

**NOMINATIONS TO THE AMTRAK REFORM BOARD,
FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION, NATIONAL TRANSPORTATION
SAFETY BOARD, AND THE
DEPARTMENT OF TRANSPORTATION**

HEARING

BEFORE THE

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

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

—————
JUNE 8, 2006
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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**NOMINATIONS TO THE AMTRAK REFORM
BOARD, FEDERAL MOTOR CARRIER
SAFETY ADMINISTRATION, NATIONAL
TRANSPORTATION SAFETY BOARD, AND
THE DEPARTMENT OF TRANSPORTATION**

THURSDAY, JUNE 8, 2006

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

The Committee met, pursuant to notice, at 2:30 p.m. in room SD-562, Dirksen Senate Office Building, Hon. Ted Stevens, Chairman of the Committee, presiding.

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

The CHAIRMAN. Thank you, we're sorry for the votes that have interrupted our schedule and appreciate your waiting. Now, we're going to hear from five of the present nominees for various transportation positions. We welcome you, the first we'll hear from will be Senator Carper to introduce Mr. Biden for the Amtrak Board. [The prepared statement of Senator Stevens follows:]

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

This afternoon the Committee will hear from five of the President's nominees for various transportation positions. The Committee welcomes each of you.

Hunter Biden and Donna McLean have been nominated for the Amtrak Reform Board, and would serve for 5 years if confirmed. Amtrak is a controversial topic of discussion for this Committee, and I look forward to hearing what fresh ideas each of you will bring to the Board. Senator Carper will introduce Mr. Biden, and Senator Lugar has requested that a statement in support of Ms. McLean be placed in the record.

John Hill has been nominated to be Administrator of the Federal Motor Carrier Safety Administration. The FMCSA's principal mission is to reduce the number of crashes, injuries and fatalities involving large trucks and buses. Senator Lugar also has submitted a statement for the record in support of Mr. Hill.

Mark Rosenker, who has been with the National Transportation Safety Board for 3 years, has been nominated to be Chairman of the NTSB. Mr. Rosenker has been the Acting Chairman since March 2005 and a Member of the NTSB since 2003.

The work of the NTSB has been especially significant to Alaska. My state lies under 20 percent of the airspace in the U.S. system, contains over 20,000 pilots, and nearly 10,000 registered aircraft. Because of the sheer number of aircraft and the weather challenges, Alaska has experienced twice as many accidents than the Lower 48. The role of the NTSB is crucial to improving our safety rate. The Committee welcomes Congressman Issa this afternoon, who will introduce Mr. Rosenker. Senator Allen has requested that a statement in support of Mr. Rosenker be included in the record.

Andrew Steinberg has been nominated to be Assistant Secretary for Aviation and International Affairs within the Department of Transportation. If confirmed, Mr. Steinberg would be responsible for the development, articulation, and review of policies for economic issues in domestic and international transportation.

I have been notified that many of the nominees have family in attendance today, and I hope the nominees will take a moment to introduce their respective family members to the Committee when they come to the table.

**OPENING STATEMENT OF HON. THOMAS R. CARPER,
U.S. SENATOR FROM DELAWARE**

Senator CARPER. Thank you very much, Mr. Chairman and to Senator Burns and your colleagues. Today my oldest son Christopher came to Washington with family including one of his colleagues from a high school he just graduated from last week. During the course of lunch and the time on the Hill, they met a lot of our Senators who've seen my boys grow up over the years through our Christmas cards and everyone remarked how big he's gotten to be, and he's tall, he's like 17 years old and he's taller than his dad and I think a whole lot smarter, too. They marvel at how quickly these children grow up—is this the little boy that I remember that was born when you were in the House of Representatives? I said, yes he is.

Our children grow up and oftentimes, they make us mighty proud. Today, I'm privileged to introduce the son of one of our colleagues, Joe Biden, who's here today along with his wife, Jill to support Hunter Biden. Hunter's joined by his wife and children and other members of the family.

Hunter Biden is a native Delawarian and I would go on to say that he's also been nominated to serve on the Amtrak Board of Directors. When Hunter was unable to get into the University of Delaware, he instead went on to Georgetown and then to Yale Law School and managed to get through those OK. He's ended up being Senior Vice President at MBNA one of the largest financial institutions in the country. He served as Executive Director of Economy Policy Coordination at the U.S. Department of Commerce. About 5 years ago he went off and formed a law firm here in Washington, D.C., and now they represent over 100 clients including a bunch of non-profit organizations and educational institutions.

More specifically, though, and for our purposes and for the purpose of this nomination, Hunter Biden has spent a lot of time on Amtrak trains. Like his father, like our Congressman, Mike Castle and myself, Hunter Biden has lived in Delaware while using Amtrak to commute to his job as we commute to our job in Washington almost every day of the week. You know, you learn a lot about what could work and what would work better at Amtrak by riding trains and talking to the passengers, the commuters, the passengers, the folks who work on the trains and make them work every day. You also have a chance to see the huge economic benefit the region receives from having a strong passenger rail corridor, something that should be available in a lot of other parts of our country.

The second reason I am pleased to see this nomination move forward is I believe it shows a beginning to move back toward a bipartisan direction at least with respect to this particular board. The Amtrak Board has traditionally had both Democratic and Repub-

lican members, but for the past several years, it has been partisan and it has been incomplete.

Last November, my colleagues recall that 93 members of the Senate, supported Amtrak reauthorization, legislation introduced by Senator Lautenberg, co-sponsored by myself, and I know many Members of this Committee. We saw that Amtrak has strong bipartisan support. Passenger rail, like highways and airports, is not a partisan issue and shouldn't be a partisan issue and it's a mode of travel that we believe is gaining popularity in a time when commuters are being pinched by high gas prices and frustrated with highway and airport congestion.

Finally, as we confirm a full, bipartisan Board at Amtrak, that Board will be more able to take on the difficult issues that face Amtrak, from tackling long-deferred maintenance, modernizing the system nationwide and addressing demand for new and expanded service across the country on already stretched freight tracks. A full bipartisan Board that has been duly confirmed by this Senate will have the credibility needed to take on these challenges and move Amtrak and our country into the 21st century. And while we are tackling these challenges, it will be comforting for the millions of Amtrak riders and commuters to know that one of their own, Hunter Biden, will be on the Board of Directors.

And, if I could just say it's a point of personal privilege, I have been privileged to have lived in Delaware since 1973, since I got out of the Navy, and Joe Biden was one of the first people I met when I arrived there. I've known his sons for literally all of their adult lives. He and Jill have raised two boys and a girl that any of us would be proud to call our own and I am. It's deeply a privilege to sit here today before them and before you to be able to offer him as our candidate from Delaware to serve on this board. Thank you.

The CHAIRMAN. Thank you very much, Senator, for coming. Congressman Issa, you have a person to introduce?

**STATEMENT OF HON. DARRELL E. ISSA,
U.S. REPRESENTATIVE FROM CALIFORNIA**

Congressman ISSA. I do, thank you, Mr. Chairman, thank you, Senator Inouye and Members of the Board. It gives me great pleasure to introduce my dear friend and a great public servant, Mark Rosenker who has been nominated by the President to be Chairman of the National Transportation Safety Board.

Since his first confirmation more than three and a half years ago, he has demonstrated himself as a highly qualified and energized member and leader of this critically important Federal agency. Before I talk more about my friend, if you don't mind, a point of privilege also, his wife Heather is here with us today and among her many sacrifices, she has seen him trot all over the country in fulfilling both his board seat and as the Acting Chairman of the National Transportation Safety Board. He has been away a lot and been very proactive and I appreciate her sacrifice up to date and obviously with your indulgence, his continued sacrifice. I know that he also has family and friends here today that are also looking forward to this event, one that he has earned over a lifetime of public service.

During his tenure at the National Transportation Safety Board, Mark has brought a wealth of management and advocacy experience to the Board. You may not know that General Mark Rosenker has 37 years of Reserve and active duty. It's Major General Rosenker who has been decorated with the Distinguished Service Medal, Legion of Merit, and two Meritorious Service medals. In his role as a General Officer and before that, up through the ranks, he has been involved in exactly the skill building that you need to have here, organizational activities to prevent mishaps and then, if necessary, to be the face and the leader to deal with the inevitable that will eventually happen when there has been a problem. He is able to calmly enter the scene, make the statements, bring about the people to correct and to minimize that damage. I think that's a unique combination of private sector and military experience that first led to President Bush appointing Mark to be the Deputy Assistant to the President and Director of the White House Military Office on the first day of the Bush Administration.

In that senior staff position, Mark was the principal advisor for all military support of the White House, which includes policies, personnel, plans involving DOD assets such as Air Force One, Marine One and White House transportation, and although he never took me there, Camp David. After serving nearly 2 years, I don't know if he did that for either of you, but I'm hoping you'll confirm him anyway, but after serving—don't go there Heather—after serving nearly 2 years at the White House, President Bush nominated Mark to be a member of the National Traffic Safety Board and since his confirmation by the Senate in March of 2003 and then again in December of last year, President Bush twice designated him to serve in the role as Vice Chairman. And since March of last year, March of 2005, Mark has been serving with distinction as the Acting Chairman.

During his time at the Board, Mark/Mr. Rosenker/General Rosenker has been a strong and outspoken advocate for transportation safety particularly one of his passions that he has been focused on and I believe he will accomplish, is working to minimize injuries and fatalities rather than simply mitigating the results. His leadership has earned him the Recreational Boating and Safety Issues Award, from the National Safe Boating Council. Additionally, he has been recognized in the aviation industry and if I can particularly focus on the aviation industry, one of Mark's passions has been to get the youngest among us, the under 2 years old, who presently are not in seatbelts on aircraft, into seatbelts. That's an admirable effort, one that's long overdue for general aviation and I believe that, given his confirmation, that is an area of safety that he will be proactive in minimizing accidents that often happen when it's nothing but a disturbance in the air.

I would ask that the rest of my statement be put into the record, since I want to respect the clock, but I have known Mark Rosenker and General Rosenker for going on 20 years. I've known him in the private sector and in his public duties, both as a military officer and in his work in the White House. We are very lucky that he has been standing in as the Acting Chairman and I believe that if he's confirmed, he will serve with distinction not previously seen in that role.

And I thank you.
[The prepared statement of Congressman Issa follows:]

PREPARED STATEMENT OF HON. DARRELL E. ISSA,
U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. Chairman, Members of the Committee, it gives me great pleasure to introduce to you a very dear friend and a great public servant who has been nominated by President Bush for Chairman of the National Transportation Safety Board.

Since his first confirmation more than three and a half years ago, he has demonstrated himself to be a highly qualified and energized member and leader of this critically important Federal agency. Before I talk more about Mark, I'd like to introduce his wife Heather. I'd also like to welcome many of Mark's friends and colleagues who have come to show their support for him as well.

During his tenure, Mark has brought a wealth of management and advocacy experience to the board. With more than 37 years of active and reserve duty in the Air Force, Mark has risen to the rank of Major General. His decorations include the Distinguished Service Medal, Legion of Merit, and two Meritorious Service medals.

Because of his unique combination of private sector and military experience, President Bush appointed Mark to be a Deputy Assistant to the President and the Director of the White House Military Office on the first day of his administration.

In this senior staff position, Mark was the principal advisor for all military support to the White House, which included policies, personnel and plans involving DOD assets such as Air Force One, Marine One and White House transportation, just to name a few.

After serving nearly 2 years at the White House, President Bush nominated Mark to be a member of the NTSB. Since the Senate first confirmed Mark in March of 2003 and then again in December of last year, President Bush has twice designated him to serve in the role of Vice Chairman. And since March of 2005, Mark has been serving with distinction as the Acting Chairman.

During his time at the Board, Mark has been a strong and outspoken advocate for transportation safety. Mark has focused his attention on the prevention of accidents, injuries and fatalities, rather than just mitigating the results.

For his leadership role in recreational boating safety issues, the National Safe Boating Council presented Mark with their highest honor, the Confluence Award. This award is traditionally given to Members of Congress and Mark is one of a few executive branch people to receive this award.

The aviation industry acknowledges his leadership role in the challenging issue of preventing runway incursions. He has been outspoken in attempting to get the FAA to require that all children under the age of two be secured by safety belts while flying.

Mark has seen significant changes and advancements in transportation safety and technologies since beginning his advocacy career over 30 years ago representing the American Safety Belt Council, the Motorcycle Safety Foundation and the Safety Helmet Council of America .

Mark tells me that when he began talking about safety belt use laws in the early 1970s, less than 5 percent of the American people used their safety belts, and there were not state laws requiring their use. Contrast that to the recent announcement from the Department of Transportation, that 82 percent currently wear their belts with 49 states having some form of law to require their use.

Clearly Mark has demonstrated that he is capable and enthusiastic about the board and its mission.

Once again, I am proud to introduce my good friend Mark Rosenker and I urge all of you to support his nomination as Chairman of the National Transportation Safety Board.

The CHAIRMAN. Thank you very much Mr. Issa. And we thank you very much and we'll excuse you now and we'll ask that the five nominees come to the table—Mr. Biden, Mr. Hill, Ms. McLean, Mr. Rosenker and Mr. Steinberg.

Now, thank you, the Co-Chairman is here, I don't know if he has an opening statement.

**STATEMENT OF HON. DANIEL K. INOUE,
U.S. SENATOR FROM HAWAII**

Senator INOUE. Mr. Chairman, I thank you very much for this opportunity to congratulate all of the nominees that have been selected to serve in positions that are very critical to our transportation system. I ask that the rest of my statement be made part of the record.

[The prepared statement of Senator Inouye follows:]

PREPARED STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII

I want to congratulate each of the nominees. You have been selected to serve in roles that are critical to the future of America's transportation system.

From transportation safety to national aviation policy, the work you will perform at each of your respective agencies, should you be confirmed, will help ensure that America's renowned transportation system continues to support our vibrant economy and our great tradition of efficient travel and mobility.

The position each of you has been appointed to comes with unique challenges:

- The Chairman of the National Transportation Safety Board (NTSB) must enhance the Board's management, refocus the use of the Academy, and ensure that reports are issued in a timely manner, all while preserving the Board's high-caliber investigative work.
- Amtrak Board Members must continue the progress made by former President David Gunn, and create an efficient and effective national passenger railroad. Board members also must work with the Congress to reauthorize the railroad, gain stable and adequate funding, and promote new investments that will unlock the promise of rail service in new corridors.
- The Assistant Secretary for Aviation and International Affairs faces an industry that has struggled for the past few years, but also is full of opportunity and potential growth. It is critical that the nominee work with the Congress to produce solutions that help the country navigate an increasingly global transportation network.

In recent interactions with the Federal Aviation Administration (FAA) regarding labor contracts the Administration has not been particularly forthcoming with the Congress. The Department also made significant missteps with its rulemaking on foreign control of U.S. airlines. I urge the nominee to communicate directly and consistently with this Committee. It will help all of us serve the public more effectively. Add to these challenges the government-wide, budget restraints brought on by historic deficits and the demands to improve safety and mobility, your work becomes even more challenging.

I thank each of you for your commitment to public service and look forward to hearing your perspectives today as we examine your credentials and views. Should you be confirmed, I can assure you that we will be in touch regularly.

The CHAIRMAN. I apologize, does any other Member have a statement to make and I'd ask that my opening statement be put in the record. All right, Senator Lautenberg?

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

Senator LAUTENBERG. Yes, Mr. Chairman, I'll be brief. These are critical jobs that are to be filled here, and these are very good candidates. Of course, when someone says that to you, and you've been around here long enough to know better, they'll usually say something pleasant before the rest comes. But in any event, I really do believe that we have some outstanding people here. I just wanted to raise a question—and I don't want to pick on anybody in particular, Mr. Chairman—but let me start with Mr. Hill's thoughts on several issues. I'd like to hear about them, regarding, as a result of the job that he has held, the size and weight of trucks, particu-

larly since Secretary Mineta commented last week that he'd consider expanding the use of triple trailer vehicles. So I want to help you prepare yourself for the question, Mr. Hill.

And I would hope that the Nation's top truck safety advocate wouldn't be advocating a change that might include some new safety risks on the road.

In terms of my interest, as you know very well, Mr. Chairman, I think everybody pretty much does when it comes to Amtrak, I'm glad to see that we're going to be filling two of these posts and look forward to having a chance to chat with them. I thank you, Mr. Chairman, for your ever dutiful response to issues that we're concerned about and this hearing is one of them. Thank you.

The CHAIRMAN. Thank you very much, so what we intend to do is to go through each member and as you're introduced and we hear from you, we hope that you will start off by introducing your parents and family with you, some famous some infamous and some you don't want to introduce anyway, but do it, well, do it. That means that we're starting with Hunter Biden and Donna McLean, who have been nominated to the Amtrak Reform Board and will serve for 5 years if confirmed. It is a controversial subject of discussion for this Committee, and I'm sure that you'll have some questions as we go forward.

Senator Carper has introduced you, Mr. Biden and Senator Lugar has sent a statement in support of Ms. McLean. I've known you longer than you've been alive, Hunter, so if you want to introduce your family, and I think you can ignore your dad, I think we know him.

Mr. BIDEN. Thank you, Mr. Chairman. My mother is sitting right here, Jill Biden, my oldest daughter, Naomi is right here, my youngest daughter, Maisy, who's sleeping, or she just woke up, my wife Kathleen, and in my dad's lap, my middle daughter, Finnegan Biden. Thank you.

The CHAIRMAN. Thank you very much. Well, do you have a statement for us, Mr. Hunter?

**STATEMENT OF R. HUNTER BIDEN, NOMINEE TO BE A
MEMBER OF THE AMTRAK REFORM BOARD**

Mr. BIDEN. Yes, I do, Mr. Chairman, thank you. Mr. Chairman, Mr. Co-Chairman, Members of the Committee, I am honored to appear before you today, and I am honored that President Bush has nominated me to be a Member of the Amtrak Reform Board. Amtrak touches so many facets of so many Americans lives, and if confirmed, I look forward to working with the Members of this Committee and the Congress to make sure that Amtrak continues to play that important role to so many people who rely on it daily. I see this appointment as a great opportunity to help turn around what can and must be a key component of our transportation system. What should be one of our success stories; right now it is one of our biggest challenges.

I believe that my experience in government, at the U.S. Department of Commerce working for both Secretary Daley and Secretary Mineta, and in the private sector, in both banking and the law has prepared me well for this position. At the same time, as a frequent commuter and Amtrak customer for over 30 years, I have literally

logged thousands of miles on Amtrak. I hope that I can bring my perspective to the Board as one of the millions of customers who ride and depend upon Amtrak every day. It has been through my experience as a customer that I have developed a deep respect for the organization and its employees, and I know how much they believe in and are committed to making Amtrak a safe and reliable service. It is also as a longtime Amtrak customer that I know first hand some of the many problems Amtrak faces as an organization.

Working together, I believe that Members of the Board, Members of Congress, the Administration and the employees of Amtrak can overcome many of the issues intercity rail faces today. If confirmed, I look forward to being a part of that discussion and look forward to the challenge. Amtrak is too important to our economy for it not to be in the best financial health possible. I take the fiduciary responsibility required by the Members of the Board very seriously, and believe that above all else that the American people expect that its national rail system be run as safely, efficiently and cost-effectively as possible.

I also recognize that Amtrak affects, and is affected by, many of the most important issues of the day. In an era of mounting energy concerns in which driving a car is getting more and more expensive, intercity rail must be part of the solution. A healthy national passenger rail system can provide millions of commuters with a reliable and hopefully, cost-effective alternative to other forms of transportation. In addition, I believe that in the 21st Century a robust, cost efficient national passenger rail system is a necessity, and that you can not look at the energy and environmental issues facing our country today without looking at intercity rail and Amtrak as a part of the solution.

Finally, if confirmed, I particularly look forward to working with the Members of this Committee and the Congress to ensure that Amtrak is an integral part of our homeland security strategy. I believe that it is imperative that Amtrak work closely with Federal and local law enforcement to make sure that our commuter rail system is safe from terrorist attack. I hope to have the opportunity to work with the Members of this Committee and the Congress to solve some of these challenges facing Amtrak and I want to thank you for the opportunity to appear before you and I welcome any questions the Committee may have. Thank you.

[The biographical information of Mr. Biden follows:]

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Robert Hunter Biden.
2. Position to which nominated: Amtrak Reform Board.
3. Date of Nomination: May 16, 2006.
4. Address (List current place of residence and office addresses):
Information not released to the public.
5. Date and Place of Birth: 02/04/1970; Wilmington, DE.
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).
Kathleen Biden, Mother.
Naomi James Biden, Age 12.
Finnegan James Biden, Age 5.
Roberta Mabel Biden, Age 7.

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

Georgetown University, BA, 1992.
Yale Law School, JD, 1996.

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

As a Senior Vice President at MBNA America, I worked in several executive management roles, including managing an investigative unit of the consumer fraud division and management of all external and internal "Y2K" communications. As Executive Director of E-Commerce Policy Coordination at the U.S. Department of Commerce, I was responsible for managing and coordinating the communication and implementation of Department and Executive Office E-Commerce policy initiatives within the Office of The Secretary. Finally, since founding a law firm 5 years ago, I, along with one other partner, have built a firm that now has fifteen employees, 10 partners, and represent over 100 clients.

9. 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: N/A.

10. 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.

Oldaker, Biden and Belair, LLP—Partner
The National Group, LLP—Partner
Owasco, P.C.—Proprietor
LBB Holdings U.S.A.—Managing Member
National Prostate Cancer Coalition—Member, Board of Directors

11. 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.

Fieldstone Country Club, Wilmington, DE (12/2001–8/2003)
The Club has no restrictive policies.
Yale Club, NY, NY—no restrictions.

12. Have you ever been a candidate for public office? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

13. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of 5500 or more for the past 10 years.

Political Committee	Candidate	Date	Amount (in \$)
Mark Pryor for U.S. Senate	Mark Pryor	02/05/02	1,000
Mark Pryor for U.S. Senate	Mark Pryor	02/05/02	1,000
Friends of Barbara Boxer	Barbara Boxer	06/26/02	1,000
Friends of Barbara Boxer	Barbara Boxer	06/26/02	1,000
Ron Kirk for U.S. Senate	Ronald Kirk	09/24/02	500
Wofford for Congress	Daniel B Wofford	09/24/02	1,000
Jean A Carnahan PAC		10/31/02	1,000
Friends of Barbara Boxer	Barbara Boxer	03/31/03	1,000
Friends of Barbara Boxer	Barbara Boxer	03/31/03	1,000
Daniel K Inouye for U.S. Senate	Daniel Inouye	06/27/03	1,000
TOM PAC		12/01/03	2,500
TOM PAC		12/15/03	1,000
Citizens for Arlen Specter	Arlen Specter	01/22/04	1,000
New Leadership for America PAC		02/09/04	1,000
Carnahan in Congress	Russ Carnahan	03/29/04	2,000
Chris John for U.S. Senate	Chris John	03/30/04	500
Case for Congress	Edward Case	06/30/04	500
Jesse Jackson JR for Congress	Jessie Jackson Jr.	07/02/04	1,000

Political Committee	Candidate	Date	Amount (in \$)
Vermont Victory 2004	Leahy for U.S. Senate	09/20/04	500
Carnahan in Congress	Russ Carnahan	11/18/04	1,000
Cantwell 2006	Maria Cantwell	01/28/05	500
Searchlight Leadership Fund		02/17/05	500
Tom Lantos for Congress	Tom Lantos	05/05/05	1,000
Friends of Robert C. Byrd	Robert Byrd	06/30/05	1,000
Carnahan in Congress	Russ Carnahan	06/30/05	2,100
Stabenow for U.S. Senate	Debbie Stabenow	09/30/05	1,000
Bob Casey for Pennsylvania	Robert Casey	11/08/05	2,100
Ben Cardin for Senate	Benjamin Cardin	12/05/05	500
John D. Dingell for Congress	John Dingell	12/14/05	500
Harold Ford for Senate	Harold Ford	05/17/06	1,000
Sheldon Whitehouse for Senate	Sheldon Whitehouse	05/24/06	4,200
Total			34,900

14. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements: N/A.

15. Please list each book, article, column, or publication you have authored, individually or with others, and 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: N/A.

16. Please identify each instance in which you have testified orally or in writing before Congress in a non-governmental capacity and specify the subject matter of each testimony: N/A.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

I will remain a partner of Oldaker, Biden and Belair, LLP; remain proprietor of Owasco, P.C.; remain Managing Member of LBB Holdings USA LLC; and remain on the Board of Directors of the National Prostate Cancer Coalition. In addition, I have an agreement of compensation for prior work with the law firm of Krupnick, Campbell; and will serve as interim CEO of Paradigm Global Advisors (a fund that invests in hedge funds that LLB holdings is currently looking at acquiring).

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

I will remain a partner of Oldaker, Biden and Belair, LLP; remain proprietor of Owasco, P.C.; remain Managing Member of LBB Holdings USA LLC; and remain on the Board of Directors of the National Prostate Cancer Coalition. In addition, I have an agreement of compensation for prior work with the law firm of Krupnick, Campbell; and will serve as interim CEO of Paradigm Global Advisors (a fund that invests in hedge funds that LLB holdings is currently looking at acquiring).

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: N/A.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 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: I know of none.

5. Describe any activity during the past 5 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.

As a registered lobbyist I have lobbied on behalf of not-for-profit Universities and Hospitals seeking Federal appropriations dollars.

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

I will notify Amtrak's General Counsel immediately of any potential conflicts of interest and find a way to resolve them.

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? 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.

In June 1988, I was cited for possession of a controlled substance in Stone Harbor, NJ. There was a pre-trial intervention and the record was expunged.

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? No.

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

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination:

N/A.

6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? No.

D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

The CHAIRMAN. Thank you very much, we'll now turn to you Ms. McLean, Senator Lugar has, as I said has sent his statement here, he's involved in another briefing right now and I'll read it for the information for those who are here.

He indicates he is pleased to have the opportunity to introduce you to this Committee and states that you've had many years of experience in Federal Government, specifically working at Transportation Policy. After receiving your Bachelor's and Master's degree from Indiana University School of Public and Environmental Affairs, you joined the U.S. Department of Transportation as a Program Analyst, you've built your background in transportation to become a Budget Examiner on transportation issues at the Office of Management Budget. From 1993 to 1999, you served as a staffer on the House Committee on Transportation and Infrastructure, and after 2001 you've been nominated to serve as Assistant Secretary for Budget Programs and Chief Financial Officer for the U.S. Department of Transportation.

You served also, as the Program Manager and lecturer for the Indiana University's School of Public and Environmental Affairs, Washington Leadership Program and you served as a teacher and mentored several students who interned in Senator Lugar's office and on the Senate Committee of Foreign Relations staff. I'm told that you're joined today by your husband and two daughters, would we please have you introduce them.

Ms. MCLEAN. Thank you, yes. I'm here with my husband, Marcus Peacock and my two daughters, May and Iona, who are nine, and my sister, Robin, Miles McLean and my niece Hailey.

The CHAIRMAN. Thank you very much, we'll print this representation of Senator Lugar on the record before, instead of what I said, but was pleased to hear from you.

**STATEMENT OF DONNA R. McLEAN, NOMINEE TO BE A
MEMBER OF THE AMTRAK REFORM BOARD**

Ms. McLEAN. Well, thank you, Mr. Chairman and members of the Committee. It's an honor for me to appear before you today and to have been nominated by President Bush to serve on the Amtrak Reform Board. If confirmed, I look forward to working closely with this Committee on Amtrak issues.

All of my career, including 15 years of Federal service, I have focused on transportation policy. Over these years, we have all seen transportation, our transportation systems become more and more congested. More recently, we've seen a significant leap in oil prices. It's unclear how the increasing transportation congestion, along with the increase in fuel prices will reshape our transportation system.

However, these dynamics mean that the viability of our inter-city passenger rail system is more important than ever. If confirmed, I look forward to helping Amtrak better position itself to play an improved role in our transportation network. Amtrak, the business, has made some significant strides over the past several years. Amtrak is now following generally-accepted accounting principles, Amtrak is investing more in its capital needs, Amtrak is focused on improving on-time performance, and Amtrak's ridership is growing. Amtrak is working daily to improve its service.

If confirmed, I pledge to work closely with this committee, to strive for a more effective and efficient Amtrak. Thank you again for asking me to appear before you today, and I will be happy to answer any questions you might have.

[The biographical information of Ms. McLean follows:]

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Donna Rae McLean.
2. Position to which nominated: Member of the Amtrak Reform Board.
3. Date of Nomination: May 16, 2006.
4. Address (List current place of residence and office addresses):
 Residence: information not released to the public.
 Office: 300 Independence Ave, SE, Washington, DC 20003.
5. Date and Place of Birth: July 9, 1964; St. Louis, Missouri.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
 Husband: Marcus C. Peacock, Deputy Administrator, U.S. Environmental Protection Agency.
 Daughter: Iona Rae McLean, 9 years old.
 Daughter: Mey Rose McLean, 9 years old.
7. List all college and graduate degrees. Provide year and school attended.
 May 1986, BA, Political Science and Anthropology, Indiana University.
 May 1989, MPA, Public Finance and Policy Analysis, Indiana University, School of Public and Environmental Affairs.

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

Assistant Secretary for Budget and Programs and Chief Financial Officer, U.S. Department of Transportation (May 2001 to September 2003).

Assistant Administrator for Financial Management, U.S. Federal Aviation Administration (August 1999 to May 2001).

Professional Staff Member, U.S. House of Representatives, Transportation and Infrastructure Committee, Aviation Subcommittee (February 1993 to August 1999).

Budget Examiner, U.S. Office of Management and Budget.

9. 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.

Working on a PriceWaterhouseCoopers contract for consulting services for the National Transportation Safety Board.

Working on a project with The Staubach Company for consulting services for the Department of Homeland Security.

Working on a project with BAE for consulting services for the Federal Aviation Administration.

Working on a project with Cornerstone Government Affairs, LLC with the city of Springfield and the Springfield/Branson Airport, MO.

August 2004, I served on a Presidential Emergency Board (No. 238) investigating the dispute between Southeastern Pennsylvania Transportation Authority and the United Transportation Union—it was settled by the two parties without Board action.

10. 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.

Donna McLean Associates, LLC, owner since September 2003.

Indiana University, Adjunct Professor, School of Public and Environmental Affairs, Washington Leadership Program (January 2004 to present).

Current consulting contracts with the following companies: The Boeing Company, PriceWaterhouseCoopers, Project ACTA.

Recent consulting contracts with The Staubach Company, Unite Alliance, and BAE.

Past consulting contracts with: The National Business Aviation Association, EDS, Fund for American Studies.

11. 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.

Member of the Board of Visitors, Indiana University, School of Public and Environmental Affairs, current since 2003.

AERO Club Member since 2004.

Member of the Board of Capital Hill Arts Workshop, Capital Hill Youth Chorus since 2004.

Girl Scout Leader since 2004.

12. Have you ever been a candidate for public office? No.

13. 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.

3/05—\$500, Friends of Conrad Burns.

6/05—\$1,000, Knollenberg for Congress Committee.

4/05—\$1,000, Hal Rogers for Congress.

8/04—\$500, Hal Rogers for Congress.

4/04—2,000, Bush-Cheney 2004 Inc.

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

U.S. Department of Transportation 911 medal; awarded "For Service and Sacrifice to the United States of America During and After the Tragic Events of September 11, 2001."

Selected by the School of Public and Environmental Affairs at Indiana University as the Alumni of the Year; 2001.

National Academy of Sciences, Transportation Research Board, Graduate Scholarship; 1989.

Indiana University, School of Public and Environmental Affairs; Full Tuition Scholarship for Masters Program, elected to Pi Alpha Alpha honor society, and received Chancellor Wells Book Award for Academic Achievement; 1986-1989.

Elected to Pi Sigma Alpha, honor society for political science, Indiana University; 1986.

15. Please list each book, article, column, or publication you have authored, individually or with others, and 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: None.

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

All of my appearances before Congress have been while employed by the executive branch.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

Since this is a volunteer position, I will maintain all of my existing contracts, including contracts with PricewaterhouseCoopers, The Boeing Company, Indiana University, Project ACTA. None of these contracts involve railroad issues and therefore, do not present a conflict of interest. However, if either the DOT general counsel or Amtrak general counsel raises a concern, we will work out something that is agreeable to all parties.

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? See the question above, #1.

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

I have discussed my contracts with executive branch counsel, and do not believe any of my investments, obligations, liabilities, or other relationships present a conflict of interest for this position.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 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.

Since 2003, when I started Donna McLean Associates, LLC, I have not had any contracts involving railroad issues. While I was the Assistant Secretary for Budget and Programs and the Chief Financial Officer at the U.S. DOT, I was involved in several Amtrak-related issues. While holding this position, I was involved in Amtrak's application and approval of a Railroad Rehabilitation Infrastructure (RRIF) loan. In the case that the 2002 RRIF loan would arise, I would need to consult with the Amtrak counsel on whether or not I would need to be recused from this topic.

5. Describe any activity during the past 5 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.

Supporting the President's Budget Request for the SASO program on behalf of PricewaterhouseCoopers (on-going).

Supporting efforts to maintain the President's Budget Request for the U.S. Merchant Marines Academy on behalf of Project ATCA (on-going).

Exploring ways to certify unmanned aerial vehicles in the air traffic system (February-April 2006).

Supporting efforts of the Springfield/Branson Airport (2005).

Exploring the ability to re-open National Airport to general aviation aircraft, on behalf of the National Business Aviation Association (2004–2005).

During my tenure as Assistant Secretary of Budget and Programs and Chief Financial Officer at the U.S. DOT, I did communicate with Congress (testimony, meetings, telephone calls) in support of the President's agenda.

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

At this time, I do not anticipate any significant conflict of interest issues. However, if something arises or if someone raises any questions, I will work with the DOT and Amtrak general counsel to resolve any conflict of interest issues.

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? See answer to number 6 below.

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? 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? No.

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

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: I do not know of any additional relevant information.

6. 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.

An EEO complaint was filed while I was the Assistant Administrator at FAA for Financial Services. I, along with other top FAA managers, decided to restructure a troubled program—the project was called DELPHI and involved transitioning to a new Oracle based accounting system. We restructured the project as an Integrated Project Team (IPT) and brought in an IPT lead—which happened to be an African American woman.

A member of the current team, Ms. Roberson, asked to be removed from the team (she was unhappy with the restructuring). Although we asked her to stay, she insisted that she wanted to leave the team. We agreed to reassign her to an area of her request, we did not reduce her pay, or demote her, or reprimand her in any way.

On December 20, 2000, Ms. Roberson filed an EEO Complaint claiming that she was “replaced as project manager of the DELPHI project, and functionally demoted due to my race (African American) and age (over 40–52) by agency management”

I offered to try to settle this situation through mediation, which began while I was at FAA. However, it was settled after I left the FAA. I do not know what the final agreement was.

D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

The CHAIRMAN. Thank you very much. Our next nominee is John Hill to be Administrator of the Federal Motor Carrier Safety Administration under the Department of Transportation. Senator Lugar also submitted a statement on your behalf, which I'll print in the record, let me summarize it.

It states that after graduating from Taylor University with a Bachelor's degree in 1973, Mr. Hill began a long and distinguished career with the Indiana State Police and rose to the rank of Major and served as the Commercial Vehicle Enforcement Division Commander and also led the Field Enforcement and Logistics Division of the Indiana State Police. In 2003, Mr. Hill was selected to be Chief Safety Officer and Assistant Administrator of the Federal Motor Carrier Safety Administration.

He also served on the American Association of Motor Vehicle Administration Task Force and is currently the acting Deputy Administrator of the Federal Motor Carrier Safety Administration. I'll print the rest of it in the record, Mr. Hill, and we'd be pleased to introduce whoever might be with you and also your statement, please.

Mr. HILL. Thank you Mr. Chairman, I would be pleased to introduce my family, but they're unable to be here today. We had previously planned a wedding reception this weekend, so my wife and family are taking care of that business, so they are here hopefully on the Internet.

The CHAIRMAN. You can hold one of Mr. Biden's kids and let his dad go back to work.

[Laughter.]

**STATEMENT OF JOHN H. HILL, NOMINEE TO BE
ADMINISTRATOR OF THE FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

Mr. HILL. Let me read to you my statement, Mr. Chairman. Mr. Chairman and Members of the Committee, I am honored to appear before you today to be the President's nominee to become the Administrator of the Federal Motor Carrier Safety Administration.

Thank you for this opportunity to introduce myself and to briefly share with you my vision for the Agency. For the past 3 years I have served as the Assistant Administrator and Chief Safety Officer of FMCSA. During this time I've had the opportunity to work with our state and local partners. I've also had the opportunity to collaborate with Congressional staff to establish safety priorities for the Agency. If confirmed, I will work closely with Congress to continue to improve key program areas.

Before my service with the Department of Transportation, I spent nearly 29 years with the Indiana State Police, including several years dedicated exclusively to motor carrier safety. A key lesson I learned in Indiana that has resonated even louder since joining FMCSA is that the goal of commercial vehicle safety depends on careful cooperation and open communication. Recent years of domestic economic expansion and heightened demand on our transportation system have created new challenges. Increased need for freight and passenger movement must be guided by increased safety on our highways.

This is achievable, but the solutions are not simple. The industry is immense, over 685,000 carriers that FMCSA regulates and it is a diverse industry, with lots of different types of carriers and over 11 million commercial vehicle drivers. To be successful, state and local governments, with their enforcement expertise and dedicated work forces, must be fully engaged at every level of the safety pro-

gram. The U.S. Department of Transportation must continue to work with Congress to provide guidance, tools, and resources to those governments. And the motor carrier industry, safety advocate groups, shippers, commercial vehicle manufacturers, and logistics providers must all collaborate to become joint problem-solvers, not simply critics of each other.

If confirmed, I will work hard to bring these stakeholders together and encourage cooperation. I will also work with the other surface administrations within the Department of Transportation, specifically the Federal Highway Administration and the National Highway Traffic Safety Administration to build upon Secretary Mineta's unified approach to safety planning initiatives, data improvements, and guidance to the states. While working collaboratively to enhance safety, I will remember the statutory authority Congress has provided.

If confirmed, I will continue to strengthen our agency's enforcement activities. My extensive experience in law enforcement has taught me that good laws are effective when obeyed. For those who do not voluntarily comply with safety and commercial carrier regulations, we will target enforcement to promote compliance. FMCSA writes regulations, we conduct research, educate the public, distribute grants, promote safety results through enforcement, but it is all aimed at one clear and simple mission; to reduce crashes, injuries and fatalities involving large trucks and buses. If confirmed by the Senate, I am committed to improving these activities by leading the dedicated employees of the FMCSA to accomplish this mission. Thank you and I'll be happy to answer your questions.

[The biographical information of Mr. Hill follows:]

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): John Harvey Hill.
2. Position to which nominated: Administrator, Federal Motor Carrier Safety Administration.
3. Date of Nomination: May 16, 2006.
4. Address (List current place of residence and office addresses):
 - Residence: information not released to the public.
 - Office: 400 7th Street SW, Room 8202, Washington, DC 20590.
5. Date and Place of Birth: August 24, 1951; New Albany, Indiana.
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).
 - Nancy Ruth (Dylhoff) Hill, physical trainer, Curves of Arlington (Women's Fitness), part-time employment.
 - Children: Two sons—Nathan John Hill, age 31; Micah John Hill, age 29.
7. List all college and graduate degrees. Provide year and school attended.
 - Bachelor of Arts, 1973, Taylor University.
8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.
 - Indiana State Police—Captain, Acting Commander, Enforcement Division, 1986–1988.
 - Indiana State Police—Major, Commander, Logistics Division, 1988–1989.
 - Indiana State Police—Major, Commander, Commercial Vehicle Enforcement Division, 1989–1994; 2000–2003.
 - Indiana State Police—Major, Commander, Field Enforcement, 1994–2000.

U.S. Department of Transportation, Federal Motor Carrier Safety Administration—Assistant Administrator/Chief Safety Officer, 2003–Present.

9. 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.

10. 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.

American Association of Motor Vehicle Administrators (AAMVA)—Chairman of the Law Enforcement Committee, 2000–2003.

American Association of Motor Vehicle Administrators subsidiary organization—AAMVAnet, Inc.—Member of Board of Directors 2001–2002.

11. 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.

The American Association of Motor Vehicle Administrators (AAMVA), I served as Chairman of their Law Enforcement Committee (2000–2003), several executive-planning groups and as a board member of their affiliated subsidiary organization—AAMVAnet, Inc. (2001–2002).

Indiana State Police Pioneers—fraternal organization of retired Indiana State Police employees (2003–Present); served as a member and no leadership responsibilities.

Indiana State Police Alliance—professional organization of active Indiana State Police Officers (1996–2003); served as a member and no leadership responsibilities.

Aircraft Owners and Pilots Association (AOPA)—(2000–2003); a member only.

Community Church of Greenwood—(1986–2003); served as an Elder (Board of Directors) and Chairman of the Board, 1992.

Immanuel Bible Church—(2003–Present); member only.

AMF International—(1986–1999); a religious organization, mission outreach, board of trustees.

Retired Troopers Association—a fraternal association for retired troopers from across the country (2005–Present); a member only.

Republican National Committee (RNC)—member only (2002–Present).

These organizations do not restrict membership on the basis of sex, race, color, religion, national origin, age or handicap.

12. Have you ever been a candidate for public office? No.

13. 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.

McIntosh for Governor—\$500.

Indiana Republican Party—\$600.

Republican National Committee—\$1,550.

Bush-Cheney 2004—\$2,100.

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

Distinguished Alumni for Personal Achievement, Taylor University, 2000.

15. Please list each book, article, column, or publication you have authored, individually or with others, and 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.

I assisted with and authored articles in the Indiana State Police Alliance magazine and AAMVA's Move magazine. These articles pertained to my role as a police officer, traffic safety expert (*e.g.*, the role of motor vehicle data in roadside enforcement) or department commander with responsibilities for a specific aspect of the Indiana State Police mission (*e.g.*, article on department's aviation unit, marijuana

eradication program or riot control unit—all of which I had responsibility to manage). Although available to the public, the circulation of these periodicals was generally limited to the law enforcement or motor vehicle administrator community.

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

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

As a retiree from the Indiana State Police Department, I am provided a monthly pension consistent with Indiana State Police Department Pension Trust guidelines.

When I was a state employee, I participated in State of Indiana's Public Employees Deferred Compensation Plan (an IRS 457 Plan—the plan is referred to as Hoosier Start). After leaving state government in 2003, I elected to maintain the funds indefinitely in the Plan; however, I receive no continuing contributions from the state. I may elect distribution of the funds at any time consistent with IRS guidelines.

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? None.

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 Deputy General Counsel's opinion letter.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 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 5 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: None.

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 Deputy 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? 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? 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? No.

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

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

6. 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.

Yes. In the Indiana State Police, when I was a commander of the Commercial Vehicle Enforcement Division in the early 1990s (I cannot be more specific on the date) a female employee disliked the management decision about scheduling and work reporting times. She along with other employees filed a complaint against her first line supervisor accusing him of treating her and the other employees differently based on their race. I affirmed the supervisor's decision and the employee filed a similar complaint against me. The department's Civil Rights/Equal Employment Officer (EEO) investigated it; the complaint was not substantiated and was determined to be unfounded.

D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

The CHAIRMAN. Thank you. Mr. Rosenker, you were introduced, were all of your family introduced?

Mr. ROSENKER. Mr. Chairman, my in-laws are here. Mr. and Mrs. Jack Balden they're from New Jersey and I'm delighted to have them with me. Thank you, sir.

The CHAIRMAN. Do you have a statement, sir?

**STATEMENT OF MARK V. ROSENKER, NOMINEE TO BE
CHAIRMAN OF THE NATIONAL TRANSPORTATION BOARD**

Mr. ROSENKER. A brief one, sir. Mr. Chairman, distinguished members of the Committee. I am pleased and honored to appear before your Committee for the third time during this Administration as a nominee. I'm grateful to President Bush for this nomination to be Chairman of the National Transportation Safety Board and particularly his confidence in my ability to continue to serve our Nation in this unique and critically important position. I'd also like to thank Senator George Allen from my home state of Virginia for the statement that he submitted for the record and his support for the third time. I'm honored that my friend, Congressman Darrell Issa of California, has taken the time from his busy schedule to offer his support and his flattering introduction.

For more than 3 years, I've been privileged to serve as a Member, Vice Chairman and most recently Acting Chairman of this small, but well-known and respected Federal agency. The NTSB, for nearly four decades, has been at the forefront of transportation safety issues, the protector, if you will, of America's vital transportation system. NTSB is not only our Nation's premier accident investigation agency, but also enjoys a well-earned reputation as the most effective and authoritative independent safety body in the world. I've said this before and will continue to say, the professional men and women who make up the NTSB are the best in the business.

I would also like to recognize my fellow board members, Member Debbie Hersman, and Member Kitty Higgins, who are here today and I thank them for their support. Whether dealing with determining the probable cause of an accident, recommending safety improvements, or deciding on Federal enforcement actions, we routinely join together with one objective in mind, raising the standard of safety within our Nation's transportation community.

If confirmed as Chairman, I commit to you and the American people, I will do my best to effectively and efficiently manage this important agency, making sure that its ability to carry out its critical mission is never compromised. Mr. Chairman, distinguished Members of the Committee, I am sure you will agree, America's transportation industry is one of its most important economic sectors and as such protecting the vitality of this sector by ensuring

the safe movement of people and commerce is the primary and most crucial role of the NTSB.

If confirmed, I will be honored to lead this agency and its highly competent team of transportation safety professionals and advocates. I look forward to answering your questions.

[The biographical information of Mr. Rosenker follows:]

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Mark Victor Rosenker.
2. Position to which nominated: Chairman, National Transportation Safety Board.
3. Date of Nomination: April 24, 2006.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.
Office: NTSB, 490 L'Enfant Plaza East, SW, Washington, DC 20594.
5. Date and Place of Birth: 12/08/46; Baltimore, MD.
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).

Heather Beldon Rosenker, Senior Vice President, Fleishman-Hillard Public Relations.
No children.
7. List all college and graduate degrees. Provide year and school attended.

Baltimore Community College, 1965–1966.
University of Maryland, 1966–1969, BA Communications.
University of Maryland, University College, Graduate Study 1970–1971.
Department of Defense Information School, Graduate, 1969.
Air Command and Staff College, Extension Course Institute, Graduate, 1983–1985.
Air War College, Associate Studies Program, Graduate, 1988–1990.
8. List all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Member, Vice Chairman and Acting Chairman National Transportation Safety Board, March 2003–present.

United States Air Force and Air Force Reserve, Major General, Mobilization Assistant to the Commander, Air Force Reserve Command, (current rank and assignment) June 1969–present.

Department of Transportation, Transportation Security Administration, Program Manager, Special Projects Office, November 2002–March 2003.

The White House, Deputy Assistant to the President and Director of the White House Military Office, January 2001–November 2002.

United Network for Organ Sharing (UNOS), Assistant Executive Director and Managing Director of the Washington, DC Office. November 1999–January 2001.

Electronic Industries Alliance, a.k.a. (Electronic Industries Association) Corporate Officer and Vice President, Public Affairs, February 1977–October 1999.

Motorized Bicycle Association, a.k.a. (American Moped Association), Director of Communications, January 1975–January 1976.

Daniel J. Edelman Public Relations, Account Executive, September 1973–January 1975. Represented American Safety Belt Council, Motorcycle Safety Foundation, and the Safety Helmet Council of America.
9. 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.
10. 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.

United Network for Organ Sharing (UNOS)—Assistant Executive Director for External Affairs and Managing Director, Washington, D.C. office.

Boat Slip Rental Property—50 percent interest; sold January 2002.

Brat Pack Investment Club—20 percent interest. Sole holding 1,295 shares of ADC Telecommunications. (Divested my holdings and dissolved the Investment Club in Dec., 2005).

11. 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.

Army Navy Club, Washington, D.C.—1999–present.

Andrews AFB Officers Club, Andrews AFB, MD—1969–present.

Capitol Hill Club—1973–2000.

Bryce Resort, Basye, VA—1986–present.

Military Order of the Carabao—2001–present.

Aero Club, Board Member—2005–present.

12. Have you ever been a candidate for public office? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

13. 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.

2004—Bush-Cheney Campaign—\$2,000.

2000—Darrell Issa for Congress—\$500.

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

University of Maryland Centennial Distinguished Graduate, 2001.

American Battle Monuments Commission Distinguished Service Medal.

USAF Distinguished Service Medal.

Legion of Merit, Meritorious Service Medal (1 oak leaf cluster) USAF Commendation Medal.

Department of Defense Achievement Medal.

USAF Achievement Medal (1 oak leaf cluster).

15. Please list each book, article, column, or publication you have authored, individually or with others, and 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.

All speeches that I have given relevant to transportation safety may be viewed on the NTSB website.

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

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers: 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? 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 5 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 5 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modifica-

tion of any legislation or affecting the administration and execution of law or public policy.

During my appointment as a Member of the NTSB, I have been a strong transportation safety advocate and on numerous occasions invited to testify before state legislatures, particularly on issues of highway and recreational boating safety. In addition, the Board has made a significant number of recommendations to Federal agencies, state and local governments, organizations, operators and manufacturers concerning regulations or safety issues dealing with various modes of transportation.

During my career as chief spokesman for the Electronic Industries Alliance, representing the U.S. electronics industry, and the United Network for Organ Sharing, UNOS, (the national organ transplant network), I have made numerous statements and answered a myriad of media queries on a host of issues having to do with the laws, regulations, and policies of those two diverse communities. Some of the major issues I spoke out in support of included: NAFTA, Making Permanent the R&D Tax Credit, Improvement of Export Controls, Rewrite of Circular A76, privatization and outsourcing, Federal Rules pertaining to Organ Donation and Allocation. My role was not that of a registered lobbyist.

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

As a senior officer in the Air Force Reserve, if confirmed, I will continue to recuse myself from any investigation involving an USAF aircraft unless the Board's General Counsel found my participation necessary and appropriate. I believe there are no other issues that would constitute a conflict of interest.

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? 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.

Detained in 1965 at the age of 18, along with two friends, in Atlantic City, NJ, malicious mischief, charges dismissed. Detained in 1966 at the age of 19, along with one friend, in Baltimore, MD, possession of beer below age of 21, charges dismissed.

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.

During my employment as an officer of EIA, the Association was involved in routine civil litigation. I was never a party, nor a witness in any of those proceedings.

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

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

6. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion or any other basis? No.

D. RELATIONSHIP WITH COMMITTEE

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

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

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

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

The CHAIRMAN. Our final nominee is Andrew B. Steinberg of Maryland to be Assistant Secretary of Transportation. It's my understanding you have, under your responsibility, the development, articulation, and review of policies for economic issues and domestic and international transportation. Do you have a family here with you, Mr. Steinberg?

Mr. STEINBERG. Yes, I do, Mr. Chairman, behind me to my right is my wife, Roxann, immediately behind me is my son, Malcolm, who is age 11 and to my left is my daughter, Madeline, who is age 13.

The CHAIRMAN. Thank you, well we do welcome all the family members and we're happy that you'd bring them here. We'd like to have your statement, please.

**STATEMENT OF ANDREW B. STEINBERG, NOMINEE TO BE
ASSISTANT SECRETARY OF TRANSPORTATION FOR
AVIATION AND INTERNATIONAL AFFAIRS**

Mr. STEINBERG. All right, Chairman Stevens, Senator Lautenberg, members of the Committee, thank you for the opportunity to be considered for the position of Assistant Secretary of Transportation for Aviation and International Affairs. I'm honored that President Bush and Secretary Mineta asked me to continue serving the public in this capacity and if confirmed, I'll work hard to earn the confidence of every Member of this Committee. I am also grateful for the support I've received over the last 3 years from FAA Administrator Marion Blakey, and look forward to a close working relationship.

I couldn't be here today, of course, without the love, friendship and encouragement of my family who always remind me that public service is a high privilege. I'd also like to thank my father, Irwin Steinberg, and my late mother, Molly, for encouraging me to seek out challenges like these and acknowledge my late father-in-law, Bob Anderson, for the career he spent as an engineer and attorney at the Boeing Company.

My own involvement with the airline industry started about twenty years ago as a young lawyer in private practice working on an antitrust case, I immersed myself into airline economic issues and saw how fascinating but demanding, this industry is. I later worked in-house for an airline as a general counsel of a company that sells reservation systems and technology services to travel companies, and as an executive at an Internet travel site. As the FAA's Chief Counsel, I have tried to broaden my horizons, handling a range of issues affecting safety capacity, manufacturing and general aviation. During my career, I've also been fortunate to work on international problems, like code-sharing, overseas joint ventures, and market access.

My excitement over the prospect of this new role is enhanced by the many challenges we face in aviation and in the growing global marketplace for transportation services. As you know, the purview of the office I am seeking extends beyond aviation, to all modes of transportation.

If confirmed, I will focus my energies on three areas; first, given the vital role that air transportation plays in this country, the health of the domestic industry must remain a national priority. We shouldn't be reluctant to re-examine policy assumptions or the myriad regulatory burdens we impose. An industry that perennially either loses money or makes suboptimal returns can't sustain quality and breadth of service your constituents expect.

Second, reauthorization of our aviation programs next year provides an opportunity to address many long-term issues, and I hope

to assist you in finding the right solutions. It will be particularly important to enable the Next Generation Air Transportation system which promises to reduce congestion and make air travel more accessible and affordable everywhere.

Third, as Secretary Mineta has demonstrated, we must remain vigilant in protecting U.S. leadership in all modes of transportation services and manufacturing, promoting safety in open markets throughout the world. There's a lot of opportunity I think, for American companies in markets that are still developing their transportation infrastructure. DOT has a key role to play here in promoting common technological and safety standards. Clearly there are no easy issues, here. But, I promise you an open mind and a fresh perspective. I've learned over the years to seek common ground and practical solutions among stakeholders and truly believe that this committee and its staff have much to offer me.

If confirmed, I look forward to working together. I'd ask that my witness statement, Mr. Chairman, be submitted for the record and would be happy to answer any questions.

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

PREPARED STATEMENT OF ANDREW B. STEINBERG, NOMINEE TO BE ASSISTANT SECRETARY OF TRANSPORTATION FOR AVIATION AND INTERNATIONAL AFFAIRS

Chairman Stevens, Co-Chairman Inouye, distinguished members of the Committee, thank you for the opportunity to be considered for the position of Assistant Secretary of Transportation for Aviation and International Affairs. I was honored to be asked earlier this year by President Bush and Secretary Mineta to continue serving the public in this important capacity and if confirmed, I will work hard to earn the confidence of every Member of this Committee. As I pursue this position, I am also grateful for the support I received over the last 3 years from FAA Administrator Marion Blakey, and look forward to a close working relationship with the FAA.

I could not be here today without the love, friendship and encouragement of my wife, Roxann, and my two children, Madeline and Malcolm, who are here today and always remind me that public service is a high privilege. I would also like to thank my father, Irwin Steinberg, and my late mother, for encouraging me to seek out such challenges and acknowledge my late father in law, Bob Anderson, for the career he spent as an engineer and lawyer at the Boeing Company.

My own involvement with the airline industry started over twenty years ago when, as a young attorney working on an antitrust case for a major air carrier, I immersed myself into airline economic issues and saw how incredibly fascinating, competitive, and demanding, this industry can be. I later worked in-house for an airline, on a wide variety of commercial, environmental, and employment law issues, became the general counsel of a company providing computerized reservation systems and technology services to travel agents and airlines, and finally worked as a business executive and lawyer at a leading consumer online travel site. As Chief Counsel at the FAA, I have broadened my horizons through the many legal issues affecting aviation safety and capacity and through exposure to aerospace, GA and business aviation. I've been fortunate during my career to work on international business problems, ranging from airline code-sharing, to the formation of overseas joint ventures, and European competition law. Soon after I joined the FAA I helped settle a longstanding dispute with several foreign airlines over the assessment of overflight fees. We agreed to set up a rulemaking committee to assist us in setting the fees and the airlines abandoned years of litigation and began paying fees without protest.

The excitement I feel over the prospect of serving in this new capacity is only enhanced by the opportunity it presents to address the many daunting challenges this country faces not only in the aviation sector but also in the growing global marketplace for transportation services. As Members of this Committee well know, the purview of the Office of Aviation and International Affairs extends beyond aviation, and includes the development and coordination of international transportation policy involving all modes of transportation. If confirmed, I will focus my energies on three

main areas: the state of the domestic air transportation industry; reauthorization of our aviation programs and their role in facilitating the transition from today's ground-based air traffic system to a satellite-based one; and ongoing U.S. leadership in transportation services and manufacturing to promote safety, open markets, and enhance trade throughout the world. None of these arenas has partisan lines, thus I plan to work closely with all of you to advance the Nation's common interests.

Given the vital role air transportation plays in this country, a healthy domestic airline industry always is a national priority. Having been in the midst of a fundamental restructuring for some years, the industry is showing modest signs of recovery. Indeed, the overwhelming losses of network carriers obscure their own dramatic progress in cutting their costs and the fact that smaller sectors of the industry remain reasonably profitable. It is far too early, however, to declare that the industry as a whole is "out of the woods." We should, therefore, remain open to the possibility that the industry faces structural obstacles to long term success. (For example, while much attention has been paid to the role of high fuel prices, other industries such as utilities have similar cost inputs but not the same fate.) Because some of these obstacles may be linked to aviation policy matters, we should be willing to test our underlying policy assumptions and to examine the costs and benefits of the myriad regulatory burdens we impose on airlines (some of which hold over from the CAB). These are not academic issues: an industry that perennially either loses money or makes suboptimal returns cannot, as we are seeing, provide the quality and breadth of service your constituents expect; the financial woes of the network airlines in recent years has meant a decline in service to smaller communities. Indeed, the contrast between passenger and cargo carriers is striking, as the latter remain highly profitable and innovative, producing good value at low prices.

Reauthorization next year provides an occasion to address such long-term issues, and I hope to assist you in identifying the right solutions. I am encouraged by the efforts of the Joint Planning and Development Office to spearhead the adoption of the next generation transportation system (NGATS), which promises the same kind of radical improvements in air travel that the Internet produced for communications. This system is a key part of the Secretary's aggressive plan to reduce transportation congestion. Moreover, by combining increases in airspace capacity created by NGATS, the existing infrastructure of 5,000 public use airports (currently underutilized), and the new breed of very light jets, we have a unique opportunity to make air travel much more accessible and affordable for all parts of the country, while facilitating growth in business travel. But this system will not come about unless we find creative, bipartisan solutions to the funding challenges we face, such as greater reliance of public-private partnerships.

We should all be proud of the leading role the United States enjoys in the global market for transportation products and services but also vigilant about protecting that lead. Our aerospace industry today enjoys a positive balance of trade; ensuring that it competes on a level playing field is a high priority. Across all modes of transportation, there will be many opportunities for U.S. companies to provide their expertise in overseas markets still developing a transportation infrastructure, and DOT has a role to play in promoting common technological and safety standards. I hope to build on the successes of the Secretary in opening up transport markets overseas, as we also seek fully liberalized trading arrangements with all our major aviation partners.

In closing, I know there are many tough issues to tackle here. I have reached no conclusions about the right solutions to the problems that exist and promise an open mind and fresh perspective. Just as importantly, my years in the industry have taught me this: wherever possible we should seek common ground among our stakeholders. This Committee and its expert professional staff have many years of experience and much wisdom to offer me, as we approach these issues. Should I be confirmed, I truly look forward to working together.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Andrew Bart Steinberg.
2. Position to which nominated: Assistant Secretary of Transportation for Aviation and International Affairs.
3. Date of Nomination: February 10, 2006.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: Federal Aviation Administration Office of the Chief Counsel, 800 Independence Avenue, Room 900-E, Washington, DC 20591.

5. Date and Place of Birth: October 12, 1958; Perth Amboy, New Jersey.
 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).

Roxann Steinberg (Homemaker); children: Madeline Steinberg (Age 13), Malcolm Steinberg (Age 10).

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

Princeton University; A.B., 1980.
 Harvard Law School; J.D., 1984.

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

American Airlines, Inc. (1990–1996): Attorney (1990–91); Senior Attorney (1991–94); Associate General Counsel (1994–96).

Sabre, Inc. (1996–2000): Senior Vice President, General Counsel and Corporate Secretary (1996–98); Executive Vice President, General Counsel and Corporate Secretary (1998–2000).

Travelocity.com, Inc. (1999–2002): Executive Vice President—Administration, General Counsel and Secretary.

Federal Aviation Administration, U.S. Department of Transportation (2003–present): Chief Counsel.

9. 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.

10. 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.

Travelocity.com, Inc. (1999–2002): Executive Vice President—Administration, General Counsel and Secretary.

Sabre, Inc. (2002): Consultant.

Church & Dwight Co., Inc. (2002–2003): Vice President, General Counsel and Corporate Secretary (resigned upon my appointment to the FAA).

Computer and Communications Industry Association (2002–03): Director (resigned upon my appointment to the FAA).

11. 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.

Republican National Lawyers Association (since 2000).

Boy Scouts of America (since 2000).

American Bar Association (periodically since 1984).

Computer and Communications Industry Association; Director, 2002–2003.

State Bars of California (since 1984); Texas (since 1992) and the District of Columbia (since 1994).

Four Seasons Sports Club, Irving, Texas (1997–2001) None of these organizations restricts membership on the basis of sex, race, color, religion, national origin, age or handicap.

12. Have you ever been a candidate for public office? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

13. 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.

George W. Bush—\$1,000 (2004)

Wayne Allard—\$1,000 (2002)

Norm Coleman—\$1,000 (2002)

Elizabeth Dole—\$1,000 (2002)

John E. Sununu—\$1,000 (2002)
 James Talent—\$1,000 (2002)
 Travelocity PAC—\$1,629 (2002)
 Travelocity PAC—\$917 (2002)
 Sabre PAC—\$1,410 (2000)
 Sabre PAC—\$1,500 (2000)
 Sabre PAC—\$1,483 (1998)
 Sabre PAC—\$539 (1997)

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

15. Please list each book, article, column, or publication you have authored, individually or with others, and 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.

“Air Traffic Modernization: How to Avoid Gridlock,” ABA Air and Space Law Forum, Spring Meeting (2006).

“Legal Aspects of Aviation Safety Oversight,” Conference on Aviation Regulation in Europe (2005).

“Airports and Airlines: Partners or Adversaries,” ABA Air and Space Law Forum, Annual Meeting (2005).

“The Role of Government in the Evolving World of Business and Personal Aviation,” Airports Council International—NA, Legal Committee Meeting (2005).

“The Role of Government in the Evolving World of Business and Personal Aviation,” Strategic Research Institute, 10th Annual Conference on Corporate Aircraft Transactions (2005).

“Government Regulation in the Evolving World of ‘Personal Aviation,’” NTSB Bar Association, Aviation and Transportation Law Conference (2005).

“History and Future of Flight: Government and the New Personal Aviation Models,” School of Engineering and Applied Science, Princeton University (2005).

“The FAA, Release 1.x: Regulation of the Evolving Personal Business Aviation Models,” PC Forum, Flight School (2005).

“The New Frontier: Regulation of the Evolving Business Aviation Models,” ABA Air and Space Law Forum (2005).

Dealing with Airport Congestion: The Regulatory Challenge of Demand Management, Air and Space Lawyer (2005) (co-author).

“The FAA Flight Plan: Legal Update,” ABA Section of Litigation, Aviation Litigation Committee (2004).

“Recent FAA Policies and Programs,” NTSB Bar Association (2004).

Remarks before the American Association of Airport Executives (2003).

Remarks before the Travel Management Alliance (2003).

Remarks before the Airports Council International—NA, Legal Committee Meeting (2003).

Orbitz Controversy: The Travelocity Perspective, Section of Antitrust Law, Transportation Update (Summer 2002).

American Bar Association Spring Meeting, Antitrust Section, keynote speaker (2000).

“E-commerce,” IATA Legal Symposium (2000).

“Emerging Issues in the Year of Aviation,” ABA Forum on Air and Space Law (1999).

“Monopolization and Predatory Practices,” ABA Antitrust Section, Antitrust Fundamentals (1994).

Antitrust Implications of Airline Code-Sharing Alliances, Antitrust Report (1994); *Airline Pricing Practices*, Antitrust Report (1993).

Effect of Ch. 11 on Competition in the Airline Industry, Federal Bar Assn. (1993) (co-author).

Note: Speeches are indicated by quotation marks; publications are italicized.

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

On April 4, 2001, I testified before the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary, House of Representatives, concerning business method patents. A written statement was also submitted.

On October 2, 1998, I testified before the Antitrust Subcommittee of the Senate Judiciary Committee, concerning international antitrust enforcement and the "positive comity" referral of an antitrust complaint by the Department of Justice regarding computerized reservation systems to the European Commission. A written statement was also submitted.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

I have two retirement plans administered by Sabre, Inc., a former employer: a 401(K) and a pension plan.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation or practice with any business, association or other organization during your appointment? 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 Deputy General Counsel's opinion letter.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 5 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 5 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.

As general counsel of Travelocity.com and as a consultant to Sabre, I participated in various advocacy efforts designed to persuade the Department of Transportation and Department of Justice, Antitrust Division, to require air carriers and their on-line joint venture to provide access to certain airfare and inventory information to competing travel agencies. As Chief Counsel of the FAA, I have assisted the agency in presenting Administration positions to the Congress on a variety of legislative and policy issues affecting FAA authorization or appropriations, including continuation of the FAA contract tower program, assessment of user fees on foreign carrier overflights of U.S. airspace, and FAA contract negotiations with the air traffic controllers union. In addition, in my current capacity, I oversee the work of the Assistant Chief Counsel for Legislation, who regularly provides technical assistance to the Congress.

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 Deputy 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? 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? 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.

I served as an officer of three public corporations (Church & Dwight Co., Inc.; Travelocity.com Inc.; and Sabre, Inc.). Each of these firms had substantial revenues (\$.5-\$2 billion) and was regularly involved in business litigation and administrative proceedings before state and Federal agencies. As general counsel, my role was to defend the corporation. None of the proceedings involved me personally.

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

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

6. 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.

As the head of a large office at FAA, I am the “deciding official” in dozens of personnel actions affecting 260 attorneys, paralegals and support staff. As is true with the rest of the agency, these actions infrequently result in claims challenging the actions (*e.g.*, hiring selections, promotions, special assignments, annual salary raises) and citing purported employment discrimination or merit-system principles. In three such matters during my tenure, personnel actions I had approved based on recommendations to me from my staff were challenged. As to these matters (which are confidential administrative proceedings), mediation led to the voluntary dismissal of one by the complainant and is being pursued in the other two. I believe strongly in equal employment opportunity and in the rigorous enforcement of anti-discrimination laws, and note that no case resulted in any adverse finding.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes, to the best of my ability.

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

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.

The CHAIRMAN. Thank you very much, we appreciate the fact that you truncated that statement. It will be printed in the record in full. In that, we’re going to have a period of time for just questions. We’re going to leave you all as a bank if that’s agreeable. I want to ask you first, Mr. Biden, I’m sure you know that there’s a relay of difference of opinion here, even on this Committee and throughout the Senate and the Congress with regard to the future of Amtrak. You will be a member of the reform board, which obviously carries the connotation that Congress and the Administration, and the American people believe there must be reform. Have you reviewed the history of Amtrak and are you prepared to take on the task of real reform?

Mr. BIDEN. Yes, Mr. Chairman, I have reviewed much of the history of Amtrak and much of the current history and read both the GAO report and CRS report, Amtrak’s budget for fiscal year 06 and fiscal year 07 and also have been following the debate very closely. I agree with you and I think, would most everyone, that Amtrak is in need of reform. I think that it is also in need of leadership from a fully complimented board and if confirmed, the way that I see my role is basically to keep an open mind and try to seek common solutions that we can agree on between the Members of the Board, Congress, and the employees of Amtrak.

The CHAIRMAN. Well, mention’s already been made of the obvious fact that the alternative means of transportation are much more expensive already than the transportation on Amtrak. There has been a reluctance for the Amtrak Board to adjust the rate for fear that they might lose riders if the rates went too high. For one, I’ve lived in this area a very long time, I realize the rate necessity for Amtrak, but it does seem that the past management has been insensitive to the problem of a permanent plan for financing of Amtrak. So, I encourage you to look into that, and congratulate you

for being willing to try. I've got to tell you, it's almost an impossible task the way I see it. So, thank you for being willing to try.

Mr. BIDEN. Thank you very much.

The CHAIRMAN. Ms. McLean, your background is one that's a little different, I think, in your statements you did mention the significant leaps in oil prices and I think we all are looking for intercity passenger concepts that will take the burden off of the roads, but also recognize that the increasing cost of those who must commute to work. Let me ask you what I asked Mr. Biden, have you looked at its history? Have you made a study of this problem and do you realize you're not really going on the Amtrak Board, you are going on the Amtrak Reform Board?

Ms. MCLEAN. Yes, sir, and I have looked, as Hunter was saying also, in the background of Amtrak. I've spent a few hours with Amtrak prior to this hearing and if I am to be confirmed, I look forward to spending many more hours with them understanding the business. I think there are some wonderful opportunities to make Amtrak a more efficient and effective intercity passenger rail service and I hope to have that opportunity to explore that in more depth.

The CHAIRMAN. Well, I don't have any other questions, I just wish you luck. I really think what the problem is, is whether this new board is going to grasp the sense of reform and urgency behind it that I think that Congress and the Administration and even the people involved in using it realize that there must be some change and it's going to take some thinking out of the box about this system, I think, in order to make it work.

Mr. Hill, I was born in Indiana, so I'm happy to see you here I really think that you have a most interesting area to be involved with. During your time when you were at the state agencies that I mentioned, what did you find was the most important factors that affect motor vehicle accidents and driver safety.

Mr. HILL. Well, specifically in Indiana, I've found that the problem of getting driver behavior to change was significant. We just recently created, did a study on truck safety in our agency, it took 4 years to complete it, and the overwhelming results from that, Mr. Chairman, were that driver inattention, driver factors, driver interference in the passenger area are really contributing to crashes in our country and we also addressed, in the state of Indiana, not only the driver focus, but we made a conscious effort to have a presence of enforcement, so that violators knew there were consequences when they did not follow the law.

So, a strong enforcement program coupled with a strong outreach program so that there's clear understanding of what is expected and then consequences if people don't follow it.

The CHAIRMAN. One of the things that has been discussed in this Committee quite often now, is the problem of the increased amount of communications available to people who drive automobiles and how much, whether and how much those new systems are contributing to the loss of attention, that loss of dedication to really watching the automobile and its gauges. Did you go into that one there in Indiana?

Mr. HILL. We did not have specific study, we relied a lot on the Federal Government to provide that research and I will tell you

that in Federal Motor Carrier Safety, we are doing research in that area to look at guidance systems onboard tractor trailers that will allow us to keep the driver focused and give warning signs and signals to the driver when there's some deviation from the lane of travel and if confirmed, I will continue to work with this Committee on such issues and try to bring them forward for possible future legislation as needed.

The CHAIRMAN. Well, we also have jurisdiction over communications, I think there ought to be some sort of way to really educate the public about how operating one of these devices, whether it's a cell phone, a Blackberry, even a cell phone that has a voice microphone embedded in the dashboard, all of those things, are really, I think contributing to the lack of attention to the increased problem and with the density of traffic now, it does seem to me, that if you're going down the street, almost everyone you look at has something in their hand besides putting them on the steering wheel, you know, and I think we really ought to get some concentration on that and I hope that you'll take a look at it.

Mr. Rosenker, my state was selected because of our landscape for the next generation of safety and air traffic management safety programs that really determine the causes of accidents and I've had an accident, I was a survivor of a plane crash and I remember too well the report we got about that crash after I did come back to work and I remember particularly going out after the Alaska Airlines crash and meeting with your people, they were very good, very good. But, I wonder whether we pass on to the industry the real information that we learned about accidents of this type. Have you concentrated on that in terms of how do the findings that your board makes affect, what impact that they have on the industry that creates these machines and the people that regulate them?

Mr. ROSENKER. Senator, we work very closely with the industry and the regulator, the FAA. Matter of fact, a study which we did in your state in 1995 resulted in, what I think, a very effective program and that's the program of Capstone, which has been extremely helpful in the GA community. So, yes sir, we do believe there are technological answers and advances that can help and this Medallion program, although not technological, is also a very fine program as it relates to the commercial carriers.

The CHAIRMAN. I was on one of the test flights for Capstone 2 days before Christmas in 2001, I think, I know we're involved in those, but I think sometimes that, I'm talking about the basic, take the Alaska Airlines crash, I never really heard whether there was anything that went to the industry as a result of that crash and we all know what happened to it, it was upside down, it went into the ocean and the concept of that tail device, can you tell me, was that tail device ever modified?

Mr. ROSENKER. Sir, it was and that was a jack screw issue and lubrication and changes were made both in maintenance schedules and lubrication, that type of thing. So, we believe that that issue is well out there within the maintenance community and the operating community.

The CHAIRMAN. If you're confirmed, do you have any new ideas, you know, management concepts you're going to take to the board?

Mr. ROSENKER. Sir, my objective is to basically move the back log and tighten up the schedule of reports and investigation analysis. We've taken too long in the past. GAO talked about that recently in our reauthorization, we agree with that. We're looking at technological advances which will help us along with management improvements which we believe will tighten up our ability to do an investigation, do the analysis, find the probable cause and make the recommendation to prevent that type of accident from happening again. We've made tremendous progress here in the last year, if you take a snapshot of where we were a year ago, our production, our report completion is up by 50 percent.

The CHAIRMAN. That's good news. Mr. Steinberg, I'm sure you know that in my state 70 percent of the inner city transportation is by air. People in this Committee get tired of hearing that, but we have to have different systems for transportation of mail, different system for assuring that there be sufficient number of planes going to those remote villages every week and we have to have a different communication system and we depend heavily not only on the planes for personal travel, but they're absolutely necessary in the commercial world the cargo that goes into these small cities. Can you tell me, have you ever really compared the country to determine, in terms of air transportation, what the variance is on reliance on aviation for the various factors of aviation, passenger service, inner city service, and cargo delivery as well as mail delivery? Have you made any studies like that?

Mr. STEINBERG. Well, thank you Mr. Chairman, I can't personally say that I've done a statistical analysis, but it is obvious to me the critical role that aviation plays in your state. I think that they call Alaska the flyingest state in the union. One of the first things I did when I became Chief Counsel of the FAA was go to Alaska, so I could see first hand, just the role that aviation plays there and I think that a very high priority for me, if I should be confirmed for this position is to look at the issue of service to small communities and ensure that citizens in your state and elsewhere receive frequent safe affordable air transportation.

The CHAIRMAN. Well, Ms. Blakey has really paid a lot of attention to Alaska and to some of the programs that Mr. Rosenker mentioned, Capstone and the Medallion program and the various programs we have put into effect, we've reduced traffic fatalities, now, by more than 50 percent because of these programs. But, I find additional objections here in the Congress the kind of funding that's necessary to continue those programs, we have a very small road system, we have one fifth the size of the United States and, as I've said, 70 percent of the travel between cities must be by air, there doesn't seem to be any willingness to equate the problem of, if the airplanes don't fly, you know what we're going to have to do, we're going to have to build roads and if we start building roads across our state, they're not going to be accusing us of taking too much money for bridges, they're going to understand how much money we need for roads. So, I think, what I'm saying to you, you've got an oversight responsibility now as Assistant Secretary and I hope that you'll work with NTSB and with FAA and make sure that there's an understanding of the need for these systems to continue. Support of these safety programs is vital, I think, and

support of innovation, the innovation that's the GPS alone on a small airplane now can cut costs of flying in half because you don't have to go from point to point, you can go directly where you're going and know where you are all the time.

So, I think we have to have a better way to introduce innovation into the smaller planes and I would hope that you would really understand you're office in the past has basically been associated with interstate transportation with the commercial airline coast to coast long haul carriers, what I'm saying is I hope you'll remember rural America when you're confirmed. Senator Lautenberg.

Mr. STEINBERG. Thank you.

Senator LAUTENBERG. Thanks very much, Mr. Chairman, I think aviation to Alaska compares very much to rail for New Jersey. We probably have more flights per square acre, if one can measure that, than any state in the country. We have four significant airports starting with Newark, the biggest, Atlantic City International, Morristown Airport, and Teterboro Airport that are largely used for general aviation and industry. I'm very much concerned about Amtrak and I would say that the focus on reform that the Chairman raised here, may be interpreted differently by different folks.

Reform suggests better—that things should be “improved.” But the question is—do we “improve” Amtrak by starving it to death of capital? That could be a final “improvement” that would result in the railroad not existing anymore. Hunter—I would call you Mr. Biden, but I'd be afraid your father would stand up—so I'm going to call you Hunter, and besides we've known each other such a long time—I'm pleased to see you here and with the understanding that you have so well, of what Amtrak means to states like Delaware and then we go on to New Jersey, Maryland, New York, Connecticut, Massachusetts, you name it, in the most densely populated area of the country.

So, when I look at reform and I look at the “improvements” that could be made, I see that we have yet to make the investment in Amtrak. Ms. McLean, I spoke to you about this the other day. Investments have not really been sufficient to get a first class railroad in our country, and we fail to do that at our peril. We witnessed this during 9/11, when aviation shut down. No one ever believed that would be possible, but it was that day and Amtrak was the only way to carry people from Washington. The train brought up several Congressmen and Senators from Washington to New York to see what had happened that tragic day when New Jersey lost some 700 people and New York almost 2,000. Other states also lost people. It was a change in America, one that we never dreamed would happen, but has left a nightmarish impact on us ever since then. And so, I question whether or not the Amtrak Reform Board is there to see that Amtrak “improves” its service to the country or whether or not it is there to further whittle away at Amtrak's ability to operate.

Ms. McLean, we had a good discussion the other day, and I know that you understand a lot about transportation, but a funding level has been proposed for Amtrak which frankly would require shut down of the National Passenger Rail System. Now, from what you know about the company's finances, and I urge that you take a look

at those, is a \$900 million appropriation enough to maintain a safe, up-to-date, reliable, national rail system?

Ms. MCLEAN. I did take your advice yesterday, and looked a little bit more at the numbers. I'm not sure if the marks that the House provided last, I guess just a few days ago is the right number yet, it looks like the revenues are up this year for Amtrak above the projections and expenditures are actually a little bit below projections, which is good news.

Senator LAUTENBERG. Does that mean the railroad is operating at a surplus?

Ms. MCLEAN. It's just, as far as I understood from the information that I looked at yesterday with FRA, is that the projections are more optimistic than anticipated for revenue.

Senator LAUTENBERG. No, Ms. McLean, that doesn't mean that Amtrak would be operating with a surplus. You know we have capital expenses, we have debt service, we have operating expenses, all of those things, and so, whatever one we choke off, could again be the death knell for Amtrak. We know that there is an attitude, a preponderant attitude I'd say within the Administration, that Amtrak is not a necessary part of our transportation system. So once again, I hope that you had a chance, as I encouraged the other day, to look at the numbers and see what they represent. So can you give me a more direct answer, please?

Ms. MCLEAN. Well, let me say that I completely support a robust inner city passenger rail system for this country, it's absolutely necessary and I wouldn't have raised my hand to be considered for this position if I didn't feel that an inner city passenger rail system for this country is absolutely necessary. And as I said in my statement, with the changing dynamics in the transportation industry, if confirmed, I'm hoping to work with Amtrak to find a, perhaps, a more aggressive placement in our transportation network, so.

Senator LAUTENBERG. Does that take money?

Ms. MCLEAN. Yes, it does, sir.

Senator LAUTENBERG. Mr. Chairman, if Amtrak didn't operate, just in the corridor, the northeast corridor, we'd need more than 10,000 flights a year to substitute for the passenger trafficking that Amtrak presently covers and everyone knows that there's not a better expert in the Senate on aviation than Senator Stevens. I have a nexus in aviation personnel as well and we're going to be looking at the introduction of some 5,000 very light jets in the next 10 years. The sky is infinite and as a consequence, we have to deal with it the best way we can, including a strong Amtrak.

Turning to Mr. Steinberg, the FAA announced on Monday that it's going to unilaterally impose a new contract on some 15,000 air traffic controllers. This contract covers a wide range of unresolved bargaining issues and in court you argued that the FAA could impose new conditions regarding pay and benefits, but not terms about working conditions. Sixty days has passed since Congress was notified about FAA's intent. Now was it your advice to FAA that Federal law allows FAA to impose this change in working conditions as well?

Mr. STEINBERG. Well, thank you Senator, and of course my role through this was to provide the administrator with my interpretation of the Federal Aviation Act, the provisions that you just men-

tioned as well as advice and counsel on how to proceed. Let me just say this, the statute that you're referring to was part of an effort that I'm sure you're aware of in '96 to provide personnel reform to the agency and we were directed to come up with a personnel management system which was broadly defined to include working conditions as well as pay and benefits. So in giving advice to the Administrator, I believe that it was consistent with the statute of that working conditions.

Senator LAUTENBERG. So you think that the court gave you that latitude to make the decision that went beyond pay and benefits in its interpretation of laws going back to 1996, did you say? When it was intended to reform the entire personnel system?

Mr. STEINBERG. Yes.

Senator LAUTENBERG. But, Mr. Steinberg, in all fairness, here, you are an attorney, a skilled attorney, but I don't think it reflects well upon you to make an argument in court—the U.S. Court of Appeals—then turn around and advise the FAA to do just the opposite. It was an appeals court that decided this and they ruled in your favor after listening to your arguments. So if there's an interpretation that you think can go beyond the pay and benefits issue, then I think it constitutes an interpretation that's unnecessarily broad. Your action in this air traffic controller case created a lot of unnecessary work for the Congress. Just so we can plan ahead, are there any other laws that you anticipate re-interpreting if you're confirmed for this position?

Mr. STEINBERG. Well, Senator, again, in looking at the Federal Aviation Act, I attempted to do what I thought was right. The statute, as you may be aware, contained a provision that said that we couldn't bargain over wages and benefits except by using the impasse mechanism. That impasse mechanism referred to the personnel management system, so I did think it was a reasonable position that working conditions were part of the mix.

My role as Assistant Secretary will not be to interpret the law, but to advise the Secretary on the important aviation policy issues that we face. The air traffic control issue was a tough issue, and I respect the arguments that were made on both sides and I look forward to, as the difficult aviation issues come forward, to working with the Committee to find the right solutions.

Senator LAUTENBERG. But you didn't accept the plain language of the law requiring submission to include the union's objections and reasons for the objections. Did the union provide the objections, or were these more or less your interpretations?

Mr. STEINBERG. Senator, when we transmitted our proposal to the Congress, we did include both sides of proposals. I recall that immediately thereafter, the union also made a number of filings. I believe we complied with the statute and I certainly believe that the Congress, provided with the information that you needed to make a determination about whether to initiate.

Senator LAUTENBERG. I like your commitment that you review this situation with us directly if confirmed, I'd appreciate that.

Mr. STEINBERG. I'd be happy to.

Senator LAUTENBERG. OK, Mr. Hill, Secretary Mineta said that he'd be amenable to the increased use of triple trailer trucks. Now, that's something that's of grave concern to me because of the

known safety risks with these trucks. Have you ever been on the highway turnpike in New Jersey or related roads in New Jersey?

Mr. HILL. Yes, sir, Senator Lautenberg, I have been.

Senator LAUTENBERG. I don't know whether you'd like to have your family riding in front of, along side of, or behind one of those triple trailer trucks on our roads, but I would say this, I've fought very hard to limit triple-truck use to 16 states, where it now is possible, there are all kinds of films and evidence that suggest that triple-trailer trucks present a heightened safety risk and can cause significant damage on roads not specifically prepared to handle them. Would you oppose the re-introduction of these vehicles to our highways?

Mr. HILL. Thank you, Senator Lautenberg for that question. The size and weight issue, as you know back in the language from 1991 as you indicated, they dealt with this and the freeze was placed on at that time during that re-authorization period. In the next re-authorization period that we're currently in, it has continued that we have not expanded that freeze, delineation. At this time, there is not statutory for me to proceed on that, Federal highway administration deals with size weight in our department, we will commit to you, if confirmed, that we'll work closely with this Committee and the Federal Highway Administration to study the issues?

Senator LAUTENBERG. Do you oppose the expanded use of triple trucks, to limit them to where they are now?

Mr. HILL. Well, Mr. Chairman, I'd be glad to—

Senator LAUTENBERG. I'm not Chairman yet, but I'm going to be soon.

Mr. HILL. Sorry, Senator Lautenberg, thank you, I didn't mean to demote you. Senator Lautenberg, I would, we would have to confer with you and the Committee on this issue and we'll be committed to do that.

Senator LAUTENBERG. You're right about that. OK, thank you, and last, Mr. Chairman, I want to ask one more question of Mr. Hill. You were Chief Safety Officer for the FMCSA—these acronyms get worse all the time. You had a direct role in developing the hours of service regulations that were overturned by the United States Court of Appeals in 2004. Even though the court required the FMC to re-examine and overhaul the regulation, I'm concerned that the rule that was adopted in 2005 was almost functionally identical as the original rule and jeopardized the safety of truck drivers and all motorists on the highways. Did you have a role in developing these hours of service regulations for FMC?

Mr. HILL. Senator Lautenberg, I was involved in the review of that rule. The court specifically directed our agency to look in the consideration of the hours of service rule about driver health. It said that we did not properly consider it, we considered considerable research, reviewed the latest science involving sleep, respiratory sleep and we couldn't, I can say to you that we have the latest information in the rule that the court wanted us to address. Now, there were other issues the court brought up in terms of DITDA, and one of those, for example was EOBR's and we are presently working on EOBR's and will be publishing a rule later this year, notice of proposed rulemaking on that issue and we're

working very closely to make sure that we address the concerns of the court and fatigue on highways.

Senator LAUTENBERG. Yes, we've had some terrible, terrible truck accidents as a result of sleepy drivers and I was thinking, Mr. Chairman, that they have a deadman's throttle in trains, but at least you know if the train continues, that it's going to be exactly where it's supposed to be. So we couldn't have something like that in a cab of a truck. But you raise an interesting question. Can we somehow or other, get some instrumentation in the cab that would alert the driver or alert some recipient of the fact that this driver is beyond being able to function properly?

I said that this would be the last question, but I meant that it was next to the last, Mr. Chairman. This one is now the last. We're good friends. You're looking at two seasoned veterans. Were you in Vietnam like I was or was it an earlier war? I was in Europe during the same war, so we're novelties around here now. I hope we continue to enjoy our shared distinctions.

I'm concerned that under this Administration, the agency FMC has not been effective enough when it comes to improving truck safety and if confirmed, what steps might you take to reduce the over 5,000 large truck-related deaths each year?

Mr. HILL. Thank you Senator, I share your concern with that. I know you've been a champion of traffic safety, I know when I was with the state police, we welcomed the .08 rule that you helped get through and we've benefited from a lot of the safety initiatives that this Committee and Congress has passed. I want to just commit to you three things. I'm committed to the whole concept of safety, I've dedicated my whole life to public safety, traffic safety, that's the one thing I have done in my adult life and I will continue to do that.

Second, I want to provide strong leadership for the Agency, I believe we need to deal with regulatory development, I think we need to get the rules out that you folks have asked us to do in this Committee and the Congress and we're working diligently to get that back log erased. Second I want to make sure that our relationship with the states continues to work well. They do a lot of the enforcement out there. They enforce with the grants that our committees, your Committee provides and so it's important that if we're going to make safety gains that those people really are in sync with us and that we have a good working relationship.

And then last, I will hold our executives accountable for results, not just talking about processes, but we will look to results and I'm committed to that and will work with this Committee and Congress if you choose to confirm me.

Senator LAUTENBERG. Thank you very much, Senator.

Mr. HILL. Thank you Senator, I appreciate that.

The CHAIRMAN. We have two mark-ups for this Committee scheduled in June, one June 20, we'll basically be concerned with telecommunications or communications. June 27 we'll also have a mark-up. We'll do our best to get these nominations before the scheduled mark-ups and I personally want to thank you all. You're in the level of government that affects millions of Americans daily and we congratulate you for being willing to take on these tasks and wish you very well in your endeavors. So, we'll do our best to

see that these nominations are reported to the floor as soon as possible.

Thank you, and I thank the families. I'm sorry for the delay caused by the floor schedule. I know you've been here for a long time and your children have been very patient. Thank you very much.

Senator LAUTENBERG. Thank you, Mr. Chairman.
[Whereupon, at 4:17 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR FROM VIRGINIA

Mr. Chairman, fellow members of the Committee, I am pleased to once again introduce a fellow Virginian—Mark Rosenker—who comes before us as President's nominee to be Chairman of the National Transportation Safety Board (NTSB).

Mark has served ably as Vice Chairman and, since March 2005, as Acting Chairman of the NTSB. During this very busy and in some ways stressful period for the Safety Board, his steady hand and strong leadership ensured that the NTSB continued to fulfill its mandate, doing the work that is so important to the safety of all our constituents.

Before talking more about Mark, I'd like to welcome his wife, Heather, who is with us today, and also Mark's colleagues and friends who have come to show their support for him as well.

Mark brings an extensive background of management and advocacy experience, both civilian and military, to his work at the Safety Board.

His record includes more than 37 years of active and reserve duty in the Air Force, where Mark has risen to the rank of Major General. His decorations include the Distinguished Service Medal, Legion of Merit and two Meritorious Service Medals.

Mark also served as Director of the White House Military Office, with the rank of Deputy Assistant to the President. In this senior staff position, Mark was the principal advisor for all military support to the White House, including managing DOD assets such as Air Force One, Marine One, and the White House transportation system.

After serving nearly 2 years at the White House, Mark was nominated by the President to be a Member of the NTSB.

During his time at the Safety Board, Mark has been a strong and outspoken advocate for transportation safety. He is dedicated to the Safety Board's mission of objective, independent accident investigations and making sure we learn the hard lessons of transportation tragedies. He also never misses an opportunity to push for measures for preventing accidents, rather than just mitigating the results.

Mark has strong ties to this region. A Virginian now, he spent a good deal of his youth in Maryland, and is a graduate of the University of Maryland.

Clearly Mark has demonstrated that he is capable and enthusiastic about the Board and its mission. I urge my colleagues to swiftly support his confirmation.

PREPARED STATEMENT OF RICHARD G. LUGAR, U.S. SENATOR FROM INDIANA

I am pleased to have an opportunity to introduce Mr. John H. Hill to the Members of the Senate Committee on Commerce, Science and Transportation.

After graduating from Taylor University with a Bachelor's degree in 1973, John began a long and distinguished career with the Indiana State Police. John rose to the rank of Major and served as the Commercial Vehicle Enforcement Division Commander and also led the Field Enforcement and Logistics Divisions within the Indiana State Police. During his tenure with the Indiana State Police, John served on several national committees concerning transportation-related matters, including the Commercial Vehicle Information Systems Committee.

In June of 2003, John was selected to be the Chief Safety Officer and Assistant Administrator of the Federal Motor Carrier Safety Administration (FMCSA). He also served on the American Association of Motor Vehicle Administrators Task Force for Identification Security. John is currently serving as the Acting Deputy Administrator of the Federal Motor Carrier Safety Administration (FMCSA).

John's unique background blends experiences from the fields of law enforcement and transportation oversight. He has used his talents and intellect to bring people together in an effort to balance motor carrier safety with industry efficiency. John

is committed to work toward the FMCSA mission to reduce crashes, injuries, and fatalities involving large trucks and buses.

John resides in Greenwood, Indiana, and shares this honor with his wife, Pepper and his son, Mica and daughter-in-law, Andrea, as well his son, Nathan and daughter-in-law, Jennifer.

Mr. Chairman, I thank you for this opportunity to introduce John H. Hill to the Committee on Commerce, Science, and Transportation.

I am also pleased to have an opportunity to introduce Donna McLean to the Members of the Senate Committee on Commerce, Science and Transportation.

Donna has many years of experience in the Federal Government specifically working on transportation policy. After receiving her Bachelor's and Master's degrees from Indiana University's School of Public and Environmental Affairs, Donna joined the U.S. Department of Transportation as a Program Analyst. Donna built on her background in transportation to become a budget examiner on transportation issues at the Office of Management and Budget. From 1993–1999, Donna served as a staffer on the House Committee on Transportation and Infrastructure. In 2001, Donna was nominated to serve as the Assistant Secretary for Budget and Programs and Chief Financial Officer for the U.S. Department of Transportation.

In 2004, Donna began serving as the Program Manager and Adjunct Lecturer for Indiana University's School of Public and Environmental Affairs' Washington Leadership Program. Donna has served as a teacher and mentor for several students who have interned in my personal office and on the Senate Foreign Relations Committee.

Donna is joined today by her husband, Marcus Peacock, and their daughters, Mey and Iona. In addition, her sister, Robin Miles-McLean and niece, Haley Miles McLean, have traveled to be with Donna for this nomination hearing.

Mr. Chairman, I thank you for this opportunity to introduce Donna McLean to the Committee on Commerce, Science, and Transportation.

PREPARED STATEMENT OF ROBERT A. SCARDELLETTI, INTERNATIONAL PRESIDENT,
TRANSPORTATION COMMUNICATIONS INTERNATIONAL UNION

Chairman Stevens, Ranking Member Inouye and members of the Committee. It is my pleasure to present the following views and observations relative to Amtrak Reform Board members and ask that my statement be submitted for the record.

I would like to thank you for the opportunity to submit for the record some facts concerning Amtrak Reform Board members and point out the failure in their fiduciary responsibility to oversee the National Railroad Passenger Corporation, better known as Amtrak, as the Committee considers approval for nominees to the Amtrak Board.

My name is Robert A. Scardelletti. I am the International President of the Transportation Communications International Union, AFL–CIO. TCU recently merged with the International Association of Machinist and Aerospace Workers. We represent approximately 8,500 employees working for Amtrak. Our members work as clerical and reservation employees, On Board Service employees, Carmen, and Supervisors. In view of this we have a very great interest in those individuals who are nominated to serve on the Amtrak Reform Board.

As the Senate Committee on Commerce, Science and Transportation considers the nominations of Mr. R. Hunter Biden and Ms. Donna R. McLean to be members of the Amtrak Reform Board, the Transportation Communications International Union asks that the Members of the Committee consider the following points.

For the past several years the members of the Amtrak Reform Board have not acted in the best interests of Amtrak. A standard for any member of a corporate board is that the person act in the best interests of the corporation. Members of the Amtrak Reform Board should be no different.

The current members of the Amtrak Reform Board have consistently put forth proposals and instituted actions that would cause Amtrak harm and/or to be forced to declare bankruptcy. They have attempted to undermine the advantage that Amtrak enjoys in providing passenger service in the United States. They have supported the sale of Amtrak infrastructure, in whole or in part, to outsiders with no experience in operating passenger service. They have undermined the employees of Amtrak, thereby making it almost impossible for those employees to perform their jobs in the manner that would bring goodwill to Amtrak.

It is clear that the current members of the Amtrak Reform Board are not acting as fiduciaries of Amtrak, but as agents of the Administration whose goal it has been to dismantle Amtrak and discontinue Amtrak service in whole or in part.

While it is a good thing that the Amtrak Reform Board will have two new and additional members, this Committee should determine what, if any, agenda either or both of these individuals would bring to the Board. Also, it should be determined what position the nominees have concerning maintaining Amtrak as a national passenger service and a vital part of the transportation system of our country.

To assist the Members of the Committee to understand problems that have been caused by current members of the Amtrak Reform Board attached is a copy of a letter that I sent to Mr. David Laney, Chairman. Mr. Laney has not responded to this letter.

In considering future nominees for positions on the Amtrak Reform Board, the Committee should demand no less than the following:

Nominees should have minimum qualifications that includes familiarity with the rail industry, the issues facing Amtrak and a commitment to a national passenger rail system;

Nominees should not be appointed until after consultation with the appropriate Senate and House bipartisan leadership;

Nominees with any possible conflict of interests, including stakes in other rail carriers or competitors of Amtrak, should be excluded; and

Nominees should be committed to recognizing the historic positive contributions of Amtrak's workforce, and to working cooperatively with Amtrak unions to seek solutions that are in the mutual interest of the company and its employees, rather than perpetuating the adversarial, anti-employee policies of the current Board (such as refusing to settle contracts dating back to 2000, worsening working conditions, contracting out, and trying to eliminate railroad retirement, FELA, and other statutory rights of Amtrak workers.)

The Transportation Communications International Union appreciates the Committee's consideration of the issues raised herein and in the attached letter.

ATTACHMENT

TRANSPORTATION COMMUNICATIONS INTERNATIONAL UNION
Rockville, MD, May 19, 2006

Mr. DAVID LANEY,
 Chairman,
 AMTRAK Board of Directors,
 National Railroad Passenger Corporation,
 Washington, DC.

Dear Mr. Laney:

It has come to my attention that Amtrak has engaged the services of McIntosh & Associates to study the operation of the Reservation Sales Offices and to report on how work currently performed by TCU-represented reservation agents might be contracted out.

The reservation agents whose jobs you are targeting for elimination are among the most professional and productive workers that one could find anywhere, and the calls which they handle generate millions in revenue for Amtrak. Yet, I am not at all surprised to learn that you have drawn targets on their backs. It has become increasingly clear to me that the Amtrak Board of Directors and senior managers are enamored with the idea of destroying as many unionized jobs as you possibly can.

Amtrak's Strategic Reform Initiatives report released last year, and the more recent Fiscal Year 2007 Grant and Legislative Request, represent a virtual declaration of war on the pensions, wages and job security of Amtrak's unionized workers.

You have asked Congress to take new employees out of the railroad retirement system that is healthy and well-funded. You also propose that Congress amend other laws so as to ensure that private firms have access to tracks and are able to bid against Amtrak to operate intercity trains. You even call for Amtrak to turn over its equipment to competing, successful bidders. In doing so, you are clearly not acting as directors and managers of Amtrak but as partisan proselytizers of an ideology of privatization favored by the Bush Administration. You intend to advance that ideology at the expense of Amtrak's workers.

In a similar vein, you have asked Congress to amend the Railway Labor Act to allow labor contracts to expire so that Amtrak could impose work rule changes or wage cuts on employees without regard to the collective bargaining process. You claim that this radical departure from long-standing labor law would ensure an eq-

uitable framework for labor relations among Amtrak and its competitors. That rationale is absurd and disingenuous. Airlines, commuter rail and freight rail are governed by the very same rules from which you desire exemption.

The truth is that you cannot abide balanced collective bargaining. You seek a new legislated advantage over your employees and their unions while you continue to refuse to engage in fair bargaining. It is outrageous that most Amtrak workers, including TCU-represented Carmen and Supervisors, have gone 6 years without a general wage increase. Thousands of unionized jobs were eliminated during that same period, and the remaining employees have been required to do more work with less help. I am certain that Amtrak's hard-working front line employees will find it totally reprehensible, as I did, to learn that Amtrak executives were paid hundreds of thousands of dollars in bonuses at the very same time that the company forced unionized employees to sacrifice so much. I am also certain that they feel, as I do, that you have absolutely no regard for Amtrak employees or their families.

It has always been difficult to negotiate wage agreements with Amtrak due to its inadequate and unstable Federal funding. However, funding levels are no longer the most significant obstacle to fair wages, secure pensions and decent working conditions for Amtrak employees. The biggest obstacles today are the Amtrak Board of Directors and its senior managers.

Your attacks on employees have not stopped with proposed legislative changes or intransigence at the bargaining table. You have used all sorts of arguments and distortions to lay blame on Amtrak employees, while trying to provide cover for the Bush Administration's utter hostility toward federally-funded rail passenger service. The Amtrak testimonies to Congress last Fall that compared On-Board Service workers to fast-food restaurant employees was one of the most pathetic hatchet jobs I have ever seen. Amtrak management and the Amtrak Inspector General refused to tell the truth about On-Board workers' long hours, extremely difficult working conditions, lack of daily or weekly overtime pay, and their mandatory training in emergency evacuation, security and passenger safety matters. Through distortions and half-truths, Amtrak sought to blame the wages of On-Board workers for Amtrak's food service deficit and to pave the way for contracting out that service.

More recently, you have created new management positions to perform work that TCU ARASA Supervisors used to perform even though Amtrak had previously promised that would never happen. These new management jobs are costing Amtrak more than the TCU-represented Supervisor positions which had been eliminated. You are scuttling hundreds of On-Board Service positions while downgrading food service on the trains. You and Acting President David Hughes have announced your desires to contract out mechanical, car cleaning, ticket office, and other work; and now, management has taken a step to try to replace reservation sales agents.

I do not believe for 1 second that you are acting in the interests of Amtrak's customers or that you are advancing Amtrak's historic mission to provide the best possible intercity rail passenger service for America. You and other Board members were appointed by President Bush who has repeatedly tried to kill Amtrak and who proposed zero funding for Fiscal Year 2006 so as to accomplish exactly that. When Amtrak's former CEO spoke out last year against the Board's attempts to lay the ground work for dismantling Amtrak, you fired him. The current Members of the Board have been acting more like Amtrak gravediggers than as directors of Amtrak or guardians of America's rail passenger service.

TCU represents more than 8,500 employees at Amtrak who perform work as Carmen, Clerical and Station workers, Reservation Agents, Supervisors and On-Board Service workers. Most of our members are protected against the contracting out of their jobs, and it would be a grave mistake for Amtrak to breach those protections. If you and the other Members of the Board and top managers truly wanted Amtrak to succeed, you would be rewarding employees for the service they have provided to Amtrak passengers under incredibly difficult and often demoralizing conditions. Our members have made countless sacrifices to keep Amtrak going in the face of severe budget restrictions, threatened bankruptcy and the dismantling of the national system, all the while earning less than their counterparts who work for commuter rail service agencies and freight railroads. Our members have routinely helped to mobilize voters to ask Congress to appropriate the moneys needed to maintain or increase Amtrak service. And TCU itself has expended considerable resources to press Congress to provide Amtrak with sufficient funding for operations and long term capital investment.

TCU members have been working on board, repairing cars, selling tickets, hoisting baggage, directing trains, supervising road gangs and more, long before you or the other Board Members were appointed to carry out the White House agenda. TCU will do everything in its power to ensure that our members continue to do that work long into the future.

Very truly yours,

ROBERT A. SCARDELLETTI,
International President.

cc: Norman Mineta, Board Member; Floyd Hall, Board Member; Enrique Sosa, Board Member; David Hughes, Acting President; TCU representatives at Amtrak.

PREPARED STATEMENT OF HANS EPHRAIMSON-ABT, SPOKESMAN,
AIR CRASH VICTIMS FAMILIES GROUP

We welcome the appointment of Andrew B. Steinberg as Assistant Secretary of Transportation for Aviation and International Affairs and hope that the Senate Committee on Commerce, Science and Transportation proceeds to recommend to the full Senate to give its advice and consent as early as possible. The absence of a Permanent Assistance Secretary with only an acting office holder in place—however qualified he might be—has slowed down—or even detracted the resolution of some of the important decisions both in the domestic and in the international arena.

By education and career background, we hope soon to be, Assistant Secretary Steinberg brings experience and knowledge from his time as General Counsel at the Federal Aviation Agency. The combination of DOT Secretary Jeffrey N. Shane, FAA Administrator Marion Blakey, NTSB Chairman Mark Rosenker and Andrew Steinberg as DOT Assistant Secretary for Aviation and International Affairs would make a strong team—already used to work together.

The nominee's relations and experiences both in his career and in his family relate apparently to the airlines, the manufacturers and to the Internet related modernized tourist industries. This gave the nominee the opportunity and exposure to work for and with very pro active personalities in the civil aviation field like at American Airlines: Bob Crandell and Anne McNamara as well as Jeffrey Katz—who became later the CEO of Swissair—at the times of the Swissair 111 tragedy.

In his new position the nominee will be faced to consider also the needs of the general public both in the domestic and in the international arena—hopefully pro actively and by harmonization among the interests of *all* the stake holders.

As a consequence of a series of major domestic and international aviation tragedies that occurred between 1983 and 1996, with the encouragement of DOT Secretaries Samuel Skinner, Federico Pena and Rodney E. Slate as well as then Assistant Secretary Jeffrey Shane and the former Deputy Assistant Secretary Patrick Murphy—an informal coalition of the stakeholders with the Public's participation made it possible to develop, negotiate, conclude, ratify and implement together important rules and treaties such as the "Montreal Convention" of 1999 replacing the antiquated "Warsaw Convention" of 1929, the modernization of the 1920 "Death On The High Seas Act in 2000, the 1996/1997 "Aviation Disaster Family Assistant Act" and the "Foreign Carrier Family Support Act of 1997"—both of which would have never been passed without the active support of Committee Chairman Ted Stevens and co-Chairman Daniel Inouye—the ICAO "Guidance on Assistance to Aircraft Accident Victims and their Families" of 2001—and many other initiatives, last but not least the resolution of the aftermath of September 11, 2001.

Regretfully, lately this very useful and productive inter relationship among the stakeholders themselves and the Government has considerably weakened, as is evidenced by the recent decision of the Department of Transportation allowing the air carriers their requested very limited implementation of the 1999 Montreal Convention, with only selective international harmonization—at the same time essentially ignoring the very valid public's comments and input. The nominee may find it useful to address early on the benefits which come from cooperative participation of *all* stakeholders and increased harmonization in the international field.

Although Michael Jennison a senior legal Counselor of the Federal Aviation Administration is the Rapporteur of a Special Group at the International Civil Aviation Organization (ICAO) to modernize the Treaty of Rome (Damages caused by foreign aircraft on the ground) the United States has so far not officially participated in this very important initiative, which causes some concern in the international community.

The full implementation by DOT of the 1999 “Montreal Convention” should also be high on Secretary Steinberg’s agenda, as well as the modernized rules and regulations of ETOPS (Extended Transocean and Transpolar flights) which are urgently needed in view of the impending introduction of longer range as well as larger planes with increased passenger capacity.

In the person of Andrew B. Steinberg who is also very well respected in the international community, the Department of Transportation would be enriched by a knowledgeable person, moving over from his position as the Chief Counsel for the Federal Aviation Administration.

The National Transportation Safety Board (NTSB) is one of the least heralded, yet an eminently important and cost effective, independent agency respected internationally, responsible to Congress.

To function properly it needs a permanent leadership.

Mark Rosenker has been a most effective Vice Chairman and Acting Chairman for the last 3 years. Under rather difficult circumstances he has been and is a most able administrator.

For some time now the NTSB has gone through the process of a complete turnover of its leadership. It about time that it has a again a permanent Chairman.

We not only supported the confirmation of Mark Rosenker as Chairman of the NTSB—but respectfully encourage the Committee on Commerce, Science and Transportation to vote early on the nomination, so that the full Senate is able to give his appointment its prompt Advice and Consent.

In the last years we have been most fortunate that no major domestic Civil aviation accident has occurred. Yet almost daily the NTSB is faced with Aviation and surface incidents, not only in the United States. Because American aircraft are used worldwide the NTSB is also involved in its accident investigations either as observer, or as advisor, or as investigator by invitation.

This year is the tenth anniversary when your Committee approved the “Aviation Disaster Family Assistance Act of 1996,” and one year later the “Foreign Carrier Family Support Act of 1997.” Your Chairman Senator Ted Stevens before whom we were privileged to testify at that time and your Co-Chairman, Senator Daniel Inoué were much appreciated supporters of the legislation.

Since then the NTSB has also become a much respected post incident coordinator for crisis management and family care.

Based on the NTSB families affairs program, the International Civil Aviation Agency (ICAO) approved Circular 285 the “Guidance On Assistance to Aircraft Accident Victims and Their Families” in 2001. This initiative was introduced at a plenary ICAO meeting in Chicago, in 1998 by then NTSB Chairman James E. Hall.

In addition the NTSB has established a teaching academy which in the short time of its existence has established already a global reputation for effectiveness and excellence, despite its limited means.

No agency of the quality and dedication of the NTSB can operate effectively without adequate staffing and financing. As Hurricane Katrina has taught us, we all have to be prepared in advance for those calamities to happen. We therefore suggest that the Senate does not only confirm speedily Mark Rosenker as Chairman of the NTSB, but also provide him with the means to properly staff, finance the operations of the NTSB and complete the nomination process for the other two openings of the Board, as fast as possible.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUE TO
DONNA R. McLEAN

Question 1. Ms. McLean, you come highly recommended based on your past experiences. You have an opportunity to step in, be creative, and really help our Nation’s passenger rail system. You know this is not an easy job and are well prepared to face the challenges ahead. How you will approach the problems facing Amtrak, from the lack of funding to the need to make major investments and reduce costs?

Answer. If confirmed, I would see my role as an Amtrak Board member to cover both short term and long term issues. In the short term, I would be interested in exploring with the Amtrak professional staff certain changes that could both increase revenue and reduce costs. These short term actions would not alter rail service. These short term actions would simply be an attempt to improve business operations; better understand the Federal funding process; and incorporate technology improvements in Amtrak’s service. For instance, if confirmed, I would examine with Amtrak’s professional staff why Amtrak tickets can only be purchased on Amtrak’s website and not any other transportation travel Internet site. I find it interesting that Travelocity offers Canadian and European train tickets and not Amtrak tickets.

The other role of the Board is to look at the long term needs of Amtrak. Unfortunately, financial decisions made by Amtrak years ago have resulted in the company having very few assets. In addition, Amtrak is approximately \$3 billion in debt. It is my understanding that Amtrak is currently looking at its capital needs, including a comprehensive look at its needed investments. If confirmed, I look forward to seeing that report to better understand the long term needs of Amtrak, its current debt, and helping to map out a better future for our country's intercity passenger rail system.

Question 2. This Committee has worked hard on a reauthorization plan for Amtrak, favorably reporting S. 1516, sponsored by Senators Lott and Lautenberg, Stevens, Hutchison and myself last year. Are you familiar with this proposal and do you have comments regarding it?

Answer. Yes. I have read the bill and am interested in several sections of the bill. Specifically, if I am to be confirmed, I would like to explore the requirements for a new financial and cost accounting system; calls for improved metrics; and exploring the restructuring of Amtrak's current debt. While the bill is still under debate, there are several interesting ideas that Amtrak could begin to explore right away.

Question 3. What do you believe the Federal Government's role should be in the financing of Amtrak's capital and operating needs? What role should the states and the private sector have?

Answer. The Federal Government has been supporting Amtrak since its establishment. Several times there have been attempts to make Amtrak "self sufficient." Unfortunately, those efforts have failed. However, I think that there are several ways that Amtrak could improve its business-specific actions were included in your Committee's bill, S. 1516. I believe the Board's role is to make sure that Amtrak is taking advantage of every efficiency gain possible, while maintaining service to its clients. If confirmed, I would work with Amtrak to explore those efficiency options. If those efficiency options meant that a smaller government grant could be provided, then I would believe the Board was doing its job.

I believe that states are supportive of intercity passenger rail systems and should maintain their support, as they do with all modes of transportation. A healthy intercity passenger rail service is important to many states and their support is necessary to sustain a robust system in the long term. In regards to your question on the role of the private sector, believe that this relationship has not been fully explored for intercity passenger rail. Creative arrangements between the commercial sector, the public sector, and Amtrak should be considered, as they have been in many other transportation modes.

Question 4. Do you support Amtrak's operation of a comprehensive national system or do you believe Amtrak should focus on developing short distance corridors that connect city pairs in densely populated regions? Or should Amtrak continue to develop both?

Answer. I believe that this country should have a robust intercity passenger rail system. Most other transportation modes operate successfully, in part, because they are based on a national feeder system. Certainly the aviation system and the highway system are based on feeder structures. One area where we could improve our Nation's transportation system is to better incorporate our different transportation modes as we examine potential feeder systems. If confirmed, I look forward to working with Amtrak on their national system and improving service for their customers.

Question 5. One of the immediate issues facing Amtrak is appropriations for the coming year. Amtrak requested approximately \$1.6 billion in capital and operating funds for Fiscal Year (FY) 2007. The Administration requested only \$900 million, which former Amtrak President David Gunn consistently stated was a shutdown number when the Administration proposed such funding levels in previous years. If history is a guide, Amtrak will probably not get the \$1.6 billion it says it needs. As an Amtrak Board member, where will you recommend Amtrak should focus its limited funds next year?

Answer. Unfortunately, Amtrak's professional staff is accustomed to beginning its Fiscal Year with limited resources. If confirmed, I would first discuss the proposed options with the professional staff. I would also explore taking advantage of some short-term efficiency improvements, as I have already discussed and which appear in your Committee's bill (S. 1516). I would also make sure that the infrastructure study Amtrak is currently undertaking is completed so that the information can be used to better understand the needs for Fiscal Year 2008.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUE TO
JOHN H. HILL

Question 1. Mr. Hill, highway safety is a top priority for all of us. Although in 1999 the Department set a goal of reducing truck fatalities by 50 percent by 2008, it does not appear likely that this goal will be achieved under present condition. Truck fatalities increased from 5,190 in 2004 to 5,226 in 2005. Please give us your blueprint for attacking this problem, including the first actions you would take as Administrator to reduce motor carrier crash deaths and injuries. What can the Congress do to make the most immediate improvements in truck safety?

Answer. As I mentioned at my confirmation hearing, my extended background in law enforcement has shown me that highway safety is built on good rules coupled with strong enforcement. My first actions as Administrator, if confirmed, would be to make sure that the Federal Motor Carrier Safety Administration (FMCSA) relied on data-driven regulations to guide our work. For example, the recently released Large Truck Crash Causation Study points out the critical role of the driver in crashes. I will ensure that FMCSA applies this important data to take effective and near-term actions on important initiatives focused on drivers. This means implementing the important new provisions of SAFETEA-LU with respect to the medical status of drivers: moving ahead with our rulemaking on diabetes, creating the National Registry of Medical Examiners, and supporting the work of our newly established Medical Review Board in updating all of our physical qualification standards for commercial drivers. FMCSA will complete ongoing work affecting drivers directly, such as our rulemaking on merging medical information with commercial driver's license files and regulations concerning electronic on-board recorders (EOBRs).

With respect to enforcement, FMCSA's Comprehensive Safety Analysis (CSA) 2010 project will re-engineer how we interact with drivers and carriers to ensure that FMCSA can target more of its regulated community to promote compliance. In addition, more effective oversight of our New Entrant program will ensure that funds are appropriately deployed so that all new motor carriers receive a strengthened and more enforcement-oriented new entrant audit within 18 months of beginning operations. My most immediate plans include focus on both improved standards and effective compliance. Congress has given us an appropriate set of tools in SAFETEA-LU to pursue further reductions in the number of highway deaths and injuries involving trucks and buses. By fully funding our SAFETEA-LU authorization levels, Congress also continues to improve truck safety.

Question 2. Mr. Hill, you have a long career in highway safety and have served at the Federal Motor Carrier Safety Administration (FMCSA) now for several years. The agency's highest priority, as the law requires, is improving truck safety. Some have suggested that the agency, at times, is more concerned with the economic health of the industry rather than improving truck safety. As Administrator, will you pursue safety as the highest priority in all agency actions, even if it means imposing additional costs and burdens on the trucking industry?

Answer. If confirmed by the Senate, I am committed to pursuing the preeminent safety mission of FMCSA: to reduce highway crashes, injuries and fatalities involving trucks and buses. To this end, the Agency undertakes research, conducts enforcement activities, distributes grants to our State partners, cooperates with stakeholders, and promulgates safety regulations. When we embark on a regulatory project, as directed by a Congressional mandate, National Transportation Safety Board recommendation, or FMCSA research, improving safety is always our highest priority. For example, FMCSA maintains physical standards for drivers, standards for securing cargo, recordkeeping requirements for carriers, licensing standards, and other regulations that impose costs and burdens on drivers, carriers and States. Like most Federal agencies, FMCSA is required by law to take into account cost/benefit considerations when it engages in rulemaking. Good safety regulations can be cost beneficial. As Administrator, I would work to ensure that FMCSA's safety actions are fair, effective, consistent, and transparent so all our stakeholders, including Congress, can clearly see our primary focus on improving highway safety and understand when and why our actions may impose costs and burdens on the trucking industry and others.

Question 3. There are now some 700,000 motor carriers registered with FMCSA. Yet, the agency is conducting only 7,000 to 10,000 safety compliance reviews each year, equaling only a little more than one percent of the registered carriers. How can compliance reviews, which are at the heart of the Federal safety regulatory process, be regarded as a serious deterrent to bad safety management practices or regulatory violations when such a small number of reviews are conducted?

Answer. FMCSA's mission is to reduce the number of injuries and fatalities associated with commercial motor vehicle crashes. To achieve this, FMCSA undertakes a number of enforcement activities to ensure compliance with the safety regulations. Through performance information collected on carriers and drivers, the FMCSA compliance review program focuses on those carriers posing the highest risk to safety as measured by the Agency's Safety Status Measurement System (SafeStat). SafeStat is an automated motor carrier safety analysis system. SafeStat uses carrier safety data such as roadside inspections, out of service violations, past enforcement history, and crash data to determine the level of risk posed by the carriers.

Even with increased demands on FMCSA resources, the number of compliance reviews has remained steady over the past few years as FMCSA has expanded the number and types of activities conducted. These activities include onsite visits to hazardous materials carriers to assess security vulnerabilities, increased reviews of passenger carriers, and conducting safety audits on new entrant carriers. So while we are auditing a small percentage of all carriers, we are performing compliance reviews on the most serious safety offenders within the industry. FMCSA recognizes the need to reach more carriers to ensure they comply with the safety regulations and has initiated the Comprehensive Safety Analysis 2010 (CSA 2010) program to develop more efficient and effective use of Agency resources to assess the safety of more than 10,000 carriers per year. Together with our State law enforcement partners, we are developing significant revisions to our safety regulatory process through CSA 2010. Additionally, I am strongly encouraging States to add to their roadside inspection activities by also completing compliance reviews (CRs). FMCSA has seen the number of CRs performed by State personnel increase from 3,745 in FY 2004 to 4,593 in FY 2005. There have already been 2,435 during the first 6 months of FY 2006.

Question 4. FMCSA's system for detecting which motor carriers are high safety risks has been found to be seriously flawed. The primary method relies on calculations performed in the Safety Status Measurement System, usually called "SafeStat." The agency currently has an open docket on improving SafeStat that was published in the Federal Register on May 3, 2006.

What specific actions will you take to correct the deficiencies identified in SafeStat discussed in the present Federal Register notice to guide public comment? Please provide the Committee with a date by which you believe all of the deficiencies identified by GAO and the IG will be addressed and corrected so that SafeStat will be useful in identifying dangerous motor carriers?

Answer. While FMCSA continually works to improve the effectiveness of SafeStat, the system is an efficient, effective and useful tool for identifying high-risk motor carriers. In fact, the 2004 Office of Inspector General (OIG) report noted that compliance review results support the ability of SafeStat to identify high risk carriers. In essence, the OIG report indicated that the higher a carrier's SafeStat score was before a compliance review was conducted, the greater the likelihood the compliance review would result in a less-than-satisfactory safety rating.

Also, FMCSA's first effectiveness study of SafeStat yielded strong evidence to support the fact that carriers identified as high-risk by SafeStat, particularly those with high Accident Safety Evaluation Area (SEA) scores, are significantly more likely to be involved in a disproportionate number of future crashes. The 2004 OIG report indicated that "this analysis is convincing" and further suggested that FMCSA update the analysis. In late 2004, FMCSA updated this analysis and the findings were similar. Specifically, motor carriers identified as high-risk by SafeStat had a post-identification crash rate 112 percent higher than those carriers that had sufficient data to be evaluated but were not identified as high-risk.

The OIG and GAO reports primarily identified limitations in the underlying data used by SafeStat, especially the completeness and timeliness of crash data reported to FMCSA by the States, and made recommendations intended to improve the data rather than the SafeStat methodology and algorithm itself. The FMCSA is pleased to report that we have implemented a number of data quality initiatives in response to the OIG and GAO reports that have already resulted in improvements. FMCSA is well aware that improving data quality requires a long-term and sustained effort and continues to build upon its recent successes to improve the State reporting of large truck crash and roadside inspection data. Congress recognized the importance of improving data quality by recently authorizing \$11 million through FY 2009 to be used for safety data improvement grants and a safety data improvement program with the States.

FMCSA is also striving to improve the SafeStat algorithm itself. The May 3, 2006, Federal Register Notice referred to in the question proposes enhancements to the SafeStat algorithm that we believe will make SafeStat even more effective. The proposed improvements would:

- Simplify the Accident SEA;
- Increase the number of traffic violations considered by SafeStat in the calculation of driver SEA scores;
- Increase the number of vehicle out-of-service violations considered by SafeStat in the calculation of the vehicle SEA; and
- Shorten the data exposure time period considered by SafeStat from 30 months to 24 months.

The Federal Register Notice is itself a response to an OIG recommendation to “establish processes for soliciting public comment on proposed changes in SafeStat calculations, to include those changes, if any, resulting from the revised effectiveness study.” Detailed information on these proposed changes can be found at <http://ai.fmcsa.dot.gov/SafeStat/enhancements.asp>. The FMCSA expects to implement changes before the end of calendar year 2006.

Question 5. There are still numerous overdue regulatory actions, reports, and pilot programs that FMCSA has either not undertaken or has left unfinished stretching back for more than 15 years.

Please provide the Committee with a list of overdue and delayed regulatory actions, those mandated by Congress and those included in your semi-annual regulatory agenda as well as deadlines for initiation and completion.

Answer.

Overdue and Delayed Rulemakings

Title	Initiation Date	Scheduled Completion Date of Next Action	Statute
Medical Qualification Requirements As Part Of The CDL Process ¹	07/15/1993	Notice of Proposed Rule-making 11/06	Motor Carrier Safety Improvement Act
Railroad-Highway Grade Crossing Safety ²	08/16/1994	Notice of Proposed Rule-making 09/07	Hazardous Materials Transportation Authorization Act
Hours of Service of Drivers; Supporting Documents ³	08/26/1994	Final Rule 10/06	Hazardous Materials Transportation Authorization Act
Unified Registration System (Includes several sections changed by SAFETEA-LU) ⁴	01/01/1996	Supplemental Notice of Proposed Rulemaking 06/07	Interstate Commerce Commission Termination Act & Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users
Brokers of Household Goods Transportation by Motor Vehicle	05/12/2003	Notice of Proposed Rule-making 10/06	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users
Inspection, Repair, and Maintenance of Intermodal Container Chassis ⁵	02/18/2004	Notice of Proposed Rule-making 10/06	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users
Electronic On-Board Recorders for Hours-Of-Service Compliance	07/22/05	Notice of Proposed Rule-making 10/06	Interstate Commerce Commission Termination Act
National Registry of Certified Medical Examiners	10/24/05	Notice of Proposed Rule-making 11/06	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users

Source: “Report on Department of Transportation Significant Rules” dated July 2006. This report is available to the public from the Department’s website and provides the most current information on the schedule of rules.

¹This rule had no statutory deadline; is in final clearance; and will align with our enhanced medical program.

²This rule had a 1995 statutory deadline and was delayed as the initial NPRM resulted in exceedingly high costs and was overly broad. A new rulemaking reflecting current data is underway.

³This rule had a 1996 statutory deadline and is at the Office of Management and Budget for final review.

⁴As a result of SAFETEA-LU, the Agency needs to supplement its 2005 NPRM. An ANPRM was published in 1996.

⁵SAFETEA-LU required a final rule within one year of enactment.

Question 6. FMCSA has just issued its final report on the Large Truck Crash Causation Study in March. Yet, the agency to date has basically failed to acknowledge any of the criticisms or incorporate almost any of the suggestions documented in reports from the Transportation Research Board of the National Academy of Sciences, from the Centers for Disease Control, and national truck safety organizations that were directed a few years ago to evaluate the LTCCS. What specific actions are you taking in response to the criticisms to the Bus Crash Causation Study that you are currently conducting?

Answer. FMCSA issued a report to Congress in March on the initial findings from the Large Truck Crash Causation Study (LTCCS). This report should not be considered a final report because FMCSA and other research organizations are continuing to conduct additional analyses of specific crash factors over the next several years using the LTCCS database. In CY 2000, FMCSA contracted with the Transportation Research Board (TRB) of the National Academy of Sciences to review the LTCCS (section 224 of the Motor Carrier Safety Improvement Act of 1999 required FMCSA to consult with persons with expertise on crash causation, commercial vehicles, drivers, carriers, Federal and State highway safety programs, and research methods and statistical analysis). During that three-year review, FMCSA made a number of changes to the data collection forms and data collection protocols that incorporated the TRB Committee's input. While recognizing that a survey of this kind has inherent limitations, both the TRB Committee and the Centers for Disease Control and Prevention recognized that the LTCCS would be an important data resource on truck crash causes. Specifically, the TRB recognized the LTCCS as a "landmark undertaking of great potential importance to highway safety." FMCSA plans to use the LTCCS to formulate hypotheses for the conduct of additional in-depth studies to examine certain key causation factors that cannot be adequately addressed with the current dataset.

The study approach for the LTCCS and the Bus Crash Causation Study (BCCS) are very different. Serious crashes involving interstate regular route and charter bus service constitute only about 1 percent of the commercial motor vehicle crashes for which FMCSA has responsibility. Since these types of bus crashes are so rare, it is impossible to obtain a nationally representative sample of motorcoach crashes in a useful timeframe. FMCSA decided to focus bus study data collection in New Jersey, which has a high volume of motorcoach travel and a large number of smaller buses that operate in the congested Northeast corner of the State. Many of the data collection protocols for the BCCS are similar to the LTCCS. However, in the BCCS, a trained crash investigator and a State commercial vehicle inspector arrive at the crash scene as soon after the crash as is possible. The investigator collects numerous data items and the State inspector conducts a North American Standard Level 1 inspection on the involved vehicle to determine if any vehicle factors contributed to the crash. The data are coded by trained contractor staff, reviewed by outside crash experts, and entered into an electronic database. FMCSA did consider the TRB, CDC, and other organizations' comments on the LTCCS and have incorporated several changes into the BCCS. For example, as a result of the comments, FMCSA reduced the number of data elements collected in the BCCS by eliminating those that we determined had no relationship to pre-crash factors, we placed increased emphasis on crash notification, and we simplified the resulting database that will be produced.

Question 7. The U.S. Government Accountability Office issued a detailed report in December 2005 that found that FMCSA's administration of MCSAP was inadequate, and that several states had not complied with all of their obligations under the program, including failures of timely and accurate data collection and transmission to FMCSA. GAO also found that FMCSA had no meaningful and reliable quantitative measures of how well or badly states were performing with the use of MCSAP funds, and that the agency has not appropriately monitored the development of state safety plans for receiving Federal funds. This includes a failure of FMCSA to have completed its own internal MCSAP oversight reviews for the past 3 years. What are you doing to remedy these mistakes and ensure that MCSAP is awarding funds properly and in a timely manner to get measurable motor carrier safety payoffs?

Answer. In the spring of 2006, FMCSA sent a planning memorandum to the States in order to provide direction and priority areas to address in their Commercial Vehicle Safety Plan (CVSP). State agencies receive funding only after submitting an approved CVSP demonstrating a performance-based approach to improving CMV safety reflecting the priorities established in the planning memorandum. CVSPs are required to be completed each year and must contain an evaluation of the previous year's activities and any problems encountered. Problems identified as a result of those CVSP activities should be addressed as new State-specific objec-

tives. The evaluation should discuss problems addressed; the strategies, activities, and effort applied; performance measures; modifications that were necessary; and outcomes. Once an objective has been accomplished and the evaluation completed, the objective will no longer appear in the CVSP. Each CVSP and the safety activities proposed must be developed based on quality data, implemented as planned, continually reviewed and adjusted according to in-process results, and thoroughly evaluated annually. Based upon the evaluation results, subsequent CVSP activities are modified and directed toward effective safety strategies.

Additionally, FMCSA is in the process of implementing a National Motor Carrier Safety Assistance Program (MCSAP) Management and Performance Review Program. The MCSAP Review Program is a national standardized process to evaluate State compliance with related Federal MCSAP requirements and to assess the State's commercial motor vehicle (CMV) safety program's overall performance. The program is composed of three review elements:

1. *Regulatory review* to determine if the State's laws, regulations, administrative procedures, and operational practices conform to MCSAP regulations, policies and procedures, to ensure compliance with regulatory requirements.
2. *Financial review* to determine the State's compliance with the conditions of FMCSA grant agreements, Federal regulations, and applicable Office of Management and Budget circulars. This portion of the review process is currently given special emphasis to verify appropriate expenditures of Federal funds and to track specific MCSAP grant activities.
3. *Safety and Program Performance review* to assess the State's safety planning and CMV safety activities including the State's formulation of a performance-based Commercial Vehicle Safety Plan through analysis of safety data.

There have been four MCSAP Reviews (Montana, Mississippi, West Virginia, and Ohio) performed to date. FMCSA is currently in the process of procuring a contractor to provide support for the MCSAP Review Program. It is anticipated that the contract will be awarded by the end of this Fiscal Year so that additional reviews can begin in FY 2007.

This effort will increase the effectiveness of State CMV safety programs by providing FMCSA information that will allow the Agency to assist the States in focusing on improving their safety performance and planning activities. The MCSAP Review Program will also provide feedback to the State to facilitate the exchange of ideas, promote operational efficiency, and promote Federal/State cooperation and partnership in making program improvements and achieving greater benefits to reduce CMV-related fatalities and injuries.

Additionally, FMCSA has created an internal workgroup tasked with developing revised uniform guidelines for the administration of MCSAP to ensure consistent grant oversight and program management procedures Agency-wide. These guidelines will be included in the Agency's Field Operations Training Manual (FOTM). It is anticipated that the administrative guidelines will be ready for inclusion in the FOTM by January, 2007.

Question 8. Congress first required the Secretary to deal with training standards for entry-level truck drivers in 1991. Although an agency contracted Adequacy Report on driver training documented the need for entry-level skills training, and the independent Model Curriculum made numerous recommendations, the final rule issued by FMCSA in 2004 addressed only four marginal areas and did not include a requirement for training in the skills necessary to safely operate a large truck. For this reason, when the agency was sued in Federal court the U.S. Court of Appeals issued a unanimous decision remanding the issue to the agency for further action. When does the agency plan to act to respond to the court's decision and opinion? Will you include a proposal for actual on the road training as part of this rule?

Answer. FMCSA intends to initiate a rulemaking in response to the court's decision in late 2006 or early 2007. Research efforts currently underway, both by FMCSA and by major stakeholders, are likely to provide important information relevant to determining mandated behind-the-wheel training. These research projects will be completed in 2006. FMCSA believes it is essential to complete this and other research prior to initiating the new driver training rule.

When FMCSA initiates the entry-level driver training rulemaking, the Agency will describe in detail its efforts to gather accurate and useful data concerning driver training and request public comment about entry-level driver training. It is too early in the rulemaking process to discuss the scope of the forthcoming rulemaking notice. However, the Agency will consider the most up-to-date research and safety data in developing a regulatory approach to address the court's decision, as well as in proposing a rule that reflects safety benefits.

Question 9. FMCSA indicates that it intends to increase emphasis on driver safety and decrease emphasis on vehicle condition because of findings in the Large Truck Crash Causation Study (LTCCS) that the overwhelming reason for crashes is driver error, not failures of vehicle systems. However, the final LTCCS report contains a table showing that of the trucks in the study sample that were investigated following a crash, 29.4 percent of them had suffered some form of brake failure. This percentage of bad brakes on the crash-involved trucks is deeply troubling and a strong indication that FMCSA should in fact increase its oversight and enforcement emphasis on ensuring that large trucks have all operating systems necessary for safe travel in good condition and do not have any dangerous mechanical problems. Why are you de-emphasizing inspecting trucks for mechanical and physical condition?

Answer. FMCSA's emphasis on driver safety performance is part of a comprehensive strategy to use the best-available data on heavy truck and bus safety to manage our enforcement resources in the most effective manner possible to reduce fatalities and injuries on the Nation's highways. There has been a steady decrease in the rate of fatal crashes involving CMVs since national statistics were collected. Still, the number of people killed in crashes involving CMVs remains too high (5,190 in 2004, the last year reported). Large trucks remain over-represented as a total of all fatal crashes—they represent a small fraction of registered motor vehicles but they are involved in 12 percent of fatal crashes on the Nation's highways.

Recent studies, including FMCSA's LTCCS, continue to emphasize the part that drivers play in crash causation and avoidance. In the LTCCS, CMV driver action or inaction was determined to be the "critical reason" for the crash in 87 percent of the crashes where the primary cause of the crash was attributed to the CMV. We believe that given this data, it is appropriate to focus much more attention on CMV drivers and to put into place improved driver-related programs and regulations to significantly decrease the number of fatalities and injuries caused by truck and bus crashes.

With regard to the LTCCS data concerning brakes, the report indicates that the condition of the brakes was determined to be an "associated factor" in 29.4 percent of crashes. Associated factors are selected from a broad range of items that contribute to the risk of having a crash. However, no judgment was made as to whether these factors contributed to a particular crash, just whether it was present. "Brakes failed" was coded as a *critical reason* in only 1 percent of crashes while "degraded braking capacity" was coded as the *critical reason* in 3 percent of crashes. Therefore, the LTCCS data indicate that driver action or inaction played a greater role in crash causation than the condition of the brakes on the CMV.

While FMCSA is placing a greater emphasis on driver safety performance, the Agency and its State partners will continue to conduct roadside inspections to identify and remove from operation unsafe drivers and vehicles. The roadside inspection program is an important part of our safety strategy and a valuable tool for deterring violations of the Federal Motor Carrier Safety Regulations. Vehicle inspections will remain a vital part of promoting highway safety.

Question 10. A new Unified Carrier Registration (UCR) plan for the Nation's trucking industry has been mandated by SAFETEA-LU to replace the Single State Registration System which is repealed by the same law on January 1, 2007. SAFETEA-LU also establishes a new Board of Directors who will be responsible for issuing rules and regulations for the states to implement the UCR, including a new carrier fee structure that will provide SSRS replacement revenue for the states.

I am informed by State officials that unless FMCSA completes its process by September the state agencies responsible for UCR will have a very difficult time implementing their program by January 1, 2007, resulting in a loss of revenue. Do you expect the UCR Board to complete its work in time for the states to fully implement the plan by January 1, 2007 so that a revenue shortfall for the states will be avoided?

Answer. No, we do not expect the UCR Board to complete its work in time for States to fully implement the plan by January 1, 2007. FMCSA established the Board of Directors responsible for developing the UCR plan and agreement on May 12, 2006. The Board of Directors held its first meeting on June 13, 2006. During the meeting, the Board of Directors adopted a unanimous resolution that there should be an extension of the repeal of the Single State Registration System (SSRS) for an additional year until January 1, 2008, in order to provide sufficient time to develop and implement the UCR plan and agreement.

Issues listed by the Board of Directors that require the extension include:

- A UCR Agreement must be developed;
- States must pass enabling legislation (in States where needed);

- States' UCR Plans must be developed and approved;
- SSRS data necessary to determine fees under the UCR must be collected;
- New motor carrier industry participants must be educated, which will be required to meet the UCR requirements.

Question 11. Do you think SAFETEA-LU's timetable of 12 months within which to complete the UCR plan is enough time? If not, would you support an extension of the January 1, 2007, deadline to give the states enough time to implement the plan?

Answer. No, FMCSA does not believe a timetable of 12 months to complete the UCR plan is enough time. FMCSA's experience in the 1990s demonstrated that the complexities involved when working with the States toward establishing the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA) were numerous and challenging. The development of the IRP and IFTA agreements took nearly 3 years to complete.

Similar to the IRP and IFTA agreements, the development of the UCR plan will require the Board of Directors and the States to: (1) design a proposed plan that meets all functional requirements, and (2) identify and resolve significant State-specific operational, administrative and funding issues associated with implementing the plan. The design and issue resolution process, while time-consuming, is critical to building a strong State consensus for an effective and uniform agreement that all States can accept and successfully implement. A time extension for the UCR deadline would be warranted.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUE TO
ANDREW B. STEINBERG

Question 1. Two hundred and seventy-one Members of the House voted against the Federal Aviation Administration (FAA) and the actions it has taken to unilaterally impose the agency's last best contract offer on the National Air Traffic Controllers Association (NATCA). The vote failed by a mere eight votes to obtain the two-thirds needed to pass on the House suspension calendar. While the FAA may see it as a "victory," it does not bode well for their actions. You played a key role in managing the FAA, serving as its Chief Counsel. With the Administration now moving forward to implement its last-best contract offer on NATCA, I am concerned that the collective bargaining process has been diminished and that this option contributes to an already stressful atmosphere that is not conducive to safety. Did you recommend or counsel that sending the FAA contracts to the Congress for resolution was the best way to resolve this contract dispute?

Answer. I have never believed that impasse was the best way—or even a desirable way—to resolve the dispute, nor do I view the actual resolution of this dispute as a "victory." The goal going into any kind of negotiation, particularly collective bargaining, is to obtain an agreement, and during my career I have prided myself on my ability to facilitate settlements even in the most contentious of situations. In advising the Administrator and our negotiators on the statutory framework for the negotiations, therefore, I viewed a voluntary agreement as the best way to achieve our primary goal. Thus, I consistently recommended to my clients that we pursue every reasonable possibility of obtaining an agreement.

While the optimal outcome would have been a voluntary agreement with NATCA, and the parties resolved many work rules, fundamental economic issues separated them. In the end, in my judgment, a complete agreement with NATCA became impossible because of the huge gap between the parties on new hire pay scales and automatic pay hikes. But I was as disappointed as anyone that an agreement was not reached.

Question 2. The Fiscal Year (FY) 2006 final Emergency Supplemental Appropriations package stripped out a provision that would have stopped the Department of Transportation (DOT) from issuing a final rule that would allow foreign control of U.S. air carriers. We confronted this problem with the Dubai Ports issue fairly recently. Yet, the Department somehow parsed the words "actual control" in a way that would allow foreign investors to take effective control over the economic decisions of a U.S. air carrier. You are a lawyer by trade, and worked for a number of large corporations. Please explain how companies will overcome the complex corporate governance challenges they will face if primary corporate activities are controlled by a foreign entity, including key economic decisions like aircraft purchases, while security and safety would be segmented off?

Answer. I have not been closely involved in the formulation of the proposed rule you refer to. However, I will attempt to answer your questions on this topic to the

best of my knowledge, offering my perspective and past experience as a lawyer at a major airline and as general counsel and corporate secretary in the private sector. Also, as I am sure you can appreciate, because my pending nomination subjects me to DOT's regulations limiting ex parte communications on pending matters, I cannot provide specific comments as to how this rule, if adopted, would be applied. As the docket for the particular rule does not close until July 5, 2006, I would not want any of my comments here to be misconstrued as indicating any intention by DOT (or me, should I be confirmed) as to finalizing or modifying the proposed rule.

Complex corporate governance arrangements are not unusual in the private sector. I have direct experience dealing with such arrangements in the context of public corporations that are controlled by a single, majority shareholder who must meet fiduciary obligations to minority shareholders. While I would agree that such arrangements make governance much more cumbersome as a formal matter, my practical experience is that they are not in the end unworkable.

While it is difficult to predict how any particular corporation would deal with the challenge of "segmenting off" decisions concerning safety, homeland defense obligations, and the like from foreign influence, I believe this could be handled by including specific delegations of authority from the corporation's board of directors that would restrict decisionmaking authority on those items to a group of specifically identified U.S. citizens. These limitations might also be spelled out in the transactional documents reflecting the underlying investment. They could be reviewed for compliance by the company's outside auditors. I would expect that, over time, as DOT was presented with proposed arrangements for its consideration and precedent developed, it would become relatively clear to airline management and their potential investors which practices would pass muster.

Question 3. We learned a tough lesson after September 11, 2001, about the shortcomings in our Nation's aviation security. In response, we set up an entirely new regime on how to deal with security problems and issues, including better communications with senior management at the carriers. How do you envision communicating critical security information to a carrier that is under foreign control or influence?

Answer. Although DOT (including FAA) no longer has primary responsibility for aviation security, my understanding is that the Transportation Security Administration (TSA) has worked out communications protocols with the various foreign carriers that serve the United States. It is also my understanding that TSA regularly exchanges critical security information with its counterparts overseas, which presumably is then shared with foreign air carriers on a routine basis. Foreign and domestic air carriers both have common interests in wanting to prevent any act of terrorism. Therefore, I do not envision the exchange of such information posing a challenge to maintaining our homeland security, so long as that exchange is carefully managed.

Should the proposed rule be finalized, I would expect that critical security information would be communicated by TSA (and in some instances, DOT) to the U.S. citizens specifically designated by the airline to receive such information. My understanding of the proposed rule is that it would require that the U.S. citizens with principal responsibility for compliance with security regulations be readily available to the Federal Government when such information must be communicated.

Question 4. The DOT claims that under its proposal, "actual control" will always rest with U.S. citizens because any foreign control acquired would be subject to revocation. How significant a regulatory burden do you anticipate the DOT will face if it is to effectively oversee, and ensure that foreign control can be "revoked," as explained in the preamble to the proposed rulemaking?

Answer. My understanding of the SNPRM is that delegations of authority to foreign interests must be revocable by U.S. citizens. I do not anticipate that this would be create a significant regulatory burden, as presumably such delegations would be presented to DOT at the time the carrier first sought approval for a capital investment from non-U.S. citizens. Moreover, given the consequences of failing to abide by these delegations, I would anticipate few compliance issues, should the rule be finalized.

Question 5. Do you agree that the Secretary of Transportation is required to consider several objectives as being in the public interest, including: keeping available a variety of adequate, economic, efficient, and low-priced air services; encouraging, developing, maintaining an air transportation system relying on actual and potential competition; encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry?

Answer. Yes, without reservation. The objectives you cite are specifically listed in the Federal Aviation Act, and if confirmed, I would take seriously my obligation to fulfill those objectives as we formulate policy and carry out the various programs authorized by Congress.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
JOHN H. HILL

Question 1. As Administrator, can you confirm that you will make a determination as to the safety impacts of every issue concerning proposals or positions on changing the standards for truck length or weight on U.S. highways that the Administration considers?

Answer. If confirmed by the Senate, I will ensure that FMCSA provides the Secretary with information about the potential safety impacts of legislative proposals concerning the Federal size and weight statutes. The Federal Highway Administration (FHWA) administers the statutory provisions concerning truck size and weight limits and assessing the impacts of potential changes on the Nation's infrastructure. FMCSA will work with FHWA to ensure that safety impacts are considered as part of the analysis of any legislative proposals concerning truck size and weight.

The Department recognizes concerns about the impact that increases in truck size and weight limits, including the elimination of certain restrictions on Longer Combination Vehicles (LCVs), would have on the Nation's highways. The current statutory restrictions on truck size and weight and LCV operations limit action on this issue prior to the next surface transportation reauthorization bill.

To ensure the safe operation of LCVs, FMCSA has regulations (49 CFR Part 380) establishing minimum requirements for LCV drivers and LCV driver instructors. The rule covers drivers that operate any combination of a truck tractor and two or more trailers and semi trailers, with a gross combination weight greater than 80,000 pounds, and which operate on the National System of Interstate and Defense Highways.

Question 2. What are your priorities for completing FMCSA rulemakings?

Answer. Rulemaking is a vital part of the FMCSA mandate to improve highway safety. As Assistant Administrator and Chief Safety Officer of FMCSA over the past 3 years, I have directed FMCSA staff to improve the process of how our Agency responds to important Congressional direction for regulatory action. If confirmed as Administrator, I will work to ensure that all regulations, particularly those mandated by Congress in SAFETEA-LU, are well written, enforceable and timely, with particular emphasis given to regulations that fall within our developing medical program and those that support the findings of the Large Truck Crash Causation Study as to the critical role that the driver plays in the majority of highway crashes.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO
DONNA R. MCLEAN

Question. President Bush has recommended a funding level for Amtrak which would require a shutdown of the national passenger rail system. From what you know about the company's finances, is a 900 million-dollar Federal appropriation enough to maintain a safe and reliable national system of rail service?

Answer. Transportation safety is always my number one priority. Safety has always been the top priority for the Department of Transportation, regardless of the Administration. Fortunately, transportation safety has continued to improve; including Amtrak's safety record. However, that safety record does not happen without a dedicated team and resources. If confirmed, I would continually monitor Amtrak's safety record and safety indicators and immediately alert the Committee if these indicators deteriorate. Even with a constrained funding level, maintaining a safe system has to be our top priority.

The reliability of a rail system is also very important. Amtrak has had a mixed record on reliability. This reliability record has been blamed on several factors, including the sharing of rails with freight operators, and limited capital investment. From what I currently know about Amtrak's finances, a \$900 million investment would primarily support operating expenses and limit capital investments. If confirmed, I would want to explore the concerns raised by Amtrak employees regarding the use of shared rails. Regardless of the Federal grant, these agreements are crucial to improve the reliability of the system.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
ANDREW B. STEINBERG

Question 1. Did you advise Federal Aviation Administration officials that Title 49 of the U.S. Code, Section 40122, applies to FAA's bargaining with its unions over working conditions, rather than Title 5 of the U.S. Code, chapter 71?

Answer. The current framework for collective bargaining at the FAA is unique within the Federal Government and was established when Congress enacted "personnel reform" for the agency as part of the 1996 transportation appropriations act. The law required the Agency to put in place a new *personnel management system* by April 1996. Initially, the personnel reform amendments to the FAA's statute excluded the agency from coverage under Title 5, Chapter 71. In March 1996, Congress restored coverage under Title 5, Chapter 71. However, in October 1996, the Agency's statute was amended again explicitly to bar the Administrator from negotiating with labor unions over compensation and benefits—except under limited circumstances in which the Agency was making changes in the personnel system first put in place in April of that year.

The same law also created a new method for resolving impasses that acted as an exception to Chapter 71. Specifically, the law provided that in the event the negotiating parties reached impasse over any changes to the personnel management system, then following Federal mediation, the Administration could implement its proposal 60 days after submitting its proposal to Congress. (49 U.S.C. §§ 106(l) and 40122(a)). The language is not limited to changes concerning compensation and benefits. The personnel management system that was first put in place in April, 1996 has included a wide range of policies and procedures going well beyond compensation and benefits, including hiring, employee and labor management relations, learning and development, performance management, leave, work schedules, and many other topics. By establishing different working conditions for unionized work groups, each collective bargaining agreement entered into by the agency has accordingly been treated as a *change to the personnel management system* for that workgroup since 1996, well before my tenure at the FAA.

Question 2. Many Members of the legislative branch have registered significant displeasure with the Administration's Notice of Proposed Rulemaking on foreign ownership and control of U.S. airlines. How will you handle Congressional concerns with the proposal?

Answer. As I am sure you can appreciate, because my pending nomination subjects me to DOT's regulations limiting *ex parte* communications on pending matters, I cannot provide specific comments as to how this rule, if adopted, would be applied to address Congressional concerns. Although I have not been closely involved in the formulation of the proposed rule, I am well aware of the significant concerns expressed by Members of Congress concerning the proposed rule on foreign investment in U.S. air carriers. As I prepared for my confirmation hearing, and considered the potential responsibilities of the Assistant Secretary position, I made a point of educating myself about those concerns. If the rule is adopted and if I am confirmed, I pledge to work closely with the Congress to ensure that the rule is administered in such a way as to protect the public interest in maintaining a safe and secure aviation system that fully meets the Nation's homeland defense needs.

APPENDIX—EXCERPTS FROM TITLE 49

49 U.S.C. § 106 (Federal Aviation Administration) provides:

(l) Personnel and services—

(1) Officers and employees—Except as provided in subsections (a) and (g) of section 40122, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. *In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40122(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.*

49 U.S.C. § 40122. (Federal Aviation Administration personnel management system) provides:

(a) In general—

(1) Consultation and negotiation—*In developing and making changes to the personnel management system initially implemented by the Administrator of the*

Federal Aviation Administration on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

(2) Mediation—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress. The 60-day period shall not include any period during which Congress has adjourned sine die.

(g) Personnel Management System—

(1) In general—In consultation with the employees of the Administration and such nongovernmental experts in personnel management systems as he may employ, and notwithstanding the provisions of title 5 and other Federal personnel laws, the Administrator shall develop and implement, not later than January 1, 1996, a personnel management system for the Administration that addresses the unique demands on the agency's work force. Such a new system shall, at a minimum, provide for greater flexibility in the hiring, training, compensation, and location of personnel.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUE TO
R. HUNTER BIDEN

Question 1. Mr. Biden, you come highly recommended based on your past experiences. You have an opportunity to step in, be creative, and really help our Nation's passenger rail system. You know this is not an easy job and are well prepared to face the challenges ahead. How you will approach the problems facing Amtrak, from the lack of funding to the need to make major investments and reduce costs?

Answer. If confirmed, I believe that the primary challenge for Amtrak is maintaining a comprehensive national rail system that is safe, efficient and cost-effective. I will do everything in my power to make sure that Amtrak is able to do that with the funds available to it.

Question 2. This Committee has worked hard on a reauthorization plan for Amtrak, favorably reporting S. 1516, sponsored by Senators Lott and Lautenberg, Stevens, Hutchison and myself last year. Are you familiar with this proposal and do you have comments regarding it?

Answer. I am familiar with it and I commend you and the other sponsors for authoring a piece of legislation which goes a long way toward solving many of the problems faced by Amtrak. I look forward to working with Members of this Committee and Congress to make sure that Amtrak does many of the things called for in this legislation.

Question 3. What do you believe the Federal Government's role should be in the financing of Amtrak's capital and operating needs? What role should the states and the private sector have?

Answer. Amtrak benefits many different stakeholders throughout our Nation. As such, I believe that Amtrak should be a true public sector/private sector partnership and that the Federal Government, state governments and the private sector should all share some of the burden required to make a safe, efficient and cost-effective national rail system a reality. In an era of rising energy costs, there is no question that the public and private sectors should do all they can do to make sure our rail system is as healthy as it can be.

Question 4. Do you support Amtrak's operation of a comprehensive national system or do you believe Amtrak should focus on developing short distance corridors that connect city pairs in densely populated regions? Or should Amtrak continue to develop both?

Answer. Amtrak should continue to do both. Amtrak must be a comprehensive national system, but at the same time needs to look at developing short distance corridors that connect city pairs in densely populated regions to maximize revenue. There is no question that Amtrak can do both and it must. If confirmed, I look forward to working with this Committee and with Congress to make this a reality.

Question 5. One of the immediate issues facing Amtrak is appropriations for the coming year. Amtrak requested approximately \$1.6 billion in capital and operating funds for Fiscal Year (FY) 2007. The Administration requested only \$900 million, which former Amtrak President David Gunn consistently stated was a shutdown number when the Administration proposed such funding levels in previous years. If history is a guide, Amtrak will probably not get the \$1.6 billion it says it needs. As an Amtrak Board member, where will you recommend Amtrak should focus its limited funds next year?

Answer. If confirmed, I am willing to consider any option to make sure Amtrak operates at full capacity with the limited funds it receives. I know that there are a number of intriguing and creative cost-cutting measures that Amtrak is looking at and I believe a number of them can be implemented to make sure that Amtrak continues to operate safely and efficiently. Should Amtrak be forced to cut services due to budget cuts, my first priority will always be to the passengers and to making sure that they still receive the best service possible and that it is provided in a manner that doesn't sacrifice their safety.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUE TO
MARK V. ROSENKER

Question 1. As Chairman, how will you work with the other Board members to ensure they are involved in all key decisions facing the Board, including management decisions, which impact the ability of the Board to meet its mission?

Answer. I have placed and will continue to place significant emphasis on communications with my fellow Board Members. During my tenure as Acting Chairman, I have made a concerted effort to improve communications throughout the Board, among NTSB staff, and between staff and the Board members. Clearly, we have improved markedly over the past year.

Office Directors at the Board prepare weekly reports that detail the activities of their respective offices for the week and important activities anticipated for the following week. In the past, these reports were only available to the Managing Director and the Chairman. As the Acting Chairman, I directed that my fellow Board Members be included in the distribution of these reports. Also, we have initiated quarterly management briefings for the Board Members. In these meetings the Managing Director and General Counsel brief and discuss management and administrative practices and activities of the agency with the Board Members. This level of inclusion and engagement did not previously exist for Board Members. We have reinstated quarterly accident briefings on the status of recently opened investigations. I have also directed the Managing Director to make our management information, production schedules and other calendars and databases available to the Board Members online, so that they may ascertain the status of Board activity at any time. And I have directed the Managing Director and executive leadership team to revise several key Board Orders to ensure the Board's inclusion and participation in critical mission activities.

Finally, as Acting Chairman, I have reinstated the policy that any testimony that is being given before Congress, state legislative bodies and letters which are being sent to other government agencies are reviewed and available for comment by all Board Members. These documents include budget submissions to the Office of Management and Budget and the Congress. I have also insisted that the development of the agency's Strategic Plan incorporate this collaborative process.

As Acting Chairman, and if confirmed as Chairman, I remain cognizant of my responsibility as the designated chief executive of the agency. Since becoming Acting Chairman, I have been committed to greater inclusion of the Board Members in the mission activities of the NTSB. I have sought to keep them fully informed and engaged in the management decisions of the agency. At the same time, I have attempted to improve our internal staffing and document management practices so that the Board Members could participate in this level of activity without slowing the day-to-day business of the organization. I believe we are improving in all our activities, and are close to striking the right balance in the decision-making process within this important Federal agency.

Question 2. Will you commit to this Committee that all Board members will have adequate and proper access to any information they need that is being developed by agency's staff?

Answer. As mentioned in my response to Question 1, since assuming my duties as Acting Chairman, I have directed staff to create and sustain an array of communications practices that distribute management information to the Board Members. This information covers accident investigation report development, administrative

matters, planning documents, personnel and manning information, and financial reports on a routine basis. This information is regularly updated and is now available to the Board Members to review and use as frequently as they wish. And as mentioned previously, Board Members now receive weekly reports on activities from each of the operating offices, they participate in quarterly management meetings and are briefed quarterly on the progress and status of accident investigation activities.

I have made sure that those offices that report directly to me—General Counsel and the Managing Director—are responsive to the requests of my fellow Board Members as those Members perform their important functions within the Board. I have also been adamant that requests for information, questions concerning Board activities, suggestions on Board actions, recommended comments and changes to reports and other Board documents, and requests for assistance in speech writing and press releases be given priority by agency offices. In short, I have insisted that each of the Board Members be treated with respect by the staff and that staff be responsive to Members as products and activities are managed within the internal processes agreed to by the Board.

If confirmed as Chairman, I will continue to ensure that Board Members are fully informed about the activities of the agency and have the opportunity to voice their concerns or concurrences. Moreover, I have directed staff to continue to examine new and better ways to exchange important information with the Board Members. I personally commit to the Committee that, if confirmed, I will use my best efforts to include all Board Members in the decision-making processes of this agency.

