Elizabeth to be exposed to substantially more noise in order to gain an additional 1 or 2 operations per hour at Newark airport as a result of the FAA's dispersal headings implemented as part of the FAA's NY/NJ/PHL Airspace Redesign project?

Answer. We do not expect residents of the City of Elizabeth to experience any significant increase in noise at any time as a result of our Airspace Redesign, as documented in the EIS released last year.

Question 25. If confirmed, will you ensure that FAA Order 7050.1 is followed?

Answer. I appointed a permanent Director of Runway Safety and charged him with the task of updating the order and ensuring that it is followed. Compliance with the order will be a performance goal for the Director.

In addition, we have created the Air Traffic Safety Oversight Service (AOV) within the Aviation Safety Organization. AOV is tasked to conduct oversight of the safety of ATO's provision of air traffic services in the NAS. AOV's functions include oversight of ATO's compliance orders and directives. This system of checks and balances will ensure the Runway Safety Order is updated and followed.

Question 26. If confirmed, will you ensure that the FAA prepare an updated national runway safety plan? How will you ensure that this plan is carried out?

Answer. I have directed an update of the National Runway Safety Plan (NRSP) to be published this year. The high level goals and objectives of the NRSP will be included in the FAA's Flight Plan and will be tracked to ensure accomplishment. In addition, the NRSP will have more detailed goals, objectives and initiatives that will be tracked, not only by each FAA Line of Business but also by the Runway Safety Office, and included in executives' performance plans. The plan and results will be briefed as a standing agenda item at our monthly FAA performance meetings. Runway safety is vitally important and I will not let up in demanding compliance with the plan and improvements through reducing the number and severity of runway incursions.

Question 27. What has been your role in overseeing FAA's Office of Civil Rights since arriving at the agency?

Answer. Since arriving at FAA, the FAA Office of Civil Rights (ACR) has received and continues to receive my support and the necessary resources to carry out an effective and efficient Civil Rights Program. The Assistant Administrator for Civil Rights is a member of my Management Board. Under my leadership, we have achieved significant accomplishments in outreach efforts, disabled veteran hiring, and civil rights programs, to name only the most recent efforts below.

Equal Employment Opportunity (EEO):

- On January 24, 2008, I renewed education partnerships with the Organization of Black Airline Pilots (OBAP) and the International Black Aerospace Council (IBAC). The alliances will be of mutual benefit to FAA, OBAP, and IBAC by increasing each organization's outreach outlets and maximizing resources. The agreements help foster the agency's education outreach efforts to underrepresented student populations.
- I have been very supportive of increasing resources for minority recruitment and hiring efforts, as a means to increase diversity at FAA. The strategy we are using is to place emphasis on increasing the applicant pool for people with lower than expected participation rates. As a result, in FY 2007, FAA increased the applicant pool for several minority groups.

I have supported other efforts which have contributed to the efficiency of processing EEO pre-complaints and increasing awareness of EEO responsibilities. These efforts include:

- Using dedicated, full-time EEO Counselors, who were identified from existing resources. This allowed ATO and other lines of business employees to perform mission-critical work, instead of collateral duty counseling. A six-month evaluation revealed a more efficient EEO pre-complaint program.
- Implementing E-filing, an automated "in-take" system, on July 15, 2007.
- Providing training to 5,404 (97 percent) FAA supervisors and managers and 37,338 (96 percent) employees, including bargaining unit employees, on EEO rights and responsibilities and the provisions of the Notification and Federal Employee Anti-discrimination and Retaliation (No FEAR) Act to meet the Office of Personnel Management requirements.
- Developing and implementing a course on appropriate EEO behaviors, in an effort to prepare new FAA hires. In FY 2007, the course was provided to 1,265 employees; 754 new hires and 511 managers and other employees.

Hiring Disabled Veterans Program:

- I have also supported special programs that focus on hiring disabled veterans. In August 2007, we implemented the Veterans Training Program (VTP) for air traffic control specialist (ATCS) and airway transportation system specialist (ATSS) positions. Participants in the program are brought on-board as volunteers under the agency's non-paid work experience provision. Feedback from the Department of Veterans Affairs (VA) on the low participation rate in FAA's VTP revealed that veterans were concerned about the cost of maintaining two households while enrolled in training at the FAA Academy. As a result of this concern, FAA will begin hiring VTP participants as employees under temporary appointments, which will permit the agency to pay the veterans' transportation and per diem while in training at the Academy.
- Under my direction, we are working with the Department of Defense's Operation War Fighter Program and the VA's Coming Home to Work Program to identify and place service members pending discharge from the military. FAA actively recruits veterans who are eligible for appointment under the Veterans

Recruitment Appointment (VRA) Authority. VRA vacancy announcements for air traffic control specialist positions are posted on a monthly basis.

- These efforts have resulted in the FAA workforce statistics showing that the number of veterans with disabilities increased from 4.6 percent in FY 2006 to 5.01 percent in FY 2007; and the number of veterans with a disability of 30 percent or more increased from 1.61 percent in FY 2006 to 1.82 percent in FY 2007.

Airports' Civil Rights Programs:

Another important function that I oversee with ACR is the Civil Rights Programs at Airports. The agency:

- Reviewed 782 plans developed by Airport Grant recipients to ensure equal opportunities for Disadvantaged Business Enterprise (DBE) participation in the Airport Improvement Program (AIP) contracting and concession projects.
- Supported airport sponsors in implementing an airport DBE concession rule by acquainting them with the requirements of the rule and developing guidance documents. This equated to a review of 80 concession DBE goal methodologies for primary airports.
- Supported airport sponsors and DBE's by conducting consultations, training and briefings on the DBE Program, Americans with Disabilities Act (ADA), Title VI, Limited English Proficiency (LEP) and other civil rights regulations so that the aviation community is aware of civil rights requirements.
- Supported participation in many events to further promote the External Program to our airport customers. This past year, FAA co-sponsored a Universal Access Conference which included sessions on the ADA, the Air Carrier Access Act, Universal Design, Emergency Preparedness, and Terminal Transportation. We also co-sponsored with the Airport Minority Advisory Council the third largest aviation conference in the country addressing civil rights requirements at airports.

Question 28. What methodology did FAA use in determining which airport control tower locations would receive the newer-technology Tower Simulation System (TSS)? Why wasn't Newark Liberty International Airport selected as receiving this new system? Will the facility receive the new system? If so, when?

Answer. Newark is not currently scheduled to receive the Tower Simulation System (TSS), but controllers there will be able to benefit from the simulation training offered nearby. John F. Kennedy International Airport (JFK) was picked as the central hub site for the TSS. When the system is used at a "hub" facility, each satellite facility within commuting distance of the hub has a database on file at the hub ready to use for training. This allows one simulator to train developmental controllers at many nearby airports.

The decision to place the TSS at JFK was based on FAA Net Present Value calculations. These calculations took into consideration the number of controllers that were being trained at a given location and the cost to deploy the equipment. When this analysis was completed last fall, JFK was expected to have more new hires than Newark and LaGuardia. Both LaGuardia and JFK were also expected to have more certified professional controllers in training than Newark.

The number of training events over the next several years is the key factor in the hub and a spoke system. Each location needed additional spoke facilities to make the acquisition work. Since none of the other facilities could justify the acquisition and because JFK had the highest net present value, it was chosen to receive the TSS.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER TO HON. ROBERT A. STURGELL

Question 1. As you know, the Philadelphia International Airport is located less than 30 miles from Wilmington, allowing it to provide convenient service to many Delawareans. Yet, this proximity also creates some noise pollution from air traffic over northern New Castle County. What is the current status of noise abatement activity at and around the Philadelphia International Airport? As we expand airport capacity, how do you intend to address noise abatement through the latest technologies?

Answer. The Philadelphia International Airport (PHL) undertook a Noise Compatibility Study in 2002 under 14 CFR Part 150 and developed an 18-point Noise Compatibility Program (NCP). FAA approved that NCP in 2003. Key measures in that NCP include a noise monitoring system and an active residential sound insulation

program. FAA is funding a large portion of the insulation program in accordance with the guidelines we use for similar programs at airports throughout the U.S.

PHL's approved NCP also includes a published noise abatement departure procedure called the PHILADELPHIA SEVEN DEPARTURE SID (Standard Instrument Departure). That procedure routes aircraft over the Delaware River until they reach 3,000 feet, above ground level, when pilots turn on to their planned flight paths. PHL has used this procedure for a number of years and continues to use it at night between the hours of 10 p.m. and 6 a.m. as well as other times during light traffic periods, even with the recent implementation of the NY/NJ/PHL Airspace Redesign Program.

The NCP also recommended implementation of Continuous Descent Arrivals (CDA) at PHL during nighttime hours. This CDA has been studied as part of the selected project of the NY/NJ/PHL Airspace Redesign and will be implemented in a future stage as a mitigation measure. This will be done in accordance with the project's Record of Decision (ROD).

Using FAA funds, the City of Philadelphia is now updating the NCP FAA approved in 2003. During that update, the city will reexamine all of its noise abatement measures in light of the recent extension of the airport's crosswind runway (RWY 17/35) and FAA's implementation of the Airspace Redesign procedures. Those actions should be completed in about a year.

We are also nearing completion of a major Environmental Impact Statement (EIS) for a Capacity Enhancement Program (CEP). In that EIS, we are examining new runway configurations to reduce delays at PHL. Mitigation measures considered under the CEP may well include further expansion of the residential sound insulation efforts already underway. However, it is important to note that FAA has not yet released the Draft EIS for the CEP, so it is uncertain about the mitigation measures that the CEP will eventually include. FAA expects to release the Draft in September 2008.

As for the residents of Delaware, aircraft noise exposure levels throughout northern New Castle County, Delaware, under the CEP out to 2020 and 2025, are well below Federal guidelines for compatible land use. In fact, they are below EPA's recommended 55-decibel level below which there is no reason to suspect that the general population will be at risk from any of the identified effects of noise. The greatest potential for improved noise levels in that area will come from the reduced noise emission levels of new aircraft as they enter the fleet, replacing older, noisier aircraft.

FAA continues to seek ways to abate noise with new technologies and operational procedures. FAA's reauthorization proposal, reflected in the President's FY 2009 budget, includes authorization and funding, to accelerate technologies to make aircraft quieter, cleaner and more energy-efficient. Aircraft operational strategies, such as CDA, are being actively pursued by the FAA to reduce noise, as well as improve air quality. The Administration's reauthorization proposal also includes provisions for demonstrating new technologies and procedures in the airport environment, and strengthening airport environmental research through the Airport Cooperative Research Program.

Question 2. How do you intend to approach the issue of the pending court challenges to the FAA's Airspace Redesign Plan for the New York/New Jersey/Pennsylvania Region? What do you think we can do to strengthen the noise component of the required Environmental Impact Studies—to reflect that noise pollution is indeed an environmental impact?

Answer. We are currently facing twelve legal challenges to the Airspace Redesign project. All challenges are before the U.S. Court of Appeals for the District of Columbia. As the Acting Administrator, it is my responsibility to support legal counsel as they defend the FAA's decision to proceed with the Airspace Redesign project. Beyond this background material, we cannot provide substantive comments on matters in active litigation.

Noise is clearly identified as an environmental impact in FAA's environmental guidance and FAA environmental documents. The FAA currently places emphasis on assessing aircraft noise impacts and mitigating impacts to the extent possible. That was done in the EIS for the Airspace Redesign. We continue to seek ways to improve upon both our assessment and mitigation capabilities.

Question 3. Air traffic controller staff levels are declining at record levels. Not only are more controllers retiring early at age 50, but the retention rate of trainees is dropping. At Philadelphia International Airport, the FAA had formerly authorized 109 controllers. Early last year, the figure was reduced to a range of 71–87 controllers. What was the justification for this reduction? Of the 86 controllers currently at Philadelphia, 25 percent are in training and 25 percent are retirement eligible.

Clearly, this is not a sustainable state of affairs. If you are confirmed as FAA Administrator, what will you do about the air traffic controller staffing shortages at Philadelphia and across the country? Will you work with the controllers to reach a long-awaited labor agreement?

Answer. It is important to understand that the previously authorized staffing numbers for Philadelphia International Airport (PHL) are from a negotiated distribution of a national total controller headcount between the union and the FAA. They do not represent the number of employees needed to staff the facility based on traffic levels at that facility. In fact, the previous staffing agreement referred only to "bargaining unit employees" without reference to certified professional controllers (CPCs), CPCs-In Training, developmental controllers, traffic leads, or other similar factors.

In 2007, the agency developed staffing ranges for all 314 FAA operated air traffic facilities, including Philadelphia, based on the complexity of the airspace, traffic and the number of positions needed to work that traffic.

Philadelphia is an important airport in the NAS and is closely monitored to ensure adequate staffing. But staffing levels are not the only indicator we look at to determine the relative health of a facility. Overtime and training ratios are important too. Our overall system average for overtime is 1.9 percent. Overtime at Philadelphia is currently averaging 0.9 percent (or about 20 minutes a week). The developmental ratio at Philadelphia is also well within normal levels, with a developmental ratio today at about the same level as the ratio was in 2000.

If confirmed as Administrator, I will continue to work with controllers to resolve lingering issues with the 2006 contract. We have made several settlement offers to the National Air Traffic Controllers Association to address key issues raised by the controllers (including new employee pay and raises for senior controllers).

Controller Hiring and Training

We are now overseeing the largest hiring and training initiative that the FAA has undertaken in decades. Last year we hired 1,815 new controllers, and are in the process of hiring a similar number this year. In 2004, we released a comprehensive Controller Workforce Plan that outlines our hiring and training initiatives, and tracks actual retirements as well as projecting future losses. The plan can be found on the FAA website at *http://www.faa.gov*.

It is a real challenge to replace the majority of our controller workforce over the course of 10 years, but it is a challenge that we anticipated and for which we planned. Some of our facilities have staffing challenges and needs. We are working aggressively to stay on top of this challenge through a number of initiatives. These initiatives target retaining existing controllers (retention bonuses), attracting veteran controllers (recruitment and relocation bonuses), and attracting qualified new employees.

For example, to attract qualified new employees, I am expanding the Air Traffic Collegiate Training Initiative (AT–CTI) program again in 2008 to allow new schools to apply. Currently, we have 23 schools in the program—14 original schools and nine new schools added as a result of our FY 2007 solicitation. This will result in more qualified controller applicants for the FAA. My goal is to have up to 35 AT–CTI schools in the program graduating between 2,000–2,500 students per year by FY 2010. I also announced nationwide public sector announcements for air traffic controllers. The last announcement closed on February 15 and generated 4,515 applications.

To expedite processing new hires once they have been selected, I created Pre-Employment Processing Centers, to streamline the processing (medical, security, interviewing, testing, etc.) of new hires. New hires can now come onboard as soon as 3 weeks from when they receive their offer.

Once onboard, we are also ramping up our efforts and initiatives on the training side to accommodate the higher volume of controller trainees. These initiatives include the use of technology and simulation, adding a third shift to our FAA Academy training courses, and streamlining the amount of time it takes for controllers to become certified by making sure training remains a priority.

Our current and future success is all about our people. Their continued professional commitment to safety and performance is critical to the FAA meeting its goals.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. KAY BAILEY HUTCHISON TO HON. ROBERT A. STURGELL

Question. The FAA is currently operating under a partial extension which is set to expire on February 29. Could you describe the short and long-term implications of allowing that extension to expire? Specifically, what impact would it have on the airport improvement program and your modernization efforts?

Answer. I am pleased that Congress has acted to pass an extension of our authorities—this time until June 30th, which the President signed into law on February 28, 2008. The FAA will conduct normal operations through the June 30th deadline, including being able to provide Airport Improvement Program (AIP) grants. As you know, prior to the passage of this latest extension, we have been unable to make any new AIP grants this fiscal year.

However, I must note that these short-term extensions are certainly not a good way to manage our agency programs. I understand the difficulties of the legislative agenda and the challenges involved in completing action on a multi-year aviation reauthorization bill but I believe that the prudent path is to complete reauthorization. It is in the best interest of aviation safety and efficiency to avoid further short-term extensions of our programs.

At the end of June we will once again face the prospect of significant disruptions to our day-to-day operations. FAA will not be able to spend any funds from the Airport and Airway Trust Fund (AATF), including from the uncommitted balance. Approximately eighty-four percent of the FAA's FY 2008 budget is funded from the AATF. This will have very serious consequences and impacts for the FAA's AATF-appropriated accounts, including the AIP, Facilities & Equipment (F&E), and Research, Engineering & Development (RE&D) accounts, along with the Trust Fund portion of the Operations account. Most notably, our airports, facilities and equipment and research personnel would be immediately sent home, and our remaining personnel would follow after funding provided by the General Fund has been fully obligated.

After June 30, the authority to collect most aviation-related excise taxes that provide approximately 95 percent of the Trust Fund's revenue will lapse. The uncommitted balance in the Trust Fund (approximately $1.5 billion at the close of FY 2007), which could only be tapped if Trust Fund expenditure authority is extended, is insufficient to sustain FAA operations beyond a few months and a lapse in the collection authority could very quickly begin to impact FAA's operations.

Without access to capital funding from the Trust Fund, we would also be unable to make any new AIP grants after June 30.

I strongly urge the Congress to avoid yet another short-term extension. We remain ready to work with this Committee and others in Congress to enact a full-fledged reauthorization proposal that is consistent with the key principles the Administration has put forth for a stable, transparent, cost-based funding structure. These reforms should better align costs and revenues, treat all stakeholders fairly and provide dedicated funding to enable our aviation system to transform to NextGen so that it may meet ever increasing and changing demands in the most safe and efficient ways possible.

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