

**STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR**

**AVIATION SUBCOMMITTEE HEARING
NTSB REAUTHORIZATION
APRIL 23, 2008**

I want to thank Chairman Costello and Ranking Member Petri for holding this hearing on the reauthorization of the National Transportation Safety Board (NTSB). I believe there are several important issues to be discussed here today.

This Agency's roots go back to 1926 when the Air Commerce Act vested the Department of Commerce with the authority to investigate aircraft accidents.

During the 1966 consolidation of various transportation agencies into the Department of Transportation (DOT), the NTSB was created as an independent agency within DOT to investigate accidents in all transportation modes.

On April 1, 1967, the NTSB opened its doors with an initial staff of 185, which was drawn from the Civil Aeronautics Board's Bureau of Safety and Bureau of Hearing Examiners. That was a busy year. By the end of 1967, the Board's aviation staff had investigated eight major accidents, conducted seven public hearings, issued 10 major accident reports, assisted in seven foreign investigations, and read out 42 cockpit voice recorders and 87 flight data recorders. Investigators in 11 field offices investigated more than 860 general aviation accidents and issued 3,111 summary reports during the year. Thirty-five safety recommendations were issued to the Federal Aviation Administration.

Seven years later, in 1974, Congress re-established the Board as a totally separate entity distinct from DOT, to ensure that it would retain its independence.

The NTSB's recommendations and its vigilance on safety issues result in improvements in the way we conduct the business of transportation in all modes. While aviation is perhaps the area in which the NTSB's work is most visible, that should not overshadow the very significant and important work the agency performs in pipelines, maritime, rail, truck, and automotive transportation.

In particular, the Board's investigation of the August 1, 2007, collapse of the Interstate 35 West Bridge in Minneapolis, Minnesota, is an extremely important one. The Interstate 35 bridge collapse, which resulted in 13 fatalities, captured the attention of the public across the nation and, indeed, across the world. The Board's decision to not hold a public hearing on this accident was inexplicable. If the sudden collapse of an interstate highway bridge, and the resulting deaths of 13 individuals, does not merit a public hearing, then what type of accident does?

In the aftermath of the Board's decision to not hold a public hearing on the Minneapolis bridge collapse, it came to my attention that the number of public hearings

held by the Board has been quite small in recent years, ranging from one to three per year, for all modes of transportation combined.

I am concerned that the benefits of public hearings are not being appropriately weighed against the costs, which admittedly include additional work and time.

In this case, there was considerable local debate about the causes of, and the responsibility for, the bridge collapse. In a situation such as this, a public hearing can assure the public that the Board is conducting a comprehensive, transparent, and independent investigation that transcends local politics. The Members of the Board who were in favor of holding a public hearing on the Minneapolis bridge collapse made this point quite well. These Members stated that, "If [the Board] doe[s] a thorough and conscientious job that includes a public hearing with participation from the parties and that provides answers to the myriad of questions that have been raised, the public will respect and support that effort and the final product."

Beyond the concerns of local residents, a hearing would have helped to educate the entire country about the safety of bridges, and the adequacy of regulatory programs designed to ensure that bridges continue to be safe. The public would have welcomed a thorough discussion of how the design of this particular bridge was approved; why this bridge failed; whether we need to take steps to prevent other tragedies; whether there have been improvements in bridge design and the design approval process since the I-35W bridge design was approved in the 1960s; and whether we are now devoting sufficient financial and staff resources to ensure continued bridge safety.

In the future, I urge the Board to reconsider the benefits of public hearings and bear in mind that one of the main reasons we have a politically appointed Board, and do not rely solely on professional career investigators, is that we expect Board Members to see needs beyond reaching a technically correct decision, such as the need for transparency, public participation, and education. In other words, hearings can be both a teaching moment and a learning moment for the Board.

It also came to my attention that the Board's lack of primacy in highway accident investigations may have been a consideration in the Board's decision not to hold a public hearing on the Minneapolis bridge collapse. Federal statute currently authorizes the Board to investigate a highway accident "the Board selects in cooperation with a State". In the rare case in which such cooperation is not forthcoming, this lack of primacy could result in a State agency barring the NTSB from a highway accident scene. It is my understanding that this actually occurred during the NTSB's investigation of an accident in which an elderly driver drove into a crowd of pedestrians at a Santa Monica, California, market. NTSB investigators were reportedly barred from the scene, and denied access to witnesses for months afterward.

At this hearing, we should explore whether the NTSB should have clear authority to assert primacy in a highway accident investigation. This would seem particularly appropriate when there is a possibility that the actions of a State agency, or lack thereof, may have contributed to an accident. In these cases, without primacy, the possibility for a conflict of interest, or a perceived conflict of interest, exists.

Notwithstanding these concerns, I continue to be a strong supporter of the NTSB's mission, and I continue to believe the NTSB does an excellent job in investigating accidents.

To maintain its position as the world's preeminent investigative agency, it is imperative that the NTSB has sufficient resources to perform its mission. The NTSB has requested \$87.9 million for fiscal year (FY) 2009, consistent with the FY 2009 President's Budget. No new program initiatives or new staff would be funded at this request level.

Beyond FY 2009, the NTSB has requested \$107.2 million for FY 2010, and \$113.0 million for FY 2011. These funding levels would support an increase in staff, to 475 full time equivalent employees, which NTSB states is the minimum needed to fully, effectively and efficiently meet the NTSB's core mission of accident investigation.

We must fully fund the NTSB to ensure that it has the necessary resources to conduct independent investigations, without undue reliance on other agencies and parties to the investigation.

Having a well funded, well-trained NTSB workforce is of the utmost importance for the American traveling public. I look forward to hearing the testimony of Chairman Rosenker today, which will help us perform the most important duty of this committee – ensuring the highest level of safety for our transportation system.