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## House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 5, 2008, at 12:30 p.m.

## Senate

FRIDAY, MAY 2, 2008

The Senate met at 9:30 a.m. and was called to order by the Honorable SHELDON WHITEHOUSE, a Senator from the State of Rhode Island.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord God, we know not what a day may bring, for we borrow our heartbeats. Remind us that each day is Your gift to us and an opportunity to serve. Keep us from treating any day and its duties with indifference. Make us aware that no period of life is time wasted when we do Your will.

Encourage the Members of this body. Remind them that "those who are faithful in little are also faithful in much." Keep them from becoming distracted by the dream of doing great things when they ought to be busy with the task before them.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable SHELDON WHITEHOUSE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 2, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3 of the Standing Rules of the Senate, I hereby appoint the Honorable SHELDON WHITEHOUSE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WHITEHOUSE thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

In my capacity as a Senator from Rhode Island, I note the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### REPUBLICAN OBSTRUCTIONISM

Mr. REID. Mr. President, on occasion the Senate must turn to legislation we know will cause controversy: abortion, Social Security, always the war in Iraq, to name a few things that always cause controversy. Sometimes we find common ground on these; other times, after thoughtful, earnest debate, the two sides cannot converge in the middle.

That is okay. But that is how this body was designed to work by the Founding Fathers. So I offer the words that will follow with an understanding that as majority party we cannot expect the Republicans to agree with us on everything. And when the legitimate pursuit of compromise eventually leads to a dead end, we accept that outcome and move on to the next challenge.

But again and again this session our Republican colleagues have refused to work with us at all. They have rejected the difficult but critical job of legislating in favor of the easier but hollow path of obstruction and political gamesmanship.

Sixty-eight times and counting since the beginning of this session the Republicans have filibustered legislation. That means that 68 times the Republicans have stopped us from even debating, even negotiating, even working on legislation for the American people. Think about that, 68 times. That is about once a week if you consider the days and the weeks we are out of session.

Filibustering is far different from voting against a bill. I have no gripe, we have no gripe, with any Senator

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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who objects to legislation and votes against it. But time after time, Republicans have blocked us from even voting on a bill but, even more than that, from even getting to the point where you can negotiate on a bill, even allowing us to legislate on a bill.

Republicans are acting like the kid on the playground who does not like his teammates but owns the ball, and he takes it home to his mother. What is even worse are the bills our Republican friends choose to block. Many of these bills are not major controversial issues. They are not even political hot potatoes. They are fairly straightforward, noncontroversial ideas that can make our country safer, healthier, and more prosperous.

We are now seeing yet another example of this. Earlier this week the Commerce and Finance Committees reported the Aviation Investment and Modernization Act to the floor of this body. Any American who has taken an airplane over the past few years understands we have a problem with our aviation system, and if they knew everything that was going on, they would be even more concerned.

Almost 800 million American passengers took to the skies last year, 800 million, twice the number of 20 years ago. But as the number of passengers was steadily rising over those years, investment in technology and infrastructure did not nearly keep pace. Anyone can see that as a potential for disaster. Thankfully, the aviation industry has seen relatively few disasters, but all of us can see the problem. All of us can see the result of the problems in longer lines, more frequent delays and, I might add, the financial brink these airline companies are on, as to whether they can even stay in business. That is all American airlines. The number of passengers will continue to increase. In 10 years the number will probably reach a billion each year. Las Vegas-McCarren International Airport, the fifth largest in America in the number of passengers coming in and out of that facility, now hosts 4 million every month.

Traffic through the Las Vegas airport has increased so much that it will reach a maximum capacity in the next few years. This growth in air travel, not only in Nevada but throughout America, presents both an opportunity and a major challenge.

If we legislate with foresight and make the necessary investments, it represents an enormous opportunity for the airlines, tourism, and our economy. But if we fail to take the necessary steps today, travelers can be put at greater risk, our economy can suffer, and air travel would grind to a halt.

Chairman ROCKEFELLER, Chairman BAUCUS, Senators INOUE, STEVENS, GRASSLEY, and HUTCHISON worked in earnest and sent an FAA modernization bill to the floor. They were a model of how the legislative process should work, Democrats and Repub-

licans working through their differences to come up with solutions.

The chairman of the Commerce Committee is Senator DAN INOUE. There is not a nicer person in the world, not a better legislator in the world. I have been working on an issue with the Speaker for several weeks, the supplemental appropriations bill. One of the issues in that bill was what we are going to do for funding the war in Iraq. She said: You have Senator INOUE working with our people who have jurisdiction over that aspect of the bill. They will work with him. Everybody loves Senator INOUE over here. To think that this bill has been stopped when you have someone such as Senator INOUE as chairman of the committee is hard to comprehend.

All these Senators I have mentioned are a model of how the legislative process should work, Democrats and Republicans working through their differences to come up with solutions. That is how they came up with this bill we are dealing with on the floor now. When the bill reached the floor, though, our Republican colleagues apparently decided this was an opportunity to filibuster again. That is what they have done. This week we have had basically no votes. We had one vote. It was a vote to go to the bill—one vote.

Amendments are considered, debate follows, votes are taken. That is what you do ordinarily. Not here, not with the Republicans in the minority. They have been in a snit ever since we took the majority.

I have made it clear to the minority leader here on the floor many times, Democrats would welcome amendments from both sides of the aisle. What we initially said was: Give us a list of amendments you want to offer. No. Then they said: Well, Senator BUNNING wants to offer an amendment. Fine, let us see it, offer the amendment. We finally learned what it was about yesterday. It was about taking coal and processing that so the fuel from that could be used in jet airplanes. I don't know if it would work, but let's debate the issue here. No. I said: You are complaining about the fact that we want to have some idea of what the amendments are going to be. Why don't we have it so that not myself alone but Senator MCCONNELL and I would look at the amendments. We would together. If he didn't want an amendment to come up, if I didn't want an amendment to come up, we would work together. No, won't do that. I said yesterday: OK, we will take out all the blockage. We will take down the so-called tree. You can offer any amendment you want. They don't want to offer any amendments. I spoke to the Republican leader. I said: We learned you are displeased with the bill because there is a provision in it that gives New York the final payment for the money promised to the State of New York after 9/11. It is in the President's budget. I explained that to my friends over here. It is in the President's bud-

et. They said: We are still against it. So here it is, Friday. We have accomplished nothing.

I don't know how we could make it any clearer that we want to debate and pass this bill fairly and openly. We have reached out to the Republican side every step of the legislative process. Our overtures have gone ignored. On a bill as critical and noncontroversial as making air travel safer and more efficient, Republicans have obstinately refused to negotiate. I don't want to frighten the public, but we have all been told, you can go here to the parking lot and one of the new cars in the last 4 or 5 years has a GPS system in it. That is better equipment than they use to handle all the 800 million airplanes flying around America today. Our equipment is antiquated, inefficient, and unsafe. That is why last week I had come to my office, when we knew we were going to bring the bill up, all the unions representing people who work for airlines—the mechanics, flight attendants, air traffic controllers, on and on. They are concerned. Then an hour or two later, I meet in another building on the same floor with the operators of commercial airlines in America. They are frightened to death. They are going broke. Major airlines—we only have five or six left in America—are on the verge of going broke. Right now their fuel costs equal almost half of their costs. You pay 70 cents for a gallon of flight fuel in Europe. You pay more than a dollar here in America. You can't compete on that basis.

This is a bill that should whip through this body, no problem whatsoever. But the Republicans won't even allow us to reach a point to deal with one of their amendments. If there is something they don't like, tell us what it is. They aren't just blocking the bill, they are blocking even a discussion that could lead to compromise on a bill where they won't tell us what their concern is. It is the amendment relating to New York getting money. It is in the President's budget. I don't know how you negotiate that.

The most serious failure doesn't lie with my Republican colleagues in the Senate. There is plenty there. But it lies with the leader of the Republican Party, the President of the United States, George Bush. Here is what a responsible President would do. First, he would acknowledge the critical importance of legislation to modernize the Federal Aviation Administration; next, possess the political skill and fairness to see that members of his own party are having difficulty reaching compromise on the bill with the majority party. I am being nice by saying reaching a compromise. He should call these people over here and say: Get this bill done. But he is now giving a speech in St. Louis about how great the economy is going. That is where he is today.

One would think the President of the United States would set an example of leadership by bringing the sides to the

table to forge a compromise, reach a solution. Using the office of the Presidency to break down barriers and bring sides together is powerful and important. It is one of his most important responsibilities. Unfortunately, tragically, it is a responsibility that President Bush has ignored. He has left his party rudderless. Is it any wonder a poll came out yesterday that shows President Bush as low as President Nixon was in favorability at the height of the Watergate crisis. It is in the 20s. Is there any reason not to believe that is not totally valid? With critical legislation at hand and only one side wanting to pass the law, we are left in a situation where the airline companies, the people who work for the airlines, and the consuming public—this bill has a consumer bill of rights in it so people have some idea what to expect when they are on a runway for hours at a time; what rights do they have when flights are canceled; what information are they entitled to. That is in this bill. No chance. Republicans are holding it up because of a provision in the President's budget.

It is difficult to comprehend why the Republicans in the Senate would go along with this President. I can't understand why they would do that. The American people obviously can see this. They are going to react in November. The challenges we face in our country are too important to do business the way it is being done. I renew my call to my Republican counterpart Senator MCCONNELL to do the right thing, to ignore the President. Let's move on. The status quo in this and many other areas is not a good place to be.

I say to President Bush: If you believe, as we do, that the future of aviation may well lie in the decisions we make now, get off the sidelines and get involved. Urge your Republican colleagues in the Senate to work with us. We stand ready to do the job. The American people deserve no less.

We will have a vote on cloture on the bill on Tuesday. My Republican colleague, my friend Senator MCCONNELL, has said: You are wasting your time. We are all going to vote to block this bill.

I hope the next few days will give them the opportunity to come to reality and understand we need to do something with this bill. If they don't like the new provision, the provision regarding New York, and they want to vote against that provision, even though it is in the President's budget, offer an amendment to get rid of it.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ORDER OF BUSINESS

Mr. REID. Mr. President, it is obvious that there is not going to be any legislating done on this bill—until at least the vote on Tuesday. I had hoped we would be doing things today and Monday. Monday is a long-established no-vote day. But it is not fair to Members to have to worry about being back here when there is nothing being done on the bill—they have other things they can do—based on the Republicans' refusal to let us legislate on this most important piece of legislation.

So we are not even going to be in session on Monday. I announce to all the Senators and their staffs. We will be out of session Monday and come back on Tuesday, and, hopefully, the Republicans will see the light of day. Maybe they will get a call from the White House saying the air traffic situation in this country is important. He should notice what is going on in the Senate and make a call to the Republican leadership in the Senate and let us move this bill.

But we will start legislating on Tuesday, hopefully.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### POLICING THE OIL MARKETS

Ms. CANTWELL. Mr. President, I rise this morning to make sure the American people know that Democrats want to make sure that oil markets are policed. Democrats want to make sure the oil markets are not being manipulated, and Democrats are going to make sure the oil markets, in fact, are going to be policed by the Federal Government.

Over the last several years, several energy companies, including Amaranth, Marathon Oil, and British Petroleum have been under investigation for the manipulation of petroleum and natural gas markets. As a result of that investigation, British Petroleum now must pay approximately \$373 million for conspiring to corner the market and manipulate the price of propane carried through the Texas pipeline.

In another example, in 2006, a manipulative scheme to game the natural gas market by the now defunct hedge fund Amaranth, cost consumers upwards of \$9 billion. In July of last year, Marathon Oil agreed to pay \$1 million in fines to the CFTC to settle charges that Marathon's petroleum subsidy had attempted to manipulate crude oil prices.

So we have examples of natural gas and oil markets being manipulated,

and Democrats want to make sure that oil markets are going to be policed. We want to make sure there is not manipulation of supply. We want to make sure there is not false reporting of information. We want to make sure there is not cornering of the market. We want to make sure there is not rogue trading.

That is why I am pleased the FTC has taken at least a first step in issuing a rule that I think will help establish the framework by which these markets can be more thoroughly investigated.

The FTC is recognizing in its rule—the rule that it issued last night—that they need to base this on a law that is about manipulative practices or using manipulative devices. There is a large body of case law starting with the Securities and Exchange Commission now being used by the Federal Energy Regulatory Commission, that has become, as the Supreme Court said, “a judicial oak which has grown from little more than a legislative acorn.”

What they are talking about is just the simple concept put into Federal statute that you should not have manipulative devices or contrivances as it relates to the stock market, as it relates to commodities, as it relates to now the natural gas and electricity markets, and now, after the FTC's action last night, as it relates to the oil markets.

But Democrats are going to make sure the FTC does its job. I am calling on our leadership to have oversight hearings of this FTC rulemaking process. The American public needs to be in on this process of deciding exactly how this rule is going to be developed. We are going to protect consumers in making sure there is a strong statute on the books. We want to make sure that in this final rule the impact of any kind of manipulative, planned reductions by refineries as a scheme just to reduce supply is covered under this law; that any kind of false or misleading reporting is covered under this law; and that the FTC recognizes the great work that was done by the Federal Energy Regulatory Commission in their adoption of this rule.

In fact, the rule that is being put out by the FTC actually discusses in detail the cases of Amaranth and Enron, which I think is a good sign because it is in those cases that we learned exactly how the manipulation of these markets takes place.

In fact, what we saw with Amaranth and what they did is they ended up selling shares to try to crash the market to lower the price after they already had contracts for a higher price. So they made money by basically getting people to sign up for contracts at a higher expense and then forcing the market to lower the price so they had a higher profit margin. They ended up having a huge position in the natural gas market and, as I said, it cost consumers over \$9 billion.

The interesting thing is, when they got out of the market and there was