

Floor Statement by Senator Dorgan  
RE: FAA Bill

Wednesday, March 10, 2010

Mr. President, first of all, I am pleased with the work that the chairman and the ranking member of the commerce committee have done. I'm chairman of the aviation subcommittee and have worked closely with them to produce a piece of legislation that I think is bipartisan, is a very important and urgent piece of legislation that will strengthen this country's system of air travel. And I want to talk some about that today. A couple of things this legislation will do. I'm not going to repeat everything that my colleagues have said. But it will advance aviation safety, which I think is very, very important.

It will accelerate modernization of the air traffic control system. It's going to support jobs by investing in aviation infrastructure. That is airports and runways and the kinds of things that accommodate our air travel system. It will ensure that rural communities in states like North Dakota, my home state, have access to the nation's aviation system. So I'm very pleased with this bill.

And since the last FAA reauthorization bill expired in 2007, the congress has passed 11 separate extensions of this law. There was a suggestion that we pass another one-year extension, which I opposed. We don't need to extend this. What we need to do is pass new authorizing legislation that addresses the fundamental issues we need to address with respect to air travel in this country.

The federal aviation administration is charged with operating channing which I think is the world's most complex system in the world. I think by and large they do an outstanding job. The United States has the safest skies in the world; no question about that. But we have seen changes in the aviation industry, in the airline industry that have impacted safety. And we need to take some action to deal with it and address it.

The FAA predicts that air travel in this country will increase by 50% in the coming decade. That brings to probably 1 billion passengers a year. That is a big system, a system that is very strained at this point. And as the economy recovers, we will see the substantial increased growth. As we do that, we desperately need to modernize this system. Now let me describe the circumstances of commercial air travel, and then I'm also going to talk about general aviation.

I learned how to fly many years ago, but didn't keep it up. But I learned how to take off in an airplane and go fly it someplace and land. It's a strange thing. It's -- an extraordinary thing. It's one of those moments you never forget when the instructor gets out of the plane and says you go fly the airplane by yourself. When you take off wearing this metal suit with an engine, you think this is pretty unbelievable to be able to fly an airplane.

General aviation, people flying their own planes around for recreation, for business, is a very important part of our air travel system. I'm going to talk about that at another time here during this discussion.

But commercial aviation is the companies that put together the structure, the company, the airlines, the airplanes, rather, and the capital, and then haul people around the country and the world at scheduled times and places. And so that is very important. It is significant that in many areas of our country now -- my home state of Bismarck, North Dakota -- when you go out and see that strip of runway, maybe 6,000, maybe 8,000, maybe 10,000 feet of runway -- you are one stop from anyplace in the world. You take off from that runway and one stop later go to South America, go to Europe, go to Asia. You are one stop away from the world. That is what air travel has done for us. It's extraordinary. Go back to the origins of commercial air travel and airplanes were used originally to haul the mail. I mean, you go all the way back to December 17, 1903, when Orville and Wilbur Wright left the ground for the first flight it was only 59 -- first time. It was only 59 seconds but it was an extraordinary achievement. They learned to fly. They didn't just fly that day. They did it again and again and again, continually failing until one day at Kitty Hawk the engine took hold, the pilot was laying on the fuselage of this rickety looking structure and they flew above the ground for 59 seconds.

It wasn't too long after that after having decided we can shape a wing with a power that will escape gravity and fly, it wasn't too long after that we were flying in combat. Yes, American pilots were in Europe flying in combat. We began flying mail, hauling mail with commercial airplanes around the country. But then you could only fly during the daytime because you can't see at night so you can't fly an airplane at night because where would you land?

As they began to haul the mail, what they began to do is build bonfires every 50 miles or 100 miles. And then a pilot could fly in the dark of night towards a fire and mail. So you could haul the mail at night. When they decided they could do something better than that, they put up light stanchions and shined lights into the sky. A pilot would fly to the lights that were flashing in the sky. Then they invented radar. Then you have ground-based radar so we could determine here's an airplane in the sky. We could direct that airplane and put a light in the runway. All of that changed air travel 24 hours a day. Yes, during the day, daylight hours, but also at night.

Ground-based radar, what an extraordinary thing. If you get up on an airplane today, a commercial airplane and there is going to be a control tower someplace and in your cockpits you will have a transponder. It will send a signal. 125 people riding in the airplane and you're sending a signal that goes to a control tower and it's on the screen. It's a little dot on the screen that blinks and that's your airplane. All that does is say here's where that airplane is right this nanosecond. But in the next nanosecond that airplane is somewhere else especially if it's a jet. All we know is that at this moment the airplane is here and for the next seven or eight seconds as the sweep goes around on the monitor, that airplane is somewhere else. Perhaps a mile away, perhaps eight miles away, but the airplane is someplace else. We know about where the airplane is based on ground-based radar. Because we don't know exactly where it is except for that nanosecond, we space those airplanes for safety and have them fly certain routes for safety. Contrast that ground-based radar; contrast that with your child. Your child has a cell phone, and if your child has the right cell phone at this moment -- and there are cell phones in this technology -- your child can ask ten of their best friends, "do you want to track each other of our whereabouts with GPS.?" if the friends say yes, the ten of you can decide to link up with your cell phones and you can figure out with your cell phone, where's my friend Mary or where's my friend Lester? And the g.p.s. will

tell you exactly where Mary and Lester are because they've got their phones with them. We know exactly where they are. Our kids can do that with g.p.s., with cell phones. We don't do it yet with commercial airliners. Isn't that unbelievable?

So that's what this is about: modernization called next-generation air traffic control, ground-based radar to g.p.s. it is complicated, it's difficult but it's where we're going. And we're not going there in the next 20 and 30 and 40 years. We want to go there soon. I've met with the Europeans and others. They're moving in the exact same direction. Here's what it will allow to you do. If we know exactly where an airplane is, just as we know where a car is with g.p.s. -- a lot of people have g.p.s. in their vehicles and get directions from it, so you know exactly where that vehicle is at every moment, if we do that for airplanes, you can have more direct route from one -- more direct route from one city to another and less spacing between the planes because you know exactly where they are. You save energy. You have less pollution into the air. You get there faster for the passengers. It does all the things that are advantageous for everybody. It is called next generation air traffic control.

Modernization, we could have extended this bill for another year as some wanted to do. But instead what I wanted to do and what my colleague senator Rockefeller and others wanted to do is we want to get about the business of getting this done, modernizing our air traffic control system, bringing it into the next age. That is what this is about. I'll describe briefly what we do with that.

We set up time lines on -- things that require navigation performance and the arnab system at 35 airports must be completed by 2014. We were creating circumstances where the entire national airspace system is to be covered by 2018. We provide best-equipped, best-serve status for those providing the right equipage with their planes and come in with g.p.s. we create a nextgen officer if he FAA, a new position at the FAA to help guide and create these programs for modernization. We're doing all of these things. I think it's so important that we complete them and truncate the time with which to complete them. The other issue that I think is so important -- and there are a number of them -- is the issue of aviation safety, and we've worked a lot on that. I guess I've done now four hearings on aviation safety, three or four hearings, especially focusing on hearings we've discovered from the Colgan aircraft which tragically killed --tragically killed 49 people in buffalo, New York.

The Colgan air crash raised a lot of questions. I think I would speak for a lot of people on the committee. The relatives, the families of those killed in the Colgan crash have made it their mission to be at every hearing, to be involved in every decision about this issue of air safety. And god bless them. I mean, the fact is their diligence and their work is making a difference, and made a difference in this bill. There are provisions in this bill as a result of their diligence and their great concerns. But let me describe the circumstances of that particular crash.

It was an evening flight in weather that wasn't so good, with icing conditions for an airplane. They were flying a propeller airplane called a dash 8. And it was Colgan flight 3407. Two pilots, two flight attendants and passengers lost their lives that evening, including one person on the ground. The airplane operated by a captain and a copilot. Now, what we've discovered in

reviewing the circumstances of that crash was quite extraordinary. The pilot of that airplane had not slept in a bed the two previous nights. The copilot had not slept in a bed the night before. Why? The pilot commuted from his home in Florida to his duty station at LaGuardia airport in order to begin flying. The copilot flew from Seattle, Washington, dead headed on a plane that I believe stopped in Memphis, Tennessee, and then continued on to New York in order to reach her duty station at LaGuardia, an all-night long flight. And there's no evidence the night before the flight that either the pilot or the copilot did anything other than stay in the crew lounge. And there's no bed in the crew lounge. For the pilot, it was two nights there is no record of him sleeping in a bed. So you have two pilots who commuted long distances just to get to work without any evidence that they had a night's sleep in a bed prior to the flight that were on the airplane. By the way, if you read the cockpit, the transcript of the cockpit voice recorder, a series of problems existed in that cockpit. There was not a sterile cockpit below 10,000 feet, which is supposed to be the case. There was visiting about careers and a range of things as they were flying through icing conditions, a vile alternative of the -- violation of the regulations the copilot, by the way, it is said was a young woman who worked two jobs in order to make ends meet. I think the copilot was paid something in the neighborhood; it was between \$20,000 and \$23,000 a year. Again, commuting all across the country just to get to work. When they ran into icing conditions, there was a stick pusher that engaged in a stick shaker as well. As it turns out, there had not been adequate training with respect to that. A whole series of things that occurred with respect to that flight that raises lots of questions about training, about fatigue; a whole series of things. And as a result of that, just that case, to try to understand what does this mean for others, what does it mean for regulations that are necessary?

Randy Babbitt, the new head of the FAA, someone for whom I have great respect, has just finished a rule making on fatigue. And I believe that now exists at the office of management and budget, awaiting action by o.m.b. a step in the right direction, in my judgment. This bill has another piece that needed to be done that we discovered in this crash. The pilot of that airplane over the years had failed a number of competency tests and then subsequently succeeded, or passed those tests. But nonetheless, had a number of failures. But the airline that hired that pilot didn't know that because the records were not transparent. And the airline has since said had we know that record of failure, that pilot would not have been hired by us. But they didn't know. This legislation will correct that. When you're hiring a pilot, you will know the entire range of experiences that pilots has had, including the tests and the passage or failure of certain competencies along the way.

That is a very important provision in this piece of legislation. Pilot training and experience is another thing that we are talking about and working with. It is not an irrelevant issue. There is supposed to be one standard and one level of safety with respect to airlines in this country. I believe that with the growth of the regional carriers -- and, by the way, regional carriers are now carrying 50% of the passengers in our country. 50% of the passengers. They get on an airplane, and they see the airplane and it's painted "continental" or "u.s. air" or "united" or "delta." but that may not be the company that's flying that airplane. It may be pinnacle. It may be any number of other regional carriers. And the passenger doesn't know.

All the passenger sees is what's marked on the side of that fuselage. And so, this legislation will also require information on the tickets of who is transporting that passenger. There are a number

of things that this legislation does in the area of safety that I think are very, very important. We prohibit the personal use of wireless communication devices and laptop computers in the cockpit. Personal use of wireless communications devices and laptop computers. We all remember the pilots that were flying, I believe, from Phoenix, Arizona, or maybe it was San Diego to Minneapolis and flew well into Wisconsin, well past the city of destination, and didn't know where they were. Apparently they indicated that they were busy visiting or they were busy on their laptop computers. But whatever the circumstances, requirement that personal use of wireless communications and laptops in the cockpit, or laptop computers in the cockpit are prohibited. We do that. We also require enhanced safety oversight at foreign repair stations. That also is very, very important. The outsourcing of repair and overhaul work is a routine practice. Well over one half is outsourced in this country by the major carriers and our legislation will require enhanced safety oversight and inspections with respect to that outsourcing. So those are a few of items that are included in this bill. I should also point out that this bill includes the passenger bill of rights, which I think is important. I just mentioned a couple of the provisions much one that has gotten the most attention is to say you have a requirement as an airline and you have a right as a passenger not to be stuck on an airplane for six hours sitting on a runway somewhere. This is a three-hour requirement as part of the passenger bill of rights. They're not going to be able to keep you on airplane five or six hours sitting on a runway waiting in the middle of a big storm. Three hours, back to the gate, and allow the passengers to deplane. We also have substantial amounts of airport improvement funding here. This authorizes the a.i.p. program. It streamlines what is called the passenger facility charge, the p.f.c. we provide greater flexibility of the use of the p.f.c. we improve, I think, the airline service and small community service provisions.

Some communities in this country have essential airline services called e.a.s., which is a way for them to get the -- the service they were guaranteed when we deregulated in this country, which is, by the way, another subject for perhaps another day. Although I again, say, as I said on the floor previously, deregulation might have been a wonderful boon mothers who live in very large cities and travel to other large cities. If you do, you are given a lot of opportunity. You are given many opportunities for different carriers and different pricing. And I would just bet that if we left the floor this moment and decided to go to one of the search engines and buy a ticket from Washington, D.C., to Los Angeles in order to visit Mickey Mouse at Disneyland, or we decided we'll have two -- Mickey Mouse at Disneyland or we go from Washington, D.C., to Los Angeles to visit Mickey or Bismarck, North Dakota, to see the largest cow stand, called Salom Sue. The choice to go see Mickey Mouse or see the largest whole stein cow. I will bet that the search engine on the computer is that we get to pay half as much to pay twice as much to go half as far. You get to pay half price to go double the miles or you get to pay twice the price to go half the miles. And, yet, that's the kind of circumstance that we in our country today. The higher yielded tickets run the end of a spoke on a hub and spoke system where there is little or no competition. We're not addressing that on the floor of the Senate today. But it is something that I think is of great concern because if you are flying from Chicago to Los Angeles, you have plenty of competition, plenty of price competition and opportunities to get better prices and that is not the case for a number of small states on the back end of a hub and spoke system. Well,

Mr. President, there are many other provisions -- as I indicated earlier, I am going to speak some at another point on the subject of general aviation. Because while we focus a lot on the issue of

commercial aviation, general aviation is a very important part of this country's air travel system. The folks who live out on a farm someplace and have a small, little airplane in a shed from those folks to people that fly corporate planes and move people around so they can leave in the morning from Washington, d.c., fly to los Angeles, down to Dallas and get back, that's general aviation and a very important part of our air travel system. And I'm going to talk about that at some point later.

Again, let me say that I think that we have at last -- at long, long last put a piece of legislation together that avoids some of the controversy of past attempts that will substantially improve infrastructure, substantially address the safety issue. I'll talk a little later about pilot hours and some related issues that we've been talking about that will -- we hope to be in the managers' package. But all of these things, I think, timely bringing to the floor this bill is a victory for those who want to modernize the system.

I know there will be some amendments we have -- we've not addressed some issues that are in the house bill. But our concern is to try to get a bill through the senate into a conference with the house and get something signed by the president to get something done. We will, I think, be dramatically advantaged as a country if we can enhance the efforts in a short period of time to modernize the system and go to -- modernize the system and go to a completely different air traffic control system called nexgen. It will save energy, create safety in the skies, allow people to be transported more directly with less time and I think it will be a positive thing for our country.

I did want to make one additional point and I did not do this when I talked about the -- the issue of the Colgan tragedy. The larger question is not addressed directly in this legislation. We addressed many of these issues. But we don't address the larger question of commuting. I wanted to show something that Senator Rockefeller and I and others have used in the commerce committee. This describes where the Colgan pilots commute from. This chart could have been describing any regional airline or trunk airline or major airline for that matter. Pilots live in one part of the country and work out of another part of the country. And the -- the fact is with respect to this tragedy, the Colgan crash, I am convinced that mattered. I'm convinced that flying through difficult, nighttime trying conditions with two pilots, neither of whom had slept in their bed the night previous, I'm convinced that this kind of commuting has caused significant difficulties. There was a quote in the "wall street journal" piece that pretty much says it all. This was an 18-year veteran pilot describing the routine of commuter flights with short layovers in the middle of the night, which is pretty typical. He said "take a shower, brush your teeth, pretend you slept." that is something that we have to pay some attention to. I'm not suggesting today that you cannot commute. We don't in this legislation prohibit commutes. But I think these are instructive pieces. This is what is called a crash pad. I was completely unaware of a crash pad until we began to hold these hearings. But this is a pilot watching a movie on his computer at a crash house in sterling park, Virginia; they can have 20 to 24 occupants at a time. Are designed to give flight crew from regional airlines a quiet place to sleep near their airports. Many can't afford hotels, so they use crash houses where the rent is \$200 a month for a bed. When I described the co-pilot of the Colgan tragedy, a co-pilot making \$22,000 a year, if the co-pilot traveled the day before, are you in a position to travel and stay in hotel rooms when you're making \$22,000 a year?

I believe there is a substantial cargo operator that pays for hotel rooms for their pilots who come in night before. I don't believe there's an airliner that does that. I did not make the point during the Colgan discussion, I wanted to make the point I think fatigue commuting and other issues are serious and significant. And I know that administrator Babbitt believes as well. We need to continue to look at these and visit with pilot organizations and others to understand how we might see how we can reduce some of the risks here. We have a safe system of air travel to be sure. But the Colgan crash and all of the details and circumstances of it should remind us that there are – that not everything is as it seems and we need to take action from time to time to address some of those important issues.