

In a 1994 review of major airline accidents, the NTSB called check-rides "subjective" and noted differences among airlines in how they graded pass/fail.

And most airlines do not keep closer tabs on pilots who barely pass.

United is an exception. If pilots struggle through check-rides but pass, they are retested within two months instead of the usual six or 12 months, Traub says.

If Express 11 had a policy of following struggling pilots more closely, pilot Marvin Fallitz, who crashed near Hibbing, Minn., might have been weeded out. He failed three check-rides—in 1968, 1992 and 1993. In 1967, he failed an oral exam. Each time, Fallitz was retrained and retested the same day. Not surprisingly, he passed, and continued flying.

On two tests, he failed working with other pilots—what investigators faulted him for in the crash.

Since the crash, Express has intensified pilot training. "Hibbing was an isolated incident and an unfortunate incident," says Phil Reed, vice president of marketing. "We run a safe airline."

After the crash, Northwest Airlines insisted that all of its commuter partners, including Express, train to the highest FAA standards.

FIRING: PILOTS ARE ALLOWED TO QUIT RATHER THAN BE FIRED

Even when an airline decides a pilot is unfit to fly, the pilot isn't always fired. Comair, a Delta Connection carrier, didn't fire Michael Hillis. It let him resign. Hillis did and started at American Eagle four days later.

Many U.S. airlines will let marginal pilots resign rather than fire them. The reasons: Airlines fear being sued, and problem pilots go away quicker if given an easy way out.

"They're gone with fewer repercussions," says Southwest's Sterbenz.

Letting pilots resign often puts them back in the cockpit—of another airline. Still, airlines defend the practice. "The airlines are pretty diligent in looking out for those people" who have resigned, says Tom Bagley, vice president of flight operations for Scenic Airlines.

Not always. American Eagle knew Hillis had resigned from Comair. Hillis told Eagle he wanted to live in a different city. But Eagle didn't know Hillis had been forced to resign. Comair didn't provide that information, Eagle says, and the FAA doesn't require airlines to pass on that information.

The reluctance to fire pilots goes beyond fear of lawsuits, however. It is tied to the status and deference that pilots enjoy and to the high cost of training new pilots.

"Airlines carry weak pilots for long periods," says Diane Damos, a University of Southern California aviation psychologist. "It's just part of the culture."

Says aviation lawyer Arthur Wolk: "It's aviation's good old boy network. Nobody wants to trash a pilot."

Co-pilot Kathleen Digan, 28, was given the benefit of the doubt and later crashed a plane, killing herself and 11 others. Digan was hired in 1967 by AVAir Inc., doing business as American Eagle. She was flying a plane that crashed on Feb. 19, 1988, in Raleigh-Durham, N.C.

During a check-ride her first year, the examiner said Digan needed more work on landings. Another called her job "unsatisfactory" and recommended she be fired. A captain who flew with her said she "overcontrolled" the plane.

But Digan wasn't let go. AVAir's director of operations defended the decision to keep her, telling investigators: "She had invested a lot in our company and our company had invested a lot in her."

Even the FAA has protected poor pilots. On Oct. 26, 1993, three FAA employees died in a crash near Front Royal, Va. Safety officials blamed Capt. Donald Robbins, 55.

That was no surprise. During his 10-year career, Robbins flunked three FAA tests. He had two drunken-driving convictions. Eight co-pilots avoided flying with him, and several complained to supervisors. Nothing was done. In fact, in Robbins' last evaluation, his supervisor gave him a positive review and complimented him on his ability to "get along well with his fellow workers."

The path pilots take to the cockpit: 1. Enter military or civilian flight school. 2. Pass test to get private license; can't work for hire. 3. Pass test to get commercial license; can work for hire. 4. Many military pilots get jobs at airlines after leaving military. Flight school pilots fly cargo or work as instructors to build experience. 5. Get job as co-pilot at regional airline. 6. Pass airline's training program. 7. Pass test to fly certain type of plane. Testing required each time a pilot switches to new type of plane. 8. Spend first year on probation; get reviews; pass first-year test. 9. Pass test to get air transport license; required to become captain. 10. As captain, must pass medical and two flight tests every year.

Regional airlines scramble for pilots. Growth in commuter or "regional" air travel, coupled with a decrease in the number of military-trained pilots, has forced airlines to hire more pilots trained in civilian flight schools.

Military training fewer pilots 1992 3,742 1996 2,678(1).

Regional airline business soaring Passengers (in millions) 1994 26 1995 60(1).

Ranking salaries Average second-year pay for a regional airline co-pilot, compared with the median pay for other jobs: Secretary, \$19,100; Phone operator, \$19,100; Data entry clerk, \$17,150; Co-pilot, \$15,600; Receptionist, \$15,400; and Bank teller, \$14,600.

Comparing accident rates Accident rates for regional airlines that fly planes with 30 or fewer seats are higher than rates for regionals with bigger planes and major airlines. Rates per 100,000 flights:

	1994	1994
Small regionals	27	17
Major airlines, large regionals	21	24

For this three-day series, USA TODAY reporters John Ritter, and Julie Schmit set out to learn how a marginal pilot slipped through the safety net of a U.S. airline and crashed near Raleigh-Durham last December. They discovered more than one poor pilot had kept flying and that, if nothing changes, more are likely to.

Ritter and Schmit analyzed accident reports since 1985 and obtained FAA documents on current aviation practices through the Freedom of Information Act.

Other sources included the National Transportation Safety Board, which investigates accidents, the General Accounting Office, the Federal Aviation Administration, airline executives, union officials, pilots and safety experts.

ADDITIONAL COSPONSORS

S. 309

At the request of Mr. BUMPERS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 309, a bill to reform the concession policies of the National Park Service, and for other purposes.

S. 304

At the request of Mr. HELMS, his name was added as a cosponsor of S.

334, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 607

At the request of Mr. WARNER, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 881

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 1136

At the request of Mr. HATCH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1136, a bill to control and prevent commercial counterfeiting, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

ADDITIONAL STATEMENTS

THE COMMERCE, STATE, JUSTICE APPROPRIATIONS BILL

• Mr. ABRAHAM, Mr. President, I reluctantly voted for the conference report for the Commerce, State, Justice appropriations bill, knowing that it will be vetoed, because it does contain many provisions that will do significant good for the country and because much of the funding it provides is very important to our efforts to fight violent crime. I look forward to working with the managers of the bill to resolve the problem areas of this bill when it comes up for consideration again.

Let me begin by outlining what is good in this bill. First, the prison litigation reform title of the bill makes important and needed changes to the Federal laws governing lawsuits brought against prison administrators across the country. Right now, in many jurisdictions, judicial orders entered under Federal law are having an enormously destructive effect on public

safety and the administration of prisons. They are also raising the costs of running prisons far beyond what is necessary. And they are undermining the legitimacy and punitive and deterrent effect of prison sentences.

These orders are complemented by a torrent of prisoner lawsuits. Although these suits are found nonmeritorious 95 percent of the time, they occupy an enormous amount of State and local time and resources; time and resources that would be better spent incarcerating more dangerous offenders.

In my own State of Michigan, the Federal courts are now monitoring our State prisons to determine:

First, how warm the food is.

Second, how bright the lights are.

Third, whether there are electrical outlets in each cell.

Fourth, whether windows are inspected and up to code.

Fifth, whether prisoners' hair is cut only by licensed barbers.

Sixth, whether air and water temperatures are comfortable.

Meanwhile, in Philadelphia, American citizens are put at risk every day by court decrees that curb prison crowding by declaring that we must free dangerous criminals before they have served their time, or not incarcerating other criminals at all. As a result, thousands of defendants who were out on the streets because of these decrees have been rearrested for new crimes, including 79 murders, 959 robberies, 2,215 drug dealing charges, 701 burglaries, 2,748 thefts, 90 rapes, and 1,113 assaults in just 1 year. Obviously, these judicial decrees pose an enormous threat to public safety.

Finally, in addition to massive judicial interventions in State prison systems, we also have frivolous inmate litigation brought under Federal law. Thirty three States have estimated that this litigation cost them at least \$54.5 million annually. The National Association of Attorneys General have concluded that this means that nationwide the costs are at least \$81.3 million. Since, according to their information, more than 95 percent of these suits are dismissed without the inmate receiving anything, the vast majority of this money is being entirely wasted.

Title VIII of this conference report contains important measures that will help stop the destructive effect on public safety, the unnecessary micromanagement, and the waste of resources that this litigation is causing. It limits intervention into the affairs of State prisons by any court, State or Federal, undertaken under Federal law, to narrowly tailored orders necessary to protect the inmates' constitutional rights. It also makes it very difficult for any court to enter an order directing the release of prisoners. Finally, it contains a number of very important limitations on prisoner lawsuits.

These provisions are based on legislation that I have worked on assiduously along with the distinguished chairman of the Judiciary Committee, Senator

HATCH, the majority leader, and Senators HUTCHISON and KYL. They have the strong support of the National Association of Attorneys General and the National District Attorneys Association. They will make an important contribution to public safety and the orderly running of prisons by the State officials charged with running them without unnecessary Federal interference. And they will help limit the waste of taxpayer money now spent defending frivolous lawsuits and feeding prisoners' sense that as a result of committing a crime, they have a grievance with the world, rather than the other way around.

I thank the appropriators in both Houses, as well as the efforts of the majority leader and the chairman of the Judiciary Committee, for seeing to it that these provisions were included in this legislation.

The second reason I support this bill is that it makes significant improvements in the law governing the funding of prison grants to the States. Although styled truth-in-sentencing grants, the language in present law is so full of loopholes that it does little to advance the cause of incarcerating the most violent offenders or assuring that they would actually serve the time they were sentenced to serve. The new version does a much better job of targeting this money in a manner that creates the proper incentives.

Now let me outline the areas of this bill with which I have serious reservations. First, I believe the bill goes too far in diffusing money that the version of this legislation that passed the Senate had dedicated to the hiring of police officers in the COPS Program. I sympathize with the desire of my colleagues in the House to give the States more flexibility in spending this money, but this could mean that our goal to put more police on the street may not be achieved. I would much prefer to see a system where the States do have additional flexibility, but are given some real incentives to spend the money hiring additional law enforcement officers.

Second, Mr. President, I believe the provisions related to the Commerce Department fall short of what we should be doing—namely eliminating the Commerce Department altogether. I am the lead Senate sponsor of legislation to abolish the Department of Commerce, S. 929. I think the record is clear—the Department of Commerce is the least essential of all 14 Cabinet-level agencies. Any effort to reorganize and reform Government should begin there.

Although this bill does not eliminate the umbrella organization of the Commerce Department, it does reduce and eliminate some of the Department's more indefensible programs and agencies. It terminates corporate welfare programs like the Advanced Technology Program and the U.S. Travel and Tourism Administration, and it establishes procedures by which the Administration can act.

On the other hand, the conference report fails to take a strong position toward indefensible programs like the Economic Development Administration. Whereas the Senate had funded this program at only \$89 billion, the report before us would provide the EDA with over \$300 billion for next year. Given the EDA's record of waste and abuse, I believe this funding is excessive and I look forward to an opportunity to debate the merits of the EDA, and other programs like it, when my bill to terminate the Commerce Department is debated on the Senate floor. In addition, this report deletes the fund to cover the costs of terminating the Department and transferring necessary functions to other areas of the Government. Various concerns have been raised regarding the cost of terminating the Department of Commerce, and this provision would have helped address those concerns.

I think some of the money being spent on these unnecessary programs in the Commerce Department would have been better spent funding Federal law enforcement at the levels the Senate proposed in the pre-conference version of this legislation.

Finally, this conference report accepted the House funding level for legal services for the poor and maintains the existing structure for the provision of these services, the Legal Services Corporation, albeit with provisions seeking to ensure that some of the worst misallocations of funds that the Corporation has permitted do not recur. As I explained when the issue came before the Senate originally in connection with this bill, I believe the approach the Senate subcommittee took to this issue originally, which would have eliminated the Federal Corporation and block-granted to the States Federal funds for the provision of legal services to the poor, was far superior. The Corporation itself provides no legal services to the poor, but rather grants Federal money to local organizations that give legal assistance to the poor. This is a function the States can perform at least as effectively as the Corporation has.

While I voted for this conference report, I will reserve judgment on the next Commerce, State, Justice appropriations bill.

THE COMMERCE, STATE, JUSTICE APPROPRIATIONS CONFERENCE REPORT

• Mr. BINGAMAN. Mr. President, I rise in strong opposition to the Commerce-Justice-State appropriations conference report.

When this bill was adopted by the Senate on September 29, it maintained the Community Oriented Policing Services Program (COPS) by eliminating the State and Local Law Enforcement Assistance Block Grant Program, reinstated the Legal Services Corporation, and fully funded the Violence