JUDICIAL APPOINTMENTS

Mr. CARDIN. Mr. Presidentt, I wish to first respond, if I might, to the comments Senator KYL made in regard to consideration of judicial appointments.

Of course, one of the most important responsibilities each one of us in the Senate has is to deal with confirmation of judges who have lifetime appointments to the Federal bench. It seems to me the Republicans are criticizing the Democratic leadership because sometimes they think we move too slowly, and now they are criticizing us for moving too fast on nominations. I don't quite understand it.

I hope the public will look at the record. When President Clinton was President of the United States, when he left office, there were 32 vacancies on the circuit courts of this Nation. Today, that number stands at 12. We have moved the confirmation process forward. I think we have done it in the appropriate manner.

I would also point out that there have been three circuit court judges who have had some controversy surrounding their confirmations in which there was opposition by Democrats, but at no time did Democrats delay the consideration of those nominations on the floor. They came up, they were voted on, there was never a filibuster, and there was never an effort made to slow it down. In fact, on one judicial appointment that was voted for on this floor, it was the Republicans who asked for the delay so they could get the necessary votes to get the nomination out of committee. So I think the record speaks for itself as to the consideration of judicial appointments.

FAA REAUTHORIZATION

Mr. CARDIN. Mr. President, I think it is ironic that the Republican whip used this opportunity to talk about delaying judicial appointments when the Republicans are in their 68th filibuster in this Congress. Sixty-eight filibusters. The most recent, of course, is the Federal Aviation Administration Reauthorization Act, the bill that is on the floor right now that we will have a chance to vote on later today. We have been on this bill for over a week without a vote because the Republicans are filibustering it. This is a bill which is critically important to the people of this Nation—first and foremost because of safety. I think Senator MURRAY pointed this out very clearly.

We need to implement the next generation of an air transportation system that was recommended in 2004. We still haven't implemented that. This legislation provides $290 million annually to modernize our satellite-based system. I am told there are some automobiles that have more sophisticated guidance systems or satellite identification systems than our planes. We need to do a better job.

We have a bill that was crafted in a bipartisan way in our committee that has come forward. Let's consider it on the floor for the sake of the people of this Nation—for their safety. We know that every year millions and millions more people are flying. Air traffic is up. We need to modernize our system for the safety of the people of this country.

We need more safety inspectors; we certainly know that from what has happened this year with the number of aircraft that were not properly inspected. This bill will provide the wherewithal in order to make sure we carry out the inspections in the best interests of the people of this Nation.

I am sure people are very aware of their fellow citizens being stranded on runways for up to 11 hours without being tended to. This legislation provides for a passengers bill of rights so that we have some basic protection for those who travel by air in this country.

It is important for our entire country, but let me just point out what it means in Maryland.

We have 20 million passengers who go through the Baltimore/Washington International Thurgood Marshall Airport, adding $5.1 billion to the economy of my State of Maryland. I could talk about the essential air service which affects one community in my State, the Hagerstown Regional Airport. That is in this bill.

My point is that this bill is a comprehensive bill that affects every part of our country, and it deserves a vote on this floor.

Hagerstown Regional Airport is critically important to the economic development of the people of that region, and the central air service which is extended in this legislation allows it to become the economic stimulus for additional growth in the Hagerstown area. So there is a lot depending upon this bill moving forward.

Yes, later today we are going to have a vote. It is a very simple vote. It is a vote on whether we are going to move forward on the legislation or we are going to allow the filibuster to continue—the 68th filibuster the Republicans have initiated in this Congress.

Majority Leader REID has made it clear that if the Republicans or any Member of the Senate doesn't like a provision in the bill, they can offer an amendment to take it out. We will have a vote on that amendment. There is no effort being made here to stop debate. What we are trying to do is take up a bill, not spend a full week in doing no work on the floor because we are in a filibuster. Let's end this filibuster, let's take up the amendments, let's vote on the amendments, and let the majority rule on this very important subject. That is what we are asking for today.

This is a bipartisan bill. It has enjoyed bipartisan support. The public wants us—Democrats and Republicans—to work together on issues that are critically important to the future of our country. Air traffic and passenger safety is critically important to the future of America. So I urge my colleagues to put aside partisan differences and allow us to let democracy work. Allow us to vote on the issues. Allow us to bring forward this critically important bill to the people of this country. We will have a chance to do that later today, and I hope that the necessary Members of this body will vote to put aside their partisan differences and allow us to have a vote for the sake of the safety of the people of this Nation.

With that, Mr. President, I yield the floor and suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. 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.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FAA REAUTHORIZATION ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2881, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2881) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 to 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes.

Pending:

Rockefeller amendment No.4627, in the nature of a substitute.

Reid amendment No. 4628 (to amendment No. 4627), to change the enactment date.

Reid amendment No. 4629 (to amendment No. 4628), of a perfecting nature.

Reid amendment No. 4630 (to the language proposed to be stricken by amendment No. 4627), to change the enactment date.

Reid amendment No. 4631 (to amendment No. 4630), of a perfecting nature.

Motion to commit the bill to the Committee on Finance, with instructions to report back forthwith, with Reid amendment No. 4636, to change the enactment date.

Reid amendment No. 4637 (to amendment No. 4636), of a perfecting nature.

Rockefeller amendment No. 4642 (to amendment No. 4637), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, it is an interesting situation in which we find ourselves today.

I guess I have to say last week was the most frustrating week I have spent in the Senate in my 24 years here. We are discussing an aviation bill which has highway provisions. We are discussing, for example, in the Presiding Officer's State, the need for essential

air service, shown by its loss of Frontier Airlines, and my State there is a similar situation and other States are in similar situations.

We are also talking about the fact that airlines are not being run in a safe enough manner. We are talking about the fact that we are just behind Mongolia in terms of our air traffic control system, in terms of its relevance to the modern age. It is a very scary situation.

Last week, we did not hold a single vote. We were on the aviation bill all week, but we did not have a single vote on aviation. I find that interesting, and I find it profoundly depressing, and, to a certain extent, it defines what the American people find so inadequate about Congress or, in this case, the Senate.

We have ideas, people work very hard, they work long hours, staff works particularly long hours, we negotiate, Members negotiate, we come to what we think is an agreement, and then days go by and nothing happens.

I repeat, I have never been through a situation where we have been on a bill which is this important and where 1 billion passengers are going to be using this air traffic system in 2015 and they are going to be using it on basically a ''Polaroid camera'' technology system. We have not had crashes. We did have one in Kentucky, but it is a little bit similar to post-9/11: Unless you have crashes that attract lots of cameras, people begin to lose interest. If there is anything not to lose interest in, it is not only the war on terror, but it is also aviation safety.

I repeat, we had all last week devoted to the aviation bill. We had one vote over the course of 5 days. That vote was a procedural vote—not the kind of thing that raises you out of your seat with excitement. Other than that, we did not vote on one aviation issue for the entire week.

When Senator Lott and I began this process a long time ago, we operated in a completely bipartisan manner. Senator HUTCHISON and myself were doing the same thing. We wanted to work together. We had worked together before on the aviation subcommittee. We had operated in a bipartisan manner. Senator REID wanted to bring the FAA reauthorization bill to the floor. It was timely. It was important. I worked very hard, from my point of view, to compromise.

I have a very large problem with the fact that high-end corporate jets and personal jets that may have one or two people on them, plus stacks of sandwiches and goodies, take the same amount of time for the air traffic controllers to navigate through the skies as some airplane that have 300 people aboard. A plane which is headed somewhere in America with people who have all kinds of work they have to do. Some are on vacation, because we are at that time of year, but most people are traveling because they have to travel—they have to go to a meeting, they have to be somewhere, they have to visit somebody sick in their family.

What is interesting is the general aviation community is paying for about 3 percent of the entire cost of the air traffic control system—3 percent, which means the commercial airlines are paying 97 percent. Yet the general aviation community dominates the skies at any given moment. There are an average of 36,000 planes in the skies during the day, and two-thirds of them are likely to be general aviation.

Of course, as soon as I said that, every Senator got 1,500 telephone calls from high-end jet users. I was on the Commerce Committee. We had to work this out with the Finance Committee. I worked with the Finance Committee, and we came up with a system that didn't put that kind of burden on the general aviation system.

My provision, which they said was really quite a horrendous thing to consider, was when a 737 or GV or GVIII takes off, they have to pay a $25 fee. If they flew to Bonn, which has this system already, obviously—all of Europe does—if they returned, they would have to pay another $25 fee. That would be a total of $50.

They began to talk about the end of general aviation as we know it. I stood back, aghast, at the sense of perspective in all of this. What they very well know is in general aviation we excluded 90 percent of all general aviation aircraft from this provision—crop dusters in Montana up to King Airs, everything was excluded; everything. Single-engine planes that doctors and lawyers fly to calm their nerves and get their heads in order—all those are excluded. Only the high-end jets—rich people, big corporations, big planes getting the full attention of the air traffic control system would have had to pay the fee in my provision.

I negotiated this provision with Senator BAUCUS, the chairman of the Finance Committee. He had a different perspective on this issue. Because he has superb staff and he himself is very good, I understood I was not going to get anywhere with my approach—which is a very small, little item in all of this. So I backed off from my approach and I eliminated this horrendous, Draconian, Attila the Hun-type $25 fee that it would actually take should the Presiding Officer own a G–8, that he wouldn't have to pay that. He simply would not have to pay that. He could just go right off and fly to Bonn and not pay that $25. So I backed off on that.

Then everything began to come together, and I was really encouraged that the full Senate could reach an agreement once the Commerce and Finance Committee bills were reconciled, and this appeared to be happening. But, on the other hand, there were other issues, so I got together with Senator HUTCHISON, and our staffs got together.

Actually, it was Leader REID who came up with a very smart idea. The idea, Senator HUTCHISON told me, was of interest to her. She said that sounds pretty good. It was the following: All aviation taxes, keep them but raise nothing on commercial airlines. Why? Because you have to hold them harmless because they are broke—some are in chapter 11, some in chapter 7—whatever it is they are in a mess. Keep the highway funding provisions. There are those who believe it is pretty important. It creates a lot of jobs. But strike the tax increases to pay for the highway funding, to use general funds—revenues to pay for highway spending. Keep the bonds for New York. Keep railroad bonds. Strike tax increases to pay for bonds.

We take sort of the extraneous financial parts of the aviation bill, which do not deal directly with aviation—and therefore you could say: What are we doing this for? You know you want money in the highway trust fund. I do. We do in West Virginia. The Presiding Officer's people do in Montana. We agreed to say, as we did with the alternative minimum tax—the Republicans voting along with that—that we would do these things, but we would not pay for them. That warmed my heart because it struck me that we were approaching a deal.

Then we agreed—that is, between Senator HUTCHISON and myself—to strike the pension provision, which affected American Airlines and a couple of others, on the basis that it was already settled law. It had been settled last year. It was the law of the land, and you don't just remove it.

Then there was kind of a return offer. It started out with no New York bonds. The New York bonds are in the President's budget. They are part of the commitment the U.S. Government and the President of the United States made to the State of New York after the 9/11 attacks. So that seemed to be something that could be done. But a lot of people, evidently, don't like New York—it would appear to be that way—so they said we have to get rid of those New York things. They also wanted to change the railroad bonds from tax credit bonds to tax-exempt bonds. That is cheaper. Maybe we can live with that. Working with Finance, we could likely work out a deal on railroad bonds, though railroads are not aviation, but they are a serious matter. That would probably be worked out. However, New York bonds we were told are simply off the table. That will affect rather deeply one New York Senator I can think of, who has a way of expressing himself quite strongly on this issue. But other than that, it seemed to me that everything could get pretty well worked out.

The problem was I had not heard from Senator HUTCHISON, and none of my staff had. We didn't really know, therefore, what she was thinking. She had said: That seems like a pretty good idea. Then we get back this other proposal, which complicates things.

Now I understand that Senator HUTCHISON, the Republican leader, Senator MCCONNELL, are in conversation. I

pray—I earnestly pray that they are in conversation right now about what to do about this because I really don't want to spend the next week not voting, and I really don't want to come to a cloture vote this afternoon which cannot possibly pass because, in more or less uniform fashion, the other party votes against it.

That is my sense of where we are at the moment. A number of people have come down and spoken about the bill. They have spoken usefully. But the important thing was that we chose not to act. We simply chose not to act. I reiterated that our aviation system is on the brink of collapse. Our air traffic system cannot handle the burdens of today, much less tomorrow.

I repeat my oft-used example of landing at Washington National Airport the other day and it was just wall-to-wall people, from one end of the airport to the other. I really couldn't figure that out what it would look like in about 5 more years and when we were soon going to have 300 or 400 million more people using this airport. What would it look like? How could it expand? What do air traffic control people do? In the meantime, the commercial airline industry is losing billions of dollars, and the increasing cost of fuel could force additional bankruptcies, and that means even more widespread job losses. If we do not pass this bill, essential air service disappears. Airport improvement development programs, which all rural States depend on with every fiber in their body, will disappear. And our constituents whom, the last I heard, we represent, we would be saying to them: You go ahead and wait for 9 hours or 2 days, a lot of cancellations, and that is really OK because we can't agree as between the two sides.

I am boggled by the concept of us ignoring a problem so huge for so long—just in the past week, much less in the last 10 to 15 years. Compromise is the essence of the Senate. I had hoped and I truly believed that we could make the necessary compromises to move this bill. I still hope that. I am always optimistic.

I compromised, as I said, on what are to me a number of really basic core issues in order to move this important legislation forward. Senator BAUCUS and I had a number of serious policy differences over how to fund the modernization of our air traffic control system, but because of the urgency of the legislation and our good working relationship, we reached agreement. Why? Because we had to. I only wish our colleagues shared this sense of urgency.

People sometimes have their particular parts of a bill which they raise to sort of a sainted status.

They are called amendments. And if you are a floor manager of a bill, you are trying to pass a bill. On the other hand, if you are an individual Member of the Senate and you have a particular issue that you care about and you put it up as an amendment, and it becomes your bill. Actually, it is an amendment, but if that amendment passes and it is not agreeable to others, then the whole bill fails. That is not the way democracy is meant to work.

Now, I have very high regard for Senator HUTCHISON, and I really do believe we can work out all of the aviation-related amendments to this bill in a bipartisan fashion. I will not give up on that. I never give up on anything.

We cannot work out the disagreements over nonaviation issues but, then again, maybe we can. As I have indicated, I will come back to this bill at a moment's notice. It should not take a crisis or a major accident, a bankruptcy that strands tens of thousands of passengers, or a long hot summer for this bill to be considered.

I will say also that Senator INOUYE and Senator STEVENS want to continue this as soon as we can. So I do urge my colleagues to take the long view. At the appropriate time I will urge them to vote for cloture. In the mean time, I stand here as manager of the bill without much going on. And I have gotten accustomed to that, but I have not gotten to like it any more.

There are no amusing aspects to it nor, most importantly, for the airlines and the people who travel on them. So since I am here alone, and not challenged by any others, I will continue to make some other remarks, and I will talk about aviation safety because I haven't sufficiently had an opportunity to discuss this. It is a speech that I would either give this afternoon or this morning. So why not give it this morning when I am sure I can give it all.

Aviation safety provisions are obviously at the core of our legislation to reauthorize the FAA and are fundamental to the public's faith in our aviation system. The FAA is responsible for overseeing the largest and most complex aviation system in the entire world.

I am proud to say our country is a global leader in aviation safety. But as I have cautioned before over the last months, that reputation has come under serious doubt and there are always numbers to be looked at underneath—you know, a number of accidents, and the FAA's lax oversight of Southwest Airlines has cast a serious pall over the agency's ability to execute its core mission.

Around that is the safety of the Nation's aviation system. Unfortunately, the agency's casual oversight of Southwest does not appear to be an isolated incident, despite the agency's claims to the contrary. Just the other day the front pages of our Nation's newspapers described another potential FAA cover-up, this time on runway safety violations. And nobody has thought about that very much. That simply is airplanes taxiing on runways either to get to the terminal, or to get away from the terminal, and to get into the air. So air traffic controllers do not just look up in the sky, they have to look down on the runways. I know the FAA states it is working to address each new problem that becomes public. But with each new story, we have more questions than answers about the agency's commitment to the ability to address pressing safety issues.

At an aviation subcommittee hearing several weeks ago on this issue, I called for the Secretary of Transportation and the White House to engage on this issue. And I would actually make a point here. I am not aware of any White House involvement on any of these issues about aviation at any point.

I have not talked to anybody from the White House nor has any staff. They are just watching it happen. There is a pattern to this, but the pattern in this case is a cruel one because it is sort of deliberately condemning. I think it is fairly well understood that much of what happens on the Senate floor emanates from directions from the White House.

So I call for the Secretary of Transportation and the White House to engage on the issue. The administration issued a number of statements and committed to undertaking serious review of the FAA's safety oversight.

I am still not convinced it appreciates the severity of the challenges facing the FAA. I get the distinct impression the changes the FAA implemented are in response to our actions in the Congress. I still need reassurances that the senior leadership at the FAA, the DOT, and the White House itself recognize the extent of the FAA's problems and are committed to rectifying them. I do not think that is unreasonable. This is a massive national problem which people take for granted, but they cannot anymore because the system is collapsing.

I know many in the FAA and the industry cite the fact that there has not been a fatal airline accident in almost 2 years, and that statistically this is the safest time in the history of aviation to fly. That is the kind of statement, as soon as I hear it, I automatically start having darker thoughts because it is much too simplistic and optimistic a statement to make under any situation.

They happen to be correct, statistically. I still want to believe and be certain that the United States has the safest and best air transportation system in the world. Although the United States has not experienced a tragic accident since August 2006, the fatal crash of a commuter carrier in Lexington, KY, our aviation nevertheless has experienced a disturbing number of significant safety lapses. Any safety lapse is either inches or feet or seconds away from becoming a tragedy.

Although the FAA's oversight of airline maintenance has dominated the newspapers and the question of whether their maintenance should be done offshore, without particularly rigorous oversight, the number of serious runway incursions remains unacceptably

high and, as the General Accountability Office has stated, they are trending in a troubling direction.

I love that phrase, ''trending in a troubling direction,'' which, out of a Government agency, means that you are approaching catastrophe.

As I have said, having the safest system in the world does not mean it is safe enough. I am deeply concerned that the risk of a catastrophic accident is increasing rather than decreasing. We have all read the stories of near misses at our Nation's airports. Let's be honest. Had it not been for the quick thinking and actions of a few controllers and pilots, our Nation would have had at least one if not several major accidents claiming the lives of hundreds of people.

I do not mean to be overly dramatic or to scare the public, but I am growing increasingly concerned that our aviation system is operating on borrowed time. A National Transportation Safety Board member testified before our aviation subcommittee of the Commerce Committee earlier this month, and he stated he believed the next major aviation accident would not likely be in the sky, or some plane crashing into a mountain, it would take place on a runway. That would be the next major accident.

Many, including myself, have criticized the agency for being too close to the industry it regulates. Now, that is an easy statement on my part to make, and not fair in its entirety because we have some very good inspectors. We have some very good people in the industry that are trying, and then there are probably weaknesses on both sides. There certainly are weaknesses on both sides.

In 1996, to stave off efforts to privatize the FAA Congress accepted at that time a provision from both Democratic and Republican administrations so they could operate the FAA more like a business. We gave the agency special authority so it could run more like a private entity. The theory was that by running it like a business, it would cost less to operate. We must recognize that the FAA is not a business; it is a Government agency paid for by the people who it may or may not be protecting.

The FAA does not provide commercial services, it provides public goods, and they are called air traffic control, aircraft certification, and safety oversight.

We, that is the taxpayers of the United States, pay taxes for these services. This is not a private enterprise matter. We need to start thinking about this agency very differently. That is not meant to diminish the people who work for the FAA or run the agency. This is simply a challenge for policymakers.

I believe it is a challenge that this bill begins to address. The Aviation Investment Modernization Act provides the FAA with additional needed resources to do a lot of things. First and foremost, we authorize 200 more safety inspectors. I do not know if that is enough; it probably is not, but the FAA has always been overlooked. It is like the Veterans' Administration which was overlooked until somebody wrote a story in the Washington Post that took this Congress and just shook it from head to toe.

We will never be the same again with respect to veterans, at least I pray that we will not. I do not believe we will. So the Appropriations Committee has already substantially increased FAA funding for inspectors for this fiscal year. And this bill will give the ability to do more in subsequent years because it is a multiyear bill.

I want to take a few minutes and outline the safety provisions in the bill that I believe will strengthen the FAA's oversight of airlines. It makes sure the FAA's voluntary disclosure reporting process requires that inspectors verify that the airlines actually took the corrective actions they stated they would. That is like a teacher correcting a math test. It is one thing to take a math test; it is another thing to have it looked at and graded. You find out whether you passed.

It is very sensitive. It would evaluate if the air carrier had offered a comprehensive solution before accepting the disclosure and confirms that the corrective action is completed and adequately addresses the problem disclosed. That is sensible. That is in the bill. That is in the bill on which we did not have a single vote all last week, except for one procedural one.

It implements a process or second-level supervisory review of self-disclosures before they are accepted and closed. Acceptance would not rest solely with one inspector. This is an important statement. So you do not get coziness; inspectors change.

It revises the FAA's postemployment guidance to require a cooling off period of 2 years before an FAA inspector is hired at an air carrier he or she had previously inspected. While we do that increasingly, I cannot think of a more important place to do it than in the FAA safety inspections. It implements a process to track field office inspectors and alert the local, regional, and headquarters offices to overdue inspections. One of the problems is people get way behind on inspections, the airlines do. The FAA does a lot of paperwork. All of the problems with an underfunded agency, which we in the Congress and administrations, both Republican and Democrat, have tended to put in a secondary category.

The process must incorporate something called ATOS, the Air Transportation Oversight System, reviews to determine full compliance with air worthiness directives at a carrier over a 5-year period that incorporates physical inspection of the sample of their aircrafts.

It establishes an independent review through the Government Accountability Office to review and investigate air safety issues identified by its employees. This develops a new review team under the supervision of the Department of Transportation inspector general; that is, the DOT IG who conducts periodic reviews of FAA oversight of air carriers.

It requires a comprehensive review of the FAA Academy and facility training efforts to clarify responsibility and oversight of the program at the national level and establishes standards to identify the acceptable number of developmental controllers at each facility. That is not a Shakespearean paragraph, but I hope the Presiding Officer and the ranking member of the Finance Committee understand what I am saying.

As a recent New York Times article said:

> One of the most critical challenges in aviation safety is improving safety conditions on our nation's runways.

I am back at them. Over the past year, we have seen a marked increase in the number of serious misses on our Nation's increasingly crowded runways. Again, this legislation includes provisions to reduce the number of runway incursions. It does so in the following manner:

First, the bill requires that the FAA develop a plan for reduction of runway incursions through a review of all commercial airports and establishes a process for tracking and investigating both runway incursions and operational errors that includes random auditing of the oversight process. That is not Shakespearean either, but it is precisely accurate, and it is what needs to be done. It directs the FAA to create a plan for the deployment of an alert system designed to reduce near misses.

This alert system must notify both air traffic controllers and flight crews about potential runway incursions. The establishment of this system is one of the NTSB's highest aviation safety priorities.

In addition, the bill requires a number of other safety provisions, including a provision to reduce the flammability of airplane fuel tanks. This was identified as the direct cause of the TWA 800 crash which occurred over a decade ago. I know the issue is a priority for Senator SCHUMER.

Improving the safety of our Nation's aviation system is one of the most paramount objectives of this bill. I believe we have made substantial progress with respect to this objective. I look forward to further debate on the safety provisions, as Senators come to the floor. I welcome any input that might improve these sections of the bill, but even more importantly, that might actually get us to a point where we can vote on a bill.

I thank the Chair, yield the floor, and I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the next Republican speaker be Senator VITTER.

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

Mr. GRASSLEY. Mr. President, we are in a situation where a couple hours from now we will have a vote. I am sure people across the country watching this debate might be wondering what is going on, on this Federal Aviation Administration reauthorization bill. I would like to shed some light on where we are. As I shed some light, I wish to respond to some of the fiction that has taken the guise of debate.

On Wednesday of last week, two Senators, one Republican and one Democrat—Senator HUTCHISON and Senator DURBIN, respectively—offered an amendment to strike a provision in the substitute amendment then before the Senate. The substitute then pending was the product of extensive staff negotiations and Member discussions between two committees with jurisdiction over the Federal Aviation Administration program. The two committees were the Finance Committee, on which I serve, and the Commerce Committee, on which I do not serve.

People who may not understand how the Senate works or does not may wonder what the situation is. I would like to explain there are certain elementary things about the Senate that are fundamental. First, nothing gets done in the Senate that is not somewhat bipartisan because of the benefit of debate for minorities to hold up legislation until things are accommodated—meaning compromise. It is often difficult to get one committee's Republicans and Democrats together to get agreement to bring something to the floor that can get passed. It is difficult to get Republicans and Democrats on one committee together, but then we have the added benefit of the Commerce Committee getting together for a compromise, and then working out compromises between the Finance Committee and the Commerce Committee makes it doubly or, in a triple manner, difficult to get things done on the Senate floor. So we have two committees that reach accommodation bringing a bill to the floor. After it gets here, then it runs into trouble.

The Finance Committee's involvement in this is determining the aviation excise taxes, and it controls the airport and airway trust fund. We have to raise revenue. Without that money, there would not be much the Federal aviation program could ever accomplish. On the other hand, the Commerce Committee develops all the policy and all the programs that involve airports and aviation. So that is how you get two committees working together to get a bill to the floor. The Finance Committee works out its differences between Republicans and Democrats on financing. The Commerce Committee works out its differences between Democrats and Republicans on the policy of airports and aviation. Then you have to get these two committees together to move things to the floor of the Senate.

Last year, the Commerce Committee acted first. The Finance Committee acted a few weeks later. The Finance Committee, as part of its compromises, addressed airline pensions. We have heard many arguments pro and con about the merits of the Finance Committee provision. I addressed the merits myself at length last week so I will not repeat them now. But in a few moments I wish to respond to some of the points made by opponents of the Finance Committee provision.

As I said earlier, the substitute that was before the Senate until last Thursday was a product of a compromise between the Finance Committee and the Commerce Committee. Under that compromise, the Federal Aviation Subcommittee chairman and ranking Republican were managing the bill. They were, however, at a minimum, under the obligation to consult with the Finance Committee chairman who is Senator BAUCUS of Montana and the ranking member who happens to be this Senator with respect to Finance Committee matters in that substitute. That compromise and understanding was violated when the Democratic floor manager unilaterally modified the substitute. Under the rules of the Senate, he had that right. The modification was directly adverse to the interests of the Finance Committee members' compromise among themselves. So the managers breached that compromise, plain and simple. That compromise was breached.

What matters worse is the Democratic leader backstopped the Democratic floor manager's violation of the Commerce-Finance Committee compromise by filling the amendment tree. Basically, for those watching, that means nothing is going to be brought to the Senate floor as an amendment without the unanimous consent of somebody who has that responsibility on the other side of the aisle. So with tremendous power in one person, what we call the amendment tree is filled.

Now, we all know the proponent of the amendment, the Democratic whip, has a lot of power. That power was displayed when the offending narrow pension provision I have already referred to—the pension provision the Finance Committee was trying to correct—was airdropped into a conference report on Iraq spending last year. There were no hearings. There was no markup. There was no committee process. There was no transparency, just airdropped in a war supplemental conference committee report, something that everybody knew was going to pass and be signed by the President. So airdropped, wam, bam, here it is, take it or leave it, special interest provisions cooked up in the offices of leaders of the Democratic caucus. It is not the way we ought to legislate.

We have been told that by people on the other side of the aisle many times. I wish to make reference to at least one of those times. I seem to recall a lot of outrage when these kinds of narrow provisions were airdropped into a conference report when we Republicans were in the majority. No one was louder than the proponent of the amendment that was last week on the Senate floor than the Democratic whip. If we had a C–SPAN checker, you could roll the tape back a few years. But I will have to settle because I am not going to roll C–SPAN back to demonstrate the inconsistency of what is going on here, for a New York Times article I wish to refer to.

I ask unanimous consent that this letter be printed in the record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 11, 1997]

SENATE REPEALS TAX BREAK FOR THE TOBACCO INDUSTRY

(By Lizette Alvarez)

In another resounding setback for the tobacco industry, the Senate voted overwhelmingly today to repeal a $50 billion tax break for the industry that was slipped into the tax cut legislation just before it was passed in July.

The repeal amendment, sponsored by Senators Susan Collins, Republican of Maine, and Richard J. Durbin, Democrat of Illinois, passed by a vote of 95 to 3. It would delete a one-sentence provision in the tax package that permitted tobacco producers to subtract $50 billion from the amount they would pay under a proposed legal settlement with a group of state attorneys general.

Senator Durbin hailed the vote as a sign that the tobacco industry's sway was waning on Capitol Hill.

''The overwhelming vote sends a clear message, first to the tobacco companies: Don't try this type of backroom deal and deception in the future,'' Mr. Durbin said. ''It is really an example of the old school of politics, the old style of politics.''

As the Senate was dealing a blow to cigarette makers, top White House officials were engaged in a debate over how to approach the proposed nationwide tobacco accord. Some of President Clinton's closest advisers were pushing him to issue a strong endorsement of the $368.5 billion tobacco proposal, while others—including Vice President Al Gore and top officials of the Department of Health and Human Services—were urging a more moderate approach in which the President would spell out his goals without embracing a specific legislative plan for achieving them.

Tension within the Administration over the agreement is not likely to be resolved until next week, when Mr. Clinton is expected to decide whether to back the proposed tobacco agreement, which has powerful critics among public health experts and Democrats in Congress.

Today's vote on the $50 billion tax provision indicates that whichever course the President adopts, a sweeping settlement with the tobacco industry will not be enacted until it faces months of scrutiny in Congress.

Public health advocates began a last-ditch round of lobbying to persuade Mr. Clinton to reject the settlement, which was negotiated by state attorneys general, plaintiffs' lawyers and tobacco industry representatives.

Dr. David A. Kessler, former Commissioner of Food and Drugs, met with top White House aides and members of Congress today to urge them to reject the proposed settlement in favor of a $1.50-a-pack tax on cigarettes.

Dr. Kessler maintained that substantial price increases were the only proven means of reducing smoking by teen-agers. He was preparing to testify before a Senate committee on Thursday that the proposed settlement amounted to a bailout of the tobacco industry and would not significantly reduce minors' use of tobacco.

The tax provision repealed today in the Senate would have effectively allowed tobacco companies to save $50 billion on the proposed settlement by claiming a dollar-for-dollar credit on a 15-cent cigarette tax increase. The tax was approved in July by Congress to underwrite health care for children.

Although the Collins-Durbin amendment won near unanimous support in the Senate today, its survival depends on two things: passage of the massive appropriations bill, to which the amendment is attached, and the House's agreement to go along with the provision.

But the support that the amendment received today, even among senators from many tobacco-growing states, is likely to force the issue in the House, Senator Durbin said.

Representative Nita M. Lowey, Democrat of Westchester, has offered a companion bill in the House. ''We're going to make sure we prevail in one form or another form,'' she said.

Today's vote is also a sign of the escalating frustration and impatience with the tobacco industry's tactics at a time when the industry is working to rehabilitate its image, lawmakers said today. The provision was inserted in the tax bill at the last minute, members said, to stave off discussion and debate.

The three Senators who voted against the amendment were Mitch McConnell of Kentucky and Lauch Faircloth and Jesse Helms of North Carolina, all Republicans. Both Kentucky and North Carolina are large tobacco-producing states.

No one has yet stepped forward to claim authorship of the tax provision that was repealed today.

Senator Durbin, who characterized the tax provision as an ''orphan,'' added that ''people said it appeared mysteriously.'' and was still expressing astonishment over how it materialized at the last minute.

The Senate majority leader, Trent Lott of Mississippi; Speaker Newt Gingrich of Georgia; the White House chief of staff, Erskine B. Bowles, and the chief White House lobbyist, John Hilley, all approved its insertion in the tax cut bill. They were the last ones at the table in the final negotiations over the balanced budget and tax-cutting agreement.

Today, Senator Lott voted to repeal the credit.

Mr. Lott's press secretary, Susan Irby, said there was never a secret conspiracy to keep the $50 billion credit under wraps, noting that it was present in the tax cut bill the weekend before it was voted on. ''This garbage about something being slipped in and it being a one-sided agreement is poppycock,'' Ms. Irby said.

For the tobacco industry, today's vote was one of several recent setbacks. Last week the Senate reversed an earlier decision and agreed to earmark $34 million to pay for a crackdown on illegal sales of cigarettes to underage youths.

The pressure was also stepped up on Tuesday by Senators Tom Harkin, Democrat of Iowa, and Connie Mack, Republican of Florida. The two announced that they planned to introduce legislation to prevent tobacco companies from writing off one-third of the billions they would have to pay under the settlement.

The bill would funnel the money to the National Institutes of Health to help pay for research on cancer, emphysema and other diseases linked to smoking.

Mr. GRASSLEY. It is dated September 11, 1997. That article deals with a very successful effort on the part of the present Senate Democratic whip to remove any extraneous matter that had been airdropped into a conference report on a popular tax relief bill by the then-Republican majority of the Senate. The offensive measure was a tax credit for payments made by tobacco companies in the tobacco court settlement. The Democratic whip successfully repealed that airdropped provision. I happened to think he did the right thing then because I supported his efforts. The Democratic whip noted his victory by saying, quoting from the New York Times article of September 11, 1997:

> Don't try this type of backroom deal and deception in the future. It is really an example of the old school of politics, the old style of politics.

That is a quote from the very same person who is involved in this effort we are speaking about now and that we will be voting on this afternoon.

The distrust of the public for the old school of politics, the old style of politics, is something the junior Senator—not the senior Senator but the junior Senator from Illinois has eloquently raised on the Presidential campaign trail.

To be bipartisan, I might say, the senior Senator from Arizona, also a candidate for the Presidency, has also touched a nerve about the old school of politics and the old style of politics as well.

The Democratic whip was right 12 years ago. I agreed with him 12 years ago. I voted with him 12 years ago. Unfortunately, with respect to this airdrop pension provision, the old school of politics, the old style of politics was applied.

Now, what do I mean? In this case, old school, old style power politics was at play. A powerful member of the Democratic leadership, a key member of the Appropriations Committee, did an end run around the Finance Committee and also the Health, Education, Labor, and Pensions Committee.

Forget about the nearly yearlong conference negotiations that went on to get a pension bill passed in 2006 as well. It was bipartisan and involved the work of two committees, which I have spoken to—that it is often difficult to get one committee together without getting two committees going in the same direction. Forget about the nearly yearlong conference negotiations on that pension bill. Forget about all the hearings the House and Senate tax-writing and labor committees held on pension reform in the year 2006. Forget about the delicate compromise worked out on the way the funding rules affected airlines.

All of a sudden none of that mattered. The Democratic whip noted his victory. None of that mattered. So, consequently, here we are: a person who 11 years ago found fault with the majority party airdropping something—in other words, stuffing something—in conference without debate, without hearings, without committee markup, doing the same thing 10 years later.

What he was able to successfully correct in 1997, we are trying to correct now. We have obstacles put in the way: things such as having a very unusual compromise worked out, junked by the managers of the bill, and backed up by an amendment tree being filled so nobody can get a vote on issues that ought to be voted upon. Compromises that were worked out in 2006 ought to be maintained and backed up, as they overwhelmingly passed at that particular time.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise today to talk about the FAA reauthorization bill and a crucial issue that affects not only the entire airline industry—and is, therefore, at the center of this effort—but also it dramatically affects every Louisiana family, every American family struggling to pay its bills; that is, sky-high energy prices, including dramatically increasing prices at the pump.

I was very much looking forward to bringing up this issue with others and bringing up Vitter amendment No. 4648 to the FAA reauthorization bill to try to move forward in solving this issue. It is really a shame, in my opinion—and I think I am joined by many others in that conclusion—that the majority leader has filled up the amendment tree and shut down all amendments to this important bill.

This is an important matter: FAA reauthorization, the health of the airline industry and aviation. This is an important issue: sky-high energy prices. Of course it affects the aviation industry, but it affects all of Americans' pocketbooks as well.

In that context, I think it is particularly a shame the majority leader would shut down all amendments and shut down this important and healthy debate. But even though my amendment, and so many others germane to this topic, will not be able to be heard and voted upon, I did want to take the floor to outline those amendment ideas and to try to further the important discussion and debate.

When we think about energy prices, how to stabilize them, how to lower

them, I start with economics 101. I start with the very first rule of economics I ever learned, the very basic rule that all of us think of in economics; that is, the law of supply and demand. So as with the price of any other commodity, if you are talking about energy, a good way to try to stabilize prices and bring them down over time is to work on two things: decreasing demand and increasing supply.

Again, economics 101 would tell you if you can do that—if you can shift both of those curves, shifting the demand curve by decreasing demand, shifting the supply curve in the opposite direction by increasing supply—you not only stabilize but you bring down prices.

It seems to me we should all be coming together in a bipartisan spirit to do both. I am eager to do both. I support proposals to do both.

There are at least three fundamental ways to help decrease demand on oil and gas specifically; that is, to conserve, to increase efficiency, and to move toward alternative fuels. Our energy picture is so dire, so challenging, we cannot pick one of the three. We need to do all three aggressively, just as we also need to work aggressively on the supply side.

So I support and will continue to aggressively support measures that make sense in terms of conservation, in terms of increasing efficiency, and in terms of promoting, moving toward alternative fuels. Those all lessen the demand on oil and gas.

But too often we get in this stale debate in the Congress, this stale deadlock, where one side of the political fence only wants to attack one side of the problem, and the other side of the political fence only wants to attack the other side of the problem, when our energy picture is so dire we clearly need to do both. So as we attack that demand side, let's not ignore the supply side either. As we move to a new alternative energy future, let's not ignore the fact that we will be dealing with oil and gas and depending on it significantly for many years to come. So let's turn to the supply side too, to increase our supply as we try to decrease demand to stabilize and bring down prices.

My amendment, Vitter amendment No. 4648, would do just that. I will outline that in a minute.

Before I do, though, let me express regret that so many of the suggestions, so much of the push, at least rhetorically in political debate and campaigning on the Democratic side, seems to ignore all these lessons, seems to not think or care about demand, not think or care about supply, not think or care about the issue and doing something about it. It just seems to be designed to go after the easiest and biggest political target in sight, which is the big oil companies, specifically by proposing dramatic tax increases on big oil.

Now, if some dramatic tax increase on big oil would move us down the path of solving our energy challenge, I would look at it very seriously. The fundamental problem I have with it is that it does not solve anything and, in fact, it almost certainly makes the problem worse.

There are two versions of this same political push to just attack the easiest and the biggest political target in sight. First of all, there is a proposal that we have actually voted on several times, and we have blocked several times, that would do away with certain incentives for oil companies to go into deep water, explore, and produce more energy. It would also do away with certain royalty relief designed to do the same thing.

Now, make no mistake about it, these tax incentives are in place to push companies—small, medium, and large—to go into deeper water, more difficult terrain, and extract more energy from the ocean bed to supply us with more energy. It seems beyond debate, in my opinion, that doing away with those incentives and that royalty relief will heighten the bar, will make it more difficult for any company—small, medium, or large—to do just that. So as we are trying to increase supply, this would do just the opposite and decrease supply.

Maybe it makes some people feel good because we are whipping up on some oil companies. Maybe it earns votes and earns favor with voters, particularly in an important primary election season. But I think around here we should perhaps ask the question: Does it do anything to solve our energy picture? And the answer is no. The answer is also no because there is nothing to prevent companies from passing on that tax increase to consumers. So just while we are trying to give consumers some relief at the pump, we would almost certainly be passing a tax increase that would be passed on to them in part or in whole and up the prices at the pump.

Now, the other popular version of this same political attack is a very old idea, dusted off, and apparently given new life this election season; that is, the windfall profits tax. Oil companies make way too much money. They have exorbitant, outrageous profits, so the argument goes, so we are going to attack, we are going to tax that windfall profits.

Just as an example, the leading Democratic candidate for President, our colleague, Senator BARACK OBAMA, has such a proposal to tax the profits made based on a price of oil over $80 a barrel. So we figure what that is on the part of any oil producer. That affects a lot of companies, not just big oil but medium and smaller producers, and for any profit associated with the price of oil over $80 a barrel, we are going to stick a big tax on that and bring that into the Federal Treasury.

Well, again, the fundamental problem with that, in my mind, is it does nothing to solve our energy problem and almost certainly makes that energy problem worse. It does nothing to increase supply. It almost certainly does something to decrease supply by making it less productive, less profitable for energy companies to go after more supply.

There are other problems as well. The first problem is the misnomer, windfall profits tax. The reported profits of the major oil companies are enormous for a very simple and basic reason: the size of the companies and the size of their activity is enormous. But, of course, as any economist would tell you, if you want to analyze a level of profit, you need to define it as a percentage of sales, as a percentage of assets—some percentage number like that—not a gross number which, of course, is going to be very large if you are dealing with an entity or a set of activities that is very large.

The fact is, when you look at that issue, when you look at oil and gas companies' profits as a percentage, it is very much in line with American business. The last figures we have are for the full calendar year 2007. In that calendar year 2007, oil and gas companies' profits were 8.3 percent.

Now, how does that compare? Well, for all of the U.S. manufacturing sector—a sector we always decry as in decline and being outsourced and in decline historically—that profit was 7.3 percent for 2007. If you take out U.S. auto companies—which are hurting, which have a much lower figure—then U.S. manufacturing was 8.9 percent. So, in fact, oil and gas companies are almost exactly in between all U.S. manufacturing, and all U.S. manufacturing except auto. It is reasonable to take out auto because they are in such dire circumstances. So they are not windfall profits at all.

Another important question to ask is, where these profits—whether they are normal or anything else—go because if we are going to stick a big tax on them, perhaps we should ask whom we are really taxing.

There is some notion out there, fueled by these political attacks and this pandering in an election year, that, well, of course, the only folks we are affecting are the executives at the big oil companies. But, of course, the facts are fundamentally different.

As this chart shows, profits of energy companies, oil and gas, go to a wide array of Americans, which today, thanks to the growth and vibrancy of our stock market and our investment opportunities, affects almost every single American. Yes, of course, corporate management owns some of their companies—about 2 percent. Most of the rest is owned by a wide array of Americans through IRAs, through other institutional investors, through mutual funds, and, perhaps most significantly, through pension funds—27 percent. That means about 129 million pension fund participants own these companies and would be taxed and attacked by these proposals. Those accounts are worth an average of $63,000. Twenty-

eight million of those pension fund accounts are for public employees—that includes teachers and police and fire personnel, soldiers, government workers—and each of those accounts represents a public servant who owns part of that energy industry. A good example is the New York State Teachers' Retirement System. They report that 6.6 percent of their domestic equity holdings were in energy companies in 2004, the last year for which we could get figures. That includes $1.5 billion in Exxon and $500 million in Chevron. That is in large part 27 percent who own these big, bad companies that some would attack and try to tax into oblivion—average Americans all across America through pension funds, through mutual funds, through IRAs, through other institutionalized investment.

Now, again, let me return to the basic point. If we want to try to really solve our energy picture, stabilize and bring down the price, including the price at the pump, maybe we should focus on that economics 101 lesson. Maybe we should decrease demand with a more sensible policy to conserve, to increase efficiency, to move to alternative fuels, and at the same time maybe we should increase supply. That is what my amendment, the Vitter amendment No. 4648, is all about—to attack that very important supply side. We need to do both. We need to do all of these things at the same time, but we cannot exclude one side of the equation or the other.

The Vitter amendment to this FAA bill would pose a very simple solution to attack the supply side and increase supply domestically in a far more aggressive fashion. The amendment would establish a trigger in the law pegged at a certain level of the price of oil per barrel. That level would represent a 190-percent increase in the price per barrel since 2006. That comes out to just short of $126 per barrel. Now, unfortunately, of course, the price has been rising dramatically for many months, and we are not too shy of that right now. We are roughly at $120 per barrel. But at this trigger, under the Vitter amendment, if we reach and pass the trigger—about $126—then certain aspects of our Federal law would change.

Specifically, we would allow exploration and production in Federal waters, the Outer Continental Shelf off any State that wants to get into that activity. I want to emphasize that last phrase because it is very important. We would allow that activity in the Outer Continental Shelf but only if the host State—the State off whose shores the activity would happen—wants that activity to happen. Then and only then, if the Governor, with the concurrence of the State legislature, says, yes, we want to allow this activity, we would allow energy production in those waters.

We would also demand something else that is very important in terms of fairness and equity and good Federal policy. We would expand upon the revenue-sharing precedent we set about a year and a half ago when we opened new waters in the eastern gulf. That was a very important precedent, a very good energy policy, in my opinion, upon which we should build and expand.

So under this Vitter amendment, if the trigger is pulled, if States say, yes, we want to allow this oil and gas activity, we would allow that to happen. But the host State would recoup a very significant percentage of the revenue to stay in that State's coffers; specifically, 37.5 percent. That is precisely the figure we passed into law for new areas of the gulf that are being developed now because of the action we took about a year and a half ago.

In addition to that 37.5 percent, we would also have revenue sharing for the Federal fund for conservation—12.5 percent. That is an important part of the revenue-sharing precedent we set a year and a half ago as well.

Finally, the Vitter amendment would allow host States to distinguish, if they would like, between exploration production activity for natural gas and exploration production activity for oil. Some States, particularly on the eastern seaboard, would probably act immediately to allow that activity for natural gas. But there is still concern about environmental issues with regard to oil. While I might disagree with them, while I might disagree with those concerns because I believe we have the technology in place to do all of that in a very careful, sensitive, and responsible way, we should leave that up to the States so those host States can, in fact, make the choice and they can choose natural gas or they can choose oil or they can choose both under the Vitter amendment.

Now, unlike these other proposals—mostly tax proposals that have nothing but political motivation behind them and that do nothing at all to change the supply picture for the better, to change the demand picture, and to actually stabilize and bring down energy prices—this proposal would do something to improve that situation.

Resource estimates in those areas of the Outer Continental Shelf that are now off limits, that the Vitter amendment could open up if the host State wants that activity to happen, those resource estimates are staggering: the Atlantic OCS, 3.82 billion barrels of oil and 36.99 trillion cubic feet of natural gas; the central and eastern Gulf of Mexico which is now off limits, 3.65 billion barrels of oil and 21.46 trillion cubic feet of natural gas. That is not counting what we have recently put on the table. The Pacific Outer Continental Shelf, 10.37 billion barrels of oil and 18.02 trillion cubic feet of natural gas. That is enormous total resources of almost 18 billion barrels of oil and 76.5 trillion cubic feet of natural gas. That is enough oil to power 40 million cars and to heat 2 million households for 15 years. It is enough natural gas to heat 16 million households for almost 20 years. Now, that would actually do something about our energy picture. That would actually expand supply and therefore help stabilize and bring down price.

Is it the only thing we need to do? Absolutely not. As I said at the very beginning, our energy challenge is so great that we need to break out of this stale debate where one side of the political fence wants to do one set of things only—basically, to decrease demand—and the other side of the political fence wants to focus on one set of policies only—to increase supply. The simple fact is we need to do all of the above. We need to start immediately. We need to do it aggressively because it is only doing all of these things at once that will adequately address our energy challenges, that has a chance to stabilize and bring down prices, including the prices that rocked the airline industry and are a huge factor in aviation—we are talking about the FAA bill here on the floor now—and, of course, including the prices all Louisianans and all Americans pay at the pump.

For once, let's come together as a Senate and do all of those things. Let's really think about what can actually have an impact on price. Let's move beyond the politics of the moment, which is always to beat up on an easy and big political target such as the oil companies, and let's ask the question: Does that have any impact for the consumer? Does that have any impact in terms of our energy future? Let's do the sorts of things, such as the Vitter amendment, that can actually help the consumer and increase our energy independence.

Again, it is with great regret that I realize I am not able to actually call up this amendment to the FAA reauthorization bill right now. This is a vitally important topic. Whatever you think about it, whatever proposal you put out, certainly we can all agree that energy prices are enormously important for all Americans, for the country, and certainly we can all agree that it is an enormously important issue that goes to aviation as well as other sectors of our economy.

In that light, I think it is particularly regrettable that Senator REID, the majority leader, has filled the amendment tree and therefore shut down the entire amendment process before it even began on a major bill on the Senate floor. The Senate floor is supposed to be renowned for an open amendment process. Yet we have amendments about the key issue facing Americans today—energy prices—and we can't offer a single one. There is something wrong here. There is something out of kilter. That is not the Senate I was told about with an open amendment process, open debate, with great, virtually unlimited opportunity. That is not what the American people expect of Congress—to actually debate

and act on real issues that they care about, and certainly that includes energy prices. So it is regrettable that we don't have a fair opportunity on the FAA bill to do just that. I hope we will have those opportunities very soon.

I understand there may be an energy bill that is moved to the floor soon on the Senate side, perhaps as early as next week. I hope that will yield an open, fair opportunity for the sort of open debate and open amendment process that is supposed to be the hallmark of the Senate. If we are given that open, fair opportunity then, as it is being denied now, I will certainly bring this proposal forward again because, unlike a lot of the rhetoric flying around, unlike the tax increase proposals which I believe will increase the price at the pump and decrease supply, I believe these proposals I have presented could do just the opposite. They could be an important step forward in addressing our energy future and the more immediate need to stabilize and bring down energy prices for all Americans.

With that, Mr. President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELIMINATING BARRIERS TO CANCER RESEARCH

Mr. BROWN. Mr. President, yesterday, at the James Cancer Hospital at Ohio State University in Columbus, OH, our State capital, I announced legislation to eliminate needless barriers to cancer research.

I was joined by Dr. William Carson, by Dr. James Thomas, by patients, and by nurses, who do the research and the clinical care for patients during these clinical trials. Many have worked on this issue with Congresswoman DEBORAH PRYCE, a Congressional Republican.

Merle Farnsworth, a lymphoma patient from Beverly, OH, shared an emotional story about cancer clinical trials meaning hope—and possibly a lifesaving cure—for him and millions of patients like him.

The goal of both the House and Senate versions of this legislation is simple: to finally identify cures for this merciless killer.

So many of us have been touched by cancer. We all know—all of us, I guess, in this room right now—someone with cancer and have lost someone to cancer or we know someone living with cancer.

Focusing on cancer yesterday at James Cancer Hospital reminded me of what is at stake when we are fighting for broader access to health care. We are fighting to promote and enable early detection of childhood cancers, such as Hodgkin's Disease, leukemia, and bone cancer, and to ensure that every woman can receive mammograms and pap tests.

We are fighting to diagnose cancers as soon as possible, which is the key to saving lives. We recognize everyone should be able to get these preventive measures, regardless of where they live or how much they earn.

We recognize a woman with breast cancer without insurance is 40 percent more likely to die than a woman with breast cancer with insurance.

We need a health care system that is affordable and inclusive, where insurance companies follow through on providing coverage to those who need it.

No American should be driven into bankruptcy by a catastrophic illness such as cancer. And no one should be denied access to clinical trials because insurance companies all too often try to drop them from coverage.

Last year, Sheryl Freeman, a retired schoolteacher, and her husband Craig from Dayton visited my office in Washington. Sheryl had multiple myeloma. Sheryl and Craig brought to my attention the problems they were having with their insurance company.

Sheryl was a retired schoolteacher and was covered under Craig's insurance plan. Craig has been a Federal employee for 20 years. When Sheryl enrolled in a clinical trial to save her life, her insurance company would not cover the routine costs of her care. If she had not enrolled in the clinical trial, they would have covered the costs of her care.

She enrolled in the clinical trial. The insurance company, for all intents and purposes, dropped her from providing routine care for her.

In addition to her clinical trial in Columbus, Sheryl needed to visit her oncologist in Dayton, about 1 hour 45 minutes away, at least once a week for standard cancer monitoring, which included blood tests and scans. But her insurance company would not cover these services if she enrolled in a clinical trial.

Sheryl wanted to take part in a clinical trial because she hoped it would help her, that it might save her life, give her more time, and further cancer research. But rather than devoting her energy toward combating cancer and participating in a clinical trial, Sheryl spent the last months of her life haggling with her insurance company. The delays and the denials from her insurance company probably affected her treatment and her survival. Sheryl died on December 9, 2007.

The story could have ended differently. Sheryl and Craig should not have had to sacrifice their precious time together trying to get the care she deserved, the care she paid for when she signed up for health insurance. People invest in insurance when they are healthy so they have financial protection when they are sick. It is meant to cover the costs of unanticipated health care needs.

Whether a coverage exclusion such as this one, which denies payment for unanticipated health care needs, is written into an insurance contract, it is still a scam.

Unfortunately, Sheryl and Craig are not alone. This is happening across Ohio. It is happening in the Presiding Officer's State of New Jersey, and it is happening in all 50 States. Some 20 percent of cancer patients who attempt to enroll in a clinical trial face the same problem with their insurance companies.

It is because of stories such as these I am introducing the Access to Cancer Clinical Trials Act this week. Similar legislation is on its way to getting passed in the Ohio State Legislature. The Governor plans to sign that bill immediately.

My bill and Congresswoman PRYCE'S bill in the House ensures this protection nationally. The bill simply obligates health plans to pay for routine care costs when a cancer patient enrolls in a clinical trial, something, frankly, we should not have to tell the insurance companies to do. But when they drop coverage for people who signed up for a clinical trial, it is what we have to do.

These are costs, as I said, that would normally be covered if a cancer patient were not participating in a clinical trial.

The legislation is specific in its definition of routine care costs and follows the Medicare definition.

The bill will ensure that cancer patients and their caregivers can use their valuable time together to fight the disease instead of the redtape of insurance companies.

In order to fight cancer and make progress, we need to further scientific advancement, not create barriers for patients who want to participate in lifesaving research.

I am grateful to Merle Farnsworth for yesterday so courageously and passionately sharing his story with us and the public. I am grateful to the nurses who do their clinical care and practice their research for these patients in these clinical trials. I am grateful to Sheryl and Craig for their courage in sharing their story. Their two children joined us yesterday in bringing this issue to my attention.

Sheryl was already very sick when she visited Washington, DC, and I imagine it was not easy for her to be traveling, but she did. She saw how important this issue was. I will keep the Freemans in mind as I advocate to get this bill passed. I will work hard on this legislation so no one has to go through the kind of experience the Freemans had and the kind of experience Mr. Farnsworth had.

Instead of fighting their cancer, too many Americans are forced to fight their insurance company in the late

stages of their disease. That has to stop. That is why this legislation is so very important.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL FUNDING

Mr. COCHRAN. Mr. President, 2 weeks ago, I came to the Senate floor to express my concern that Congress had yet to act on the President's fiscal year 2008 request for supplemental funding to support our troops and our efforts in Iraq and Afghanistan. At that time, I also expressed my displeasure with the majority's intention to bypass the Appropriations Committee in writing the supplemental appropriations bill.

Two weeks later, little appears to have changed. Little has changed, except that we are 2 weeks deeper into the fiscal year, and we are 2 weeks closer to the date when accounts that support our Armed Forces and our diplomatic corps begin to run dry.

The majority leader is apparently sanguine about the status of the supplemental because last Thursday, he said:

> I think we'll do our best to finish this before the Memorial Day break, but if we don't, it's no big deal. There's money there.

The leader then went on to say:

> I don't know why there is a rush to judgment. This is moving along quite rapidly. We're not behind schedule. Everything's fine.

Exactly what is ''moving along quite rapidly''? No markup of the supplemental has been officially scheduled in either the House or the Senate. There are continued reports of imminent action in the other body, but no bill has been introduced. No bill or report has been circulated to Senate committee members in anticipation of a markup. There is nothing for Members to look at, nothing for Members to consider or to draft amendments to.

A week ago, Republican members of the Appropriations Committee in the Senate wrote to Chairman BYRD to express our concern about the committee being bypassed entirely. I am pleased that the chairman concurred in the sentiments expressed in that letter and has stated his intention to hold a committee markup this week. I am certain that has been his preference all along.

In my memory, I cannot think of any instance where the committee did not mark up a supplemental such as this. I think the chairman has been fighting valiantly to maintain some semblance of regular order, but it is apparent he is meeting resistance from the joint leadership.

That is a shame. We should take advantage of the collective expertise and experience of the members of the Appropriations Committee and bring that knowledge to bear on the supplemental.

I am sorry to say it remains uncertain whether a markup will take place, and if a markup does occur, it remains uncertain whether the committee's work product will be considered by the full Senate.

In the House, it appears the committee will be bypassed altogether. Yet even with that step being skipped, there is still no definite schedule for House floor action. There apparently have been discussions by House and Senate staff in an effort to sort of ''precook'' agreements on the various chapters of the bill, but there has been little substantive involvement by the minority in those discussions. Very few Members have been involved at all, to my knowledge.

The fact is the Appropriations Committee could have marked up the supplemental several weeks ago, and the Senate likely could have passed the bill by now. We should be in conference with the House already and be well on our way to negotiating a conference report to be sent to the President. But instead, we wait. We wait for more closed-door meetings between and among the Democratic leaders. We wait for more rumors about what extraneous legislative matter is or is not part of the draft being compiled by the majority. And all but a handful of Members wait for an opportunity to shape the bill.

I am a member of the Committee on Agriculture and was appointed as a conferee on the farm bill. That conference has met at least seven times in recent weeks. There have been countless additional meetings among committee principals. It has been a grueling effort, it has been messy, and it remains uncertain whether the President will ultimately sign the conference report once it is presented to him. But we can be fairly confident that the conference report will at least reflect the collective will of Congress and it will be the process of a reasonably transparent process.

At this point, I cannot say that about the supplemental. Eventually, we will approve and the President will sign a supplemental bill. I am confident that ultimately we will not allow our Armed Forces and our diplomatic corps to go wanting for resources. My concern is that the majority's approach to the supplemental places political tactics and strategy ahead of the need for inclusive, timely, and transparent action.

Contrary to the majority leader's assertion, it is a big deal if we do not get this bill done by Memorial Day. It is a big deal, not because the U.S. Army will run out of ammunition on June 1 but because our inaction will represent an unnecessary and completely avoidable process failure on the part of the Congress. It will say to our Armed Forces that we are willing to draw out this process as long as possible, even though we know the likely outcome. We are willing to force the Department of Defense to issue advance furlough notices, delay contract awards, and make inefficient funding transfers in order to keep the money flowing—all because congressional leaders spent these last several weeks devising artful parliamentary schemes rather than simply advancing the bill through the committees, onto the House floor, onto the Senate floor, and into conference.

The April 28 edition of Roll Call included an article by Don Wolfensberger titled ''Have House-Senate Conferences Gone the Way of the Dodo?'' I commend that article to my colleagues and ask unanimous consent to have a copy printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COCHRAN. Mr. Wolfensberger reminds us of the promises made by the Senate leadership in 2006 as part of their ''honest leadership and open Government'' reform plank. Conference meetings were to be open to the public, and members of the conference committee were to have a public opportunity to vote on all amendments. Copies of conference reports were to be available to Members and posted publicly on the Internet 24 hours before consideration. Bills were to be developed following full hearings and open subcommittee and committee markups and were to come to the floor under procedures that allow open, full, and fair debate.

These practices have been followed in some cases. I mentioned the farm bill already as an example of a conference committee in action. But procedures governing the conference process and the markup process are only relevant if there actually is a conference committee or there actually is a committee markup.

As noted in Mr. Wolfensberger's article, the number of instances in which major legislation has been dealt with outside the conference process has increased markedly in this Congress. The supplemental appears destined to become another example. I gather that we are to receive the bill from the House in the form of three amendments to a dormant version of the fiscal year 2008 Military Construction appropriations bill. As I have already noted, it is not certain whether the Senate Appropriations Committee will act on some, all, or none of these amendments or whether the leader intends for there to be an opportunity for Senators to offer amendments on the floor. A conference committee appears out of the question.

It is not easy to be the Speaker of the House or the majority leader of the Senate. Individuals elected to those positions are subjected to enormous pressures. They are besieged constantly by colleagues, constituents, and outside interests with an array of often conflicting demands. In an effort to resolve those competing demands, it is

tempting to centralize decisionmaking, construct processes that minimize uncertainty, and generally try to eliminate the untidiness of the legislative process.

A handful of Members and staff are empowered at the expense of the rank and file in both bodies and, by extension, the people whom the rank and file represent. On occasion, such tactics are successful. But over time, these practices tend to become abusive and often result in a messier, more protracted process than would have been the case if more traditional procedures had been followed.

For the sake of our men and women in Iraq and Afghanistan, I hope the process the majority has chosen for the supplemental does not put us any further behind than we already are. But in the 2 weeks since I last came to the floor to speak about the supplemental, little has occurred to inspire such hope.

Our men and women in the field are waiting. We do need to finish this bill by the Memorial Day recess. It is a big deal.

EXHIBIT 1

[From Roll Call, Apr. 28, 2008]

HAVE HOUSE-SENATE CONFERENCES GONE THE WAY OF THE DODO?

(By Don Wolfensberger)

In June 2006, House and Senate Democratic leaders rolled out their ''New Direction for America,'' a campaign platform to take back control of Congress. The ''Honest Leadership and Open Government'' reform plank, at Page 22, included the promise to require that ''all [House-Senate] conference committee meetings be open to the public and that members of the conference committee have a public opportunity to vote on all amendments [in disagreement between the two houses].'' Moreover, copies of conference reports would be posted ''on the Internet 24 hours before consideration (unless waived by a supermajority vote).''

The minority Democrats' justifiable complaint was that majority Republicans often shut them out of conference committee deliberations after a single, perfunctory public meeting was held to minimally satisfy House rules (aka ''the photo op''). After that meeting, all that is necessary to file a conference report is the signatures of a majority of conferees from each house. No formal meeting or votes on final approval are required; nor does the majority even need to consult the minority before finalizing an agreement.

Once they took over Congress in January 2007, House Democrats abandoned their promises of public votes in conference meetings on amendments in disagreement and of 24-hour advance Internet availability of conference reports. Nevertheless, they did adopt some palliative House rules changes on the opening day of the 110th Congress that at least appear to move conference committees in the direction of a more deliberative and participatory public process.

The new rules require: (a) that all conferees be given notice of any conference meeting for the resolution of differences between the houses ''and a reasonable opportunity to attend''; (b) that all provisions in disagreement be ''considered as open to discussion at any meeting''; (c) that all conferees be provided ''a unitary time and place with access to at least one complete copy of the final conference agreement for the purpose of recording their approval (or not)'' by affixing their signatures; and (d) that no substantive change in the agreement be made after conferees have signed it.

The Parliamentarian's footnotes to the rules for conference reports indicate that the rules are not enforceable if all points of order are waived against the reports, as is routinely done by a special rule from the Rules Committee. Nevertheless, conference committee chairmen (or vice chairmen) could still be punished by the House adopting a question of privilege resolution for willful disregard of these modest requirements. This is because a blanket waiver of the rules only protects the conference report. It is not a retroactive pardon for malfeasance in the management of the conference.

Unfortunately, these well-intentioned new rules have no relevance when the bicameral majority leadership decides to bypass going to conference altogether, and instead negotiates final agreements behind closed doors. And this is happening with increasing frequency, sometimes even over the public protests of committee chairmen who have been excluded from leadership negotiations.

To determine just how serious the practice of bypassing conferences has become, I compared action on major bills through March of the second session in both this Democratic 110th Congress and the preceding Republican-controlled 109th. (A major bill is defined here as one originally considered under a special rule in the House.)

Of major bills approved by the House and Senate that required some action to resolve differences between the two versions, 11 out of 19 (58 percent) were settled by conferences in the current Congress compared with 18 out of 19 (95 percent) in the previous Congress.

Put another way, the current 110th Congress has been negotiating eight times as many bills as the 109th Congress outside the conference process. This is done by using the ''pingpong'' approach of bouncing amendments between the houses until a final agreement is achieved.

Among the major bills in this Congress that have bypassed conference consideration are the energy independence bill, State Children's Health Insurance Program, Iraq-Katrina supplemental appropriations, terrorism insurance, the consolidated appropriations act and the tax rebate/stimulus legislation.

While the conference bypass approach is just as legitimate under the rules as going to conference (and sometimes advisable when there are only minor differences to iron out), the procedure is more suspect when used on major bills on which numerous substantive disagreements exist between the houses. That is when House and Senate leaders are more likely to directly intervene, rendering committee chairmen less relevant to the process.

Senate minority Republicans are not entirely blameless in this development. At times they have brought pressures to avoid conferences, under threat of filibuster, in order to better ensure the retention of provisions in which they have a vested interest. However, House and Senate Democratic leaders have been just as culpable in wanting to skip conferences to produce outcomes most beneficial to their party.

While it is too early to declare House-Senate conferences as extinct as the dodo, it is not too early to move them onto the parliamentary endangered-species list. It is one more sign of the decline of the committee system and its attributes of deliberation and expertise. It is especially troubling because the lack of conference deliberations shuts out majority and minority Members alike from having a final say on important policy decisions. Party governance must be better balanced against participatory lawmaking. Both parties need to recognize this.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I come to the floor today in my capacity as the ranking member of the Senate aviation subcommittee. I would like to take a few minutes to discuss the Senate FAA reauthorization bill and the substitute on which we will be voting later this afternoon and respond to some of the recent remarks that have been made on this process.

The lack of progress last week and the parliamentary action of filling the amendment tree are very disappointing to me. Today, for the 19th time this session, we will be asked to vote on cloture on a bill we have not even had open to amendment. In the present situation, we are being asked to vote on cloture before we have cast a single vote on an amendment. What the leader is doing is blocking amendments, preventing debate, forcing a cloture vote, and hoping the Republicans vote against it. Then press releases will be sent out blaming Republicans for obstructionism. But I have to say, what is obstruction? I don't think most Americans would define obstruction as insisting that an FAA bill; that is, the Federal Aviation Administration, not include unnecessary and imprudent tax increases, even worse retroactive tax increases, unrelated to aviation.

I have suggested several options in an attempt to produce an FAA reauthorization package upon which most Members could agree. But those suggestions have been turned down by the other side. Unfortunately, this bill is being bogged down by trying to make it an omnibus tax and special projects package.

It is so important that we pass an aviation bill. That is why I have introduced S. 2972, which is currently at the desk.

I ask unanimous consent that Senator TED STEVENS be added as a cosponsor of S. 2972.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, the text of S. 2972 is identical to the substitute we worked on last week. It is the bill that came out of the Commerce Committee with complete bipartisanship, but it does not include the unrelated and extraneous tax provisions. It does have aviation taxes that came out of the Finance Committee to which all of us agreed. It does not have all of the other tax provisions that have nothing to do with aviation—some of which are retroactive—and have nothing to do with FAA.

I have also conveyed to my friends and colleagues on the Finance Committee that I am supportive of moving forward on a bill that would replenish the highway trust fund. I think we could all agree on that. But this is a workable FAA reauthorization bill, and it is very important to me because of

the important role of aviation in our country and in my home State.

In Texas alone, aviation accounts for nearly 60,000 jobs and over $8 billion in total economic output. In addition, we are also home to 2 of the top 10 busiest airports in the Nation. We have 23 commercial service airports and over 300 general aviation airports. Beyond infrastructure, we are also the proud home of two legacy airlines, American and Continental, and the home State of the predominant low-cost carrier Southwest. My State has a dynamic aviation footprint and a substantial interest in the future of this challenged industry.

Since the year 2000, the U.S. airline industry has gone through its most fundamental restructuring since Congress deregulated the industry in the late 1970s. We all know so well the horrific impact of 9/11 and what happened to the industry after that, and that is still affecting it today. Put on top of that the high fuel prices which are affecting aviation even more than regular gasoline at the pump and you have a situation in which we have an industry that is really teetering on the brink of disaster.

Since taking over as leader of the aviation subcommittee earlier this year, I have worked closely with my friend and colleague Senator JAY ROCKEFELLER. We have developed a bill upon which all of us agreed, with the complete support of Senator INOUYE, the chairman of the subcommittee, and Senator STEVENS, the vice chairman. We have worked hard to develop a package that would foster air traffic modernization, doing it without doing damage to the commercial airline industry and with the complete support of the general aviation community. We produced a bill that was bipartisan with the support of our committee.

Here are some of the important provisions in the bill we produced:

It has important safety and passenger protections. The U.S. commercial aviation industry is experiencing the safest year in our history. However, recent high-profile aviation safety incidents have given the public some concern. In response, the committee has crafted several new safety initiatives in the substitute, based on the recommendation of the Department of Transportation inspector general.

The new package ensures the FAA's voluntary disclosure reporting process requires inspectors to verify that the airlines actually took the corrective actions they stated they would, evaluate if an air carrier has offered a comprehensive solution before accepting the disclosure, and confirm that the corrective action is completed and adequately addresses the problem disclosed.

The bill implements a process for second-level supervisory review of self-disclosures before they are accepted and closed. Acceptance would not rest solely with one inspector.

It revises post-employment guidance to require a ''cooling off'' period of 2 years before an FAA inspector is hired at an air carrier he or she previously inspected. I personally would like to see that extended beyond 2 years to 3 or 4 years. If we had an amendment process, that would have been one of my amendments.

The bill implements a process to track field office inspectors and alert the local, regional, and headquarters offices to overdue inspections.

It establishes an independent review through the Government Accountability Office, the GAO, to review and investigate air safety issues identified by its employees.

It develops a national review team under the supervision of the Department of Transportation inspector general to conduct periodic reviews of FAA's oversight of air carriers.

It develops a plan for the reduction of runway incursions through a review of all commercial airports and establishes a process for tracking and investigating both runway incursions and operational errors that includes random auditing of the oversight process.

I am a former Vice Chairman of the National Transportation Safety Board. I understand the crucial mission of the FAA in overseeing the Nation's airlines and aviation system.

Aviation safety and the public trust that goes along with it is the bedrock of our national aviation policy. We cannot allow the degradation of service to the flying public.

I believe the bill we crafted in the Commerce Committee that is part of the substitute that I would agree with today, and all that is in the bill I have introduced but without the extraneous provisions that have nothing to do with aviation.

The other part of the bill that is in what the Commerce Committee produced and is in my substitute as well is the timely issue of consumer protections or a passenger bill of rights. The substitute includes several crucial reforms directed at making the airlines more accountable and responsive to passengers.

The managers' amendment would incorporate several additional protections to strengthen airline service requirements. The DOT would review and approve the contingency service plans of every air carrier. The Secretary could disapprove an airline's plan and return it to the carrier with the option for modification and resubmittal, and the DOT then would be authorized to establish minimum standards for such contingency plans. It would require a mandate that such contingency plans are to apply to aircraft that are delayed, whether on departure or arrival.

Now, we have all heard stories about people who have been stranded on airplanes for 5 hours without any food service, without the opportunity to use the facilities.

That is cruel and unusual punishment. I myself have been on airplanes that have been delayed 2 hours and more, and I know it is very uncomfortable for passengers. That is why we included in this bill requirements that airlines either have a plan that is approved by the Department of Transportation or there would be a 3-hour maximum or the passengers could get off; the establishment of an Advisory Committee for Aviation Consumer Protection would also be put in this bill.

It would advise the Department of Transportation on carrying out air service improvements and what would be necessary to make them better. The committee would be comprised of four members to be appointed by the Secretary with a requirement to report to Congress annually over a 2-year period on its recommendations to the Department of Transportation to improve this service and an explanation of the Department's action on each of the recommendations.

So these are some of the important provisions in the Commerce Committee bill. They are in the bill that would be before us, and they would be in the bill I would like to see us pass that I have introduced and is being held at the desk.

The substitute also addresses rural air service funding challenges by including additional funding for the Essential Air Service Program for our smaller underserved communities at $175 million annually. These funds would go a long way toward improving access for our most rural communities, communities that had air service, commercial air service, in the past but lost that after deregulation.

As I stated last week, I hope my colleagues will appreciate the months of stalled negotiations that took place in trying to move this legislation forward. There is a very good balance in the Senate bill regarding FAA financing and labor-related provisions. If the Senate wants a final bill, we need to preserve that balance without including highly controversial unrelated provisions that many people would agree do not belong in an FAA bill dealing with aviation.

We have an opportunity to pass FAA legislation this week. The bill I have introduced with Senator STEVENS would be everything the Commerce Committee passed on a bipartisan basis and the provisions of the Finance Committee report on aviation taxes that would go toward modernization.

It does not include the controversial pension provision that changes the previous law this Congress has passed and affects some of our airlines in a way that could be so destructive as to possibly bring that air carrier down. It does not include all the taxes that were put in, all the projects, all the earmarks that have nothing to do with aviation.

It is simply the Senate bipartisan bill on aviation and the Finance Committee package that deals with aviation. We could pass this bill and send it to the President and the President would sign this bill. He would sign the bill Senator STEVENS and I have put

forward. He will not sign the bill that would be put forward by my distinguished colleague, Senator ROCKEFELLER.

There are provisions of that bill that would not allow this bill to go forward at all, period, because there are policy matters unrelated to aviation that more than 41 people in this Senate will object to putting on an aviation bill.

So I think we have a way forward. I have introduced a bill that I believe could get the majority of the votes in the Senate. It would be signed by the President, and it would do all that I have mentioned relating to aviation safety improvements, passenger bill of rights, it would modernize our air traffic control system, it would keep the balance in the system we all agree we should have between air carriers and commercial airports, general aviation and general aviation airports.

It is a good bill. We have a way forward. We have made agreements we can all agree would push the bill forward. But the substitute we are going to vote cloture on without the process of amendments being open is not that bill. There is no reason for the Commerce Committee bill on aviation to take on all these taxes and special interest projects that have nothing to do with aviation.

If those projects can stand on their own, let's vote on those projects alone. The Finance Committee has many vehicles on which they can put their legislation. But to try to put nonaviation taxes on an aviation bill is going to bring this bill down.

I hope we will not allow that to happen. We will vote no on cloture. Cloture probably will not be given because it is not an aviation bill we are going to be voting on. But we have an aviation bill. Let's vote on that one. Let's vote on the bipartisan bill from the Commerce Committee and the taxes from the Finance Committee that relate to aviation and let's move forward. I think we can do it.

This is the Senate. We can work on a bipartisan basis. My colleagues, Senator ROCKEFELLER and I and Senator INOUYE and Senator STEVENS and the members of our committee have done an incredibly good job of bringing that balance together. So I hope we will not waste that effort and that we will be able to put up as one of the accomplishments of this session of Congress an FAA reauthorization bill that modernized our system, that created a passenger bill of rights, that created a safety program that further enhanced a good program, that included war risk insurance, a bill that balances all the aviation interests of our country, which are so important to our economic viability.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. What is the situation parliamentarywise?

The PRESIDING OFFICER. H.R. 2881 is pending, with amendments.

Mr. STEVENS. Is there any time agreement at the present time?

The PRESIDING OFFICER. There is a vote scheduled at 2:30.

Mr. STEVENS. Are we still in morning business?

The PRESIDING OFFICER. We are on the bill, not in morning business.

Mr. STEVENS. I thank the Chair.

TRIBUTE TO LEW WILLIAMS, JR.

Our young State, Alaska, this past weekend lost one of our greatest 20th century pioneers when Lew Williams, Jr., the publisher emeritus of the Ketchikan Daily News, died while vacationing in Scottsdale, AZ.

Through his six decades in Alaska journalism, Lew brought news to much of southeast Alaska through a series of newspapers which he edited and owned. Five southeast Alaska towns were home to Lew Williams. Juneau was the first, when, as an 11-year-old boy, he delivered the Empire, the paper on which his dad was a reporter. Wrangell was next. His dad was the new editor-owner of the Wrangell Sentinel, and Lew became his 15-year-old apprentice. Later, after Navy service in World War II, Lew bought the paper from his father. Next the beautiful town of Petersburg, AK, claimed Lew when he and his bride Dorothy bought the Petersburg Press. From that time on, Dorothy remained his partner in newspapering, along with helping Lew to set the path that has been followed by his own three children.

In 1966, Lew took over the editorship of the Ketchikan Daily News and, a decade later, he and Dorothy bought that paper, settling in for the long run and spending the rest of his life in Ketchikan.

When the Daily Sitka Sentinel fell on hard times after major mechanical problems and a fire in 1969, Lew offered assistance to the beleaguered owners. That assistance turned into ownership of that paper also. But in 1975, he sold the Sentinel to the Poulsons, a young couple who had been hired to be editors. Thad Poulson was a former reporter in Juneau and an AP representative in Juneau. He remains with the Sitka paper today.

Despite his close ties to these five towns in our State's beautiful southeastern panhandle, Lew was truly a man for all of Alaska.

He was one of my close friends, and I mourn his passing.

Early in the 1950s, when the larger southeast daily newspapers were against Alaska statehood, Lew Williams joined the small weeklies in our fight to become the 49th State. The concerns that faced Alaska as a territory, and later as a State, Lew adopted as his concerns. No matter where the problem was in our 586,000 square miles, Lew Williams became acquainted with it and tried to do something about the problem. Whether the issue was minerals or timber, fisheries or lands, hundreds of other matters, Lew wrote clearly and forcefully in his paper, as editor, to help his readers understand the solutions he believed were best for all Alaska and Alaskans.

Critics who may have disagreed with his stand on any issue were unanimous in their praise for his writings. His columns were carried in papers throughout our State and many throughout the Nation, and they have continued to run, until a few weeks ago, in what we call Anchorage's Voice of the Times which is printed as an op-ed in the Anchorage Daily News.

Although Lew's paper, the Ketchikan Daily News, is the smallest daily in Alaska, with a weekend edition also, Lew was in the forefront when it came to technology. He beat out what we call ''the big boys'' in the larger towns when he was the first to offer offset printing and color and among the first with newsroom computers. Along the way, Lew collected dozens of honors for his papers throughout the Nation and for his community service. He served on boards ranging from the chambers of commerce to fish and game advisory boards, school boards, and the Rotary. He was appointed to the board of regents of our University of Alaska. He was a member of the blue ribbon task force for the Alaska National Interest Public Lands Act—we call it ANILCA—which was passed in 1908, and he served on the Alaska Judicial Council and the board of governors of the Alaska Bar Association, although he was not a lawyer.

And ''there's more,'' as the television commercial says. Lew founded the Alaska Newspaper Association. He was named businessman of the year for Alaska a few years ago. He founded the Southeast Alaska Conference and for 29 years was an adult leader of Boy Scouts.

These honors pale beside Lew's greatest gift to our State, and that is his three children who grew up in newspaper offices. What a tribute to their dad that they adopted his profession and are carrying it on. Lew III, Tena, and Kathy, his children, accepted the reins from their dad in 1990. But he still remained in that office and he gave his time to finish writing and editing a 700-page book called ''Bent Pins and Chains,'' a history of Alaska through its newspapers. He had begun this with the late historian wife of the publisher of the Anchorage Times, Evangeline Atwood, for anyone who is interested in Alaska. Alaskans are fortunate that the vibrant Williams younger generation carries on Lew Williams' commitment to good reporting, fine writing, dedication to community service, and making Alaska the greatest place in the United States to live.

Those of us who knew Lew Williams, who shared opinions and laughs and

disappointments and triumphs and many wonderful days, are among the luckiest of Alaskans. I always looked up Lew Williams when I was in Ketchikan, and he always had some news and advice for me. I usually followed it.

We do have the knowledge we could not have had delivered to us through a better, more loyal friend. I have to say, it is tough to lose a friend like Lew. The joy he brought to my life and to my family's life and to so many others cannot be measured in a statement of this kind. I tell the Senate that everyone makes a statement like this. Not often do we make a statement pertaining to someone who had so much to do with our lives and what we have done. When I first decided to run for the Senate, I went to Ketchikan to talk to Lew Williams to see if he agreed. That was back in 1962. I have known Lew Williams and Dorothy and the children for a long time. Catherine and I send our love and deepest sympathy. We know our friend and their loved one is gone, but he will not be forgotten by any of us.

I ask unanimous consent that recent editorials and comments about my friend Lew Williams be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEWSMAN LEW WILLIAMS JR. DIES AT 83

KETCHIKAN.—Ketchikan Daily News publisher emeritus Llewellyn ''Lew'' M. Williams, Jr., 83, died Saturday in Scottsdale, Ariz.

Williams was a pioneer Alaska journalist, active in newspaper, state and local affairs for more than 60 years. He died while vacationing in Arizona, four days after he had been due to return home to Ketchikan.

He and his wife, Dorothy, published newspapers in Wrangell, Petersburg, Sitka and Ketchikan.

They were the first to switch an Alaska newspaper from the hot-type method of printing to photo offset, which later became used universally in the industry.

They were the first to switch an Alaska afternoon daily newspaper to morning publication. They created a successful weekend edition for the Ketchikan Daily News while other small dailies in Alaska remained five-day publications. The Williamses were Alaska pioneers in adapting electronics to newspaper production.

In 1965, Lew Williams was a founder of the Alaska Newspaper Publishers' Association, forerunner to today's Alaska Newspaper Association. He served terms as president of each organization and served a term as director of the regional Allied Daily Newspaper Association.

The Williamses purchased the Ketchikan Daily News from the Paul S. Charles family in 1976, after managing the newspaper for 10 years. They sold their interest to their children, Lew III, Kathy and Tena Williams, after Williams retired as publisher in 1990.

Williams was born in Spokane, Wash., Nov. 26, 1924, to Lew M. Williams Sr. and Winifred (Dow) Williams, who met while both were reporters for Tacoma newspapers. The Williams family moved to Juneau in 1935, where the elder Williams worked for the Juneau Empire. In 1939, the senior Williamses purchased the Wrangell Sentinel.

After serving as a sergeant in the paratroops in World War II, Lew Jr. ran the Sentinel for the family. He married Dorothy M. Baum in Mitchell, Neb., on July 2, 1954.

The couple purchased the Petersburg Press and acquired the Wrangell Sentinel from the senior Williamses when they retired.

They sold both newspapers to Alaska Airlines President Charles Willis, and bought the Daily Sitka Sentinel and an interest in the Ketchikan Daily News. They sold the Sitka paper to Thad and Sandy Paulson to concentrate on publishing the Ketchikan paper when they bought out the Charleses. Although the Petersburg Press was suspended after he sold it, Lew Williams helped the Petersburg Pilot get started. All newspapers he and his wife ran were successful businesses and community leaders.

Williams was a lifetime member of Petersburg Elks Lodge No. 1615, the American Legion and Pioneers of Alaska.

Williams served on the Wrangell School Board, as mayor of Petersburg and on numerous state boards, among them the Alaska Judicial Council, the Board of Governors of the Alaska Bar Association and the Board of Regents of the University of Alaska. He served on boards under every state governor through 1999. He served three years as the first secretary of the Petersburg Fish and Game Advisory Board when Alaska took control of fish and game with statehood.

He was a past president of Rotary, served 29 years as an adult leader in the Boy Scout program, and was active in Democratic Party politics when Bill Egan was governor. For his public service, he was awarded an honorary doctorate of humanities by the University of Alaska Southeast.

As a writer, Williams was noted for his strong editorials and weekly columns. He continued writing his column, ''End of the Week,'' up until his death, and occasionally contributed editorials. He continued to provide background material to Daily News editorial writers, because of his lengthy service in and extensive knowledge of public affairs. His advice was sought not only by reporters and editors at the newspaper, but also by municipal and state leaders.

In 2006, he published ''Bent Pins to Chains: Alaska and its newspapers,'' a book he wrote with the late Evangeline Atwood that is described on its dust jacket as ''a journalism course, including a history of Alaska under the American flag.''

He believed the editorial was the heart and strength of any newspaper. He editorialized for Alaska statehood, for creation of the state ferry system, for the trans-Alaska pipeline, for power development, in support of the timber and fishing industries, and for airports, harbors and roads.

As a community booster, he was active in chambers of commerce and was a founder and first secretary of the regional Southeast Conference. He was named Citizen of the Year by both the state chamber and the Greater Ketchikan Chamber of Commerce in the early 1980s, and named Alaskan of the Year in 1991 by the nonprofit Alaskan of the Year organization, based in Anchorage.

Williams was a dedicated family man, who in his early days enjoyed hunting and fishing on the Stikine River. After retirement, he liked to vacation with family in Arizona.

He is survived by his wife, Dorothy; daughters, Christena and Kathryn; son, Lew III and daughter-in-law, Vicki; granddaughters, Kristie, Jodi and Melissa Williams; and great-grandson, Milan Browne, all of Ketchikan; sisters, Susan Pagenkopf of Juneau and Jane Ferguson of California; and by cousins in Alaska and Washington.

At his request, no service is scheduled. Messinger Mortuaries of Scottsdale is in charge of cremation.

The family suggests memorials to the First City Council on Cancer.

AN ALASKAN ORIGINAL DIES IN SCOTTSDALE

The Voice of The Times lost a great friend and favorite columnist on Saturday when Ketchikan newsman Lew M. Williams Jr., died at 83 in Scottsdale, Ariz., his vacation home.

Lew was the retired publisher of the Ketchikan Daily News and active in journalism and Alaska's civic life for more than 60 years. He worked on various newspaper jobs as a youth and began his journalism career on a full-time basis after service as a paratrooper sergeant in World War II.

He first ran the Wrangell Sentinel for his family, worked at the Sitka Sentinel and the old Petersburg Press, and managed the Ketchikan Daily News for 10 years before buying it in 1976. His daughter, Tena, is now the Ketchikan publisher, taking over when he retired.

He was a principal author of ''Bent Pins to Chains,'' a comprehensive history of the newspaper business in Alaska. He researched and wrote the book after taking over the original research done by the late Evangeline Atwood, who was an Alaska historian and widow of Robert B. Atwood, publisher of The Anchorage Times and another giant of Alaska journalism.

Most long-time Alaska journalists knew him and many can recount personal experiences with him. Most will testify to the friendly and helpful attitude he had toward others in the profession.

Lew's death was unexpected and came after sending an e-mail in late April saying he wouldn't be writing columns for a while because he had the flu. His wife, Dorothy, insisted he see a doctor and they learned just a week before his death that it was cancer.

His family gathered in Scottsdale and he was apparently comfortable until the end. By one account he was still tracking the stock market during his last week. With his inquiring and untiring mind, that would be no surprise.

Lew's list of good friends includes Sen. Ted Stevens, who is preparing a tribute to him for delivery on the floor of the U.S. Senate on Tuesday.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. It is my understanding that the Federal Aviation Administration reauthorization is the pending business before the Senate.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. I thank the Chair.

Mr. President, this is a bipartisan bill that Senator ROCKEFELLER of West Virginia, Senator HUTCHISON of Texas, and many others worked on very long and hard. We voted unanimously to go forward with this bill last week. This is long overdue. It is to modernize the air traffic control system, to establish a basic set of rights for airline passengers, and so many other things that are included in this bill, to move the technology of air traffic control forward so America can be on the same page as many other developed nations that have found more efficient, safer ways to guide aircraft. You would think that sort of thing would be nonpartisan when it came to the floor of the Senate. I am sorry to say we haven't had much luck.

If Senators were paid by the vote, last week we would have been on short rations. We had one vote last week. We all came out and ceremoniously showed

up one time on the floor of the Senate to vote and leave.

I kind of thought when I ran for the Senate there was something involved such as debate, deliberation, that Senators would come forward and offer amendments, and other Senators who disagreed might debate those amendments and maybe even offer an amendment of their own. It is like the Senate was once portrayed in the movies. That is the Senate of ''Mr. Smith Goes to Washington'' and so many other great depictions of Senate activity. But not this Senate; we are in a different mode. We are in the filibuster mode, imposed on us by the Republican minority.

In the history of the Senate, looking back over 200 years, the maximum number of filibusters in any 2-year period is 57. That is an easy number to remember. Now, unfortunately, in this Senate session, as we go into the second year, the Republican minority has broken that record. We have now had 69 filibusters, and we are not even halfway through this year. Some speculate there will be over 100 filibusters before this session comes to an end.

That is unfortunate because a filibuster basically means the Senate stops. Any Member can stand up, object, and stop the Senate. Then it takes a motion to be filed and some 30 hours to pass before you vote on that motion and start up again, if you are lucky enough to get 60 votes. The Republican minority knows this. So time and time and time again they have started filibusters and caused us to file motions for cloture to try to get to an issue.

Now, for an outsider watching the Senate, they might say: What difference does it make? Why don't you all get over it and try to get something done? Well, unfortunately, we are not having any luck at that. The Republican minority has now reached new heights—or new depths—depending on your point of view when it comes to applying the filibuster.

We have a technical corrections bill that comes around once in a while when we have drafting errors in bills, and we have to change the spelling and grammar. We had a big highway bill. It was a huge bill. Then, over time, people looked at it and said: Wait a minute, that shouldn't have said ''road,'' it should have said ''avenue.'' The spelling is wrong or the punctuation. Let's put these technical corrections in. The Republicans filibustered the bill—a bill such as that they filibustered.

One of the Republican Senators got up on the floor and said: Well, there were some things in there we objected to. Well, the way it works—at least by most tradition in the Senate—is if you object to something, you file a motion to strike that section. You debate it. There is a vote. The Senate moves to the next consideration. That is the orderly process but not the approach being used by the Republican minority. Their approach: Initiate a filibuster. Tie up the Senate. Make us burn 30 hours doing nothing, with as few votes, as few amendments, as few bills as possible. Why? Well, several reasons.

First, they like the world as it currently exists. They do not believe improving aviation safety is worth the effort on the floor to try to work together. Time and again, they have stopped efforts in progress because they do not want us to have, I guess, a record to point to that shows we have achieved something.

Finally, they are afraid of controversial votes. I had the good fortune, many years ago, to serve with a Congressman from Oklahoma named Mike Synar. Mike Synar was a real character. He was a throwback. He invited controversy. He welcomed it, and it eventually did him in. He lost a Democratic primary. He managed to anger enough people that it did not work. But he was a character. He used to say: If you don't want to fight fire, don't be a firefighter. If you don't want to vote on controversial issues, don't run for the House or, I might add, the Senate.

Unfortunately, on the Republican side, they do not want to vote on anything, and they do not want to face anything that might be controversial. So they file filibuster after filibuster.

So we had hoped last week this bill, the Federal Aviation Administration bill, would be different—modernizing air traffic control, making our skies safer, making sure our planes are well inspected. That seems to me to be an issue that is not a Republican or Democratic issue.

So last week, the majority leader, HARRY REID of Nevada, came to the floor and said to the Republican side: If you have amendments, let's see them and let's get going. Let's start dealing with those amendments. If they relate to the Federal Aviation Administration, let's bring them up, let's debate them, let's vote on them.

We had hoped, since we had this ''exhausting'' week last week, where we voted one time, that maybe the Republicans would have time to come up with a list of amendments they wanted to come forward with. But I am afraid the majority leader's invitation to offer amendments was declined by the other side, and here we are stuck in the middle of another filibuster.

They tell us what is haunting them is a project in this bill that relates to the city of New York. My colleague and friend, Senator CHUCK SCHUMER, and Senator CLINTON, are pushing for something in New York which they feel the President has promised. In fact, the President included it in his budget.

Some Republican Senators do not like it. They do not want it in there. Well, they certainly have the right to offer to strike it. We give them that opportunity. But because this lingering resistance to the bill is there, they will not let us move forward.

I was optimistic that maybe after a long weekend we could finally make some progress, that the Republican Members would come forward, offer some amendments, and start to debate the bill. Well, the weekend is over and we are in Tuesday of this week and nothing is happening. That is regrettable.

There is a portion of this bill that was in the original substitute which has now been removed, which I thought we put behind us last week. It was a measure related to airline pensions. I assumed at some point we would revisit it. I was surprised when my good friend, the ranking member of the Senate Finance Committee, Senator GRASSLEY of Iowa, took to the floor earlier today to reopen the debate.

Senator GRASSLEY said a provision in the original substitute amendment last week would have in some way corrected a provision I had supposedly, in his words, ''airdropped'' into a conference report last year, as a result of smoky, backroom dealing and that the Finance Committee was trying to right a wrong.

I would like to set the record straight. I do like CHUCK GRASSLEY. I respect him. We have worked on things together. We come from adjoining States. We have been traveling on airplanes together for 20 years-plus. There are times when we do see eye to eye and work very closely. His leadership on a bipartisan basis on the Children's Health Insurance Program was one of the better moments in this Congress. But on this particular one, I have to say I think Senator GRASSLEY is wrong.

Why would we be debating airline pensions or why should people care? If you work for an airline, of course you care. But when you take a look at, overall, what is going on here in America, I think everybody can understand what we are up against.

On this chart is a list of airlines which declared bankruptcy recently: Frontier, 6,000 employees out of work; ATA, 2,230 employees out of work; Skybus, 450 employees; Aloha, 1,900 employees; EOS, 450 employees.

This is an alarming trend, as more airlines declare bankruptcy and people lose their jobs.

Also, many of these people have lost at least some measure of security when it comes to their retirement. So when we talk about airline pensions in today's climate, where our economy has slowed to a crawl, we can understand why this is an issue which we should handle very carefully.

In considering the Pension Protection Act of 2005, the original Senate bill provided near parity for airlines. What we were trying to do in this country was to say to companies all across the board: You promised your employees when they came to work for you, if they worked long enough, they could retire and have a pension. Keep your word. Make sure there are enough funds set aside so you can fund their pensions when they retire.

So we got into this debate and realized for most companies in America certain standards would work, but in one industry—the airline industry—it

was a little more difficult because they were struggling. After 9/11, many airlines went into bankruptcy, many were on the edge of bankruptcy, and most were barely getting by. So we created a provision in the bill in how we dealt with airlines when we talked about this Pension Protection Act.

The original bill provided near parity for all airlines, giving all carriers 14 years to catch up in underfunding in their defined benefit pensions. The Senate passed an amendment by voice vote—Senator ISAKSON offered it—that would have provided even more benefits to the airline industry in the way they funded their pensions—again maintaining something close to parity among airlines. We knew we had an industry that was in a delicate situation. We wanted to protect their employees. We did not want to go too far, too fast. The Isakson amendment gave us a way most of us felt was reasonable.

When the conference report for the bill was finalized, the near equality for the airlines was destroyed. In its place, there was a huge disparity in the funding rules for some airlines compared to the rules that even the airlines they competed against had to follow. The conference committee had changed the will and decision of the Senate and decided to pick winners and losers among airlines.

It was interesting, as soon as that came back, there was a lot of floor activity and floor debate and colloquy among Senators about that provision. For example, Senator KENNEDY came to the floor and said:

> Quite frankly, I was disappointed that we didn't treat American and Continental Airlines more fairly in the final recommendations. Without moving ahead at this time on the pension legislation, we have the prospects of one of the major airlines dropping their pension program, with more than 150,000 workers losing their pensions.

You see, that is what the issue came down to. As airlines were facing tough times, some went into bankruptcy, and the first casualty in the bankruptcy was their pension plan. Historically, many companies in America offered a defined benefit pension plan, which meant if you worked a certain number of years and contributed, when you retired, you knew what you would receive in a pension. It was defined: how much each month, whether a cost of living adjustment would apply.

As airlines went into bankruptcy, that was one of the first casualties. They said: We can no longer accept that responsibility for future retirees. We are going to go into a defined contribution plan, known as 401(k)s and similar tax models in order to fund their future pensions. That limited the contribution of the company and left some uncertainty for the employee in retirement. But that was what happened. As airlines went into bankruptcy, the defined benefit pension plans fell by the wayside and the defined contribution plans took their place.

When all the smoke had cleared, there were five airlines that maintained their original basic defined benefit pension plans: American Airlines; Continental; Hawaiian; Alaskan; and Piedmont, which was assumed by US Airways. So these were companies that avoided bankruptcy and said: We are going to try to keep our airlines competitive. We are not going to dump the pension plans of our employees, and we are going to try to hang on. I think those companies did a brave thing and the right thing and the best thing for their employees.

Unfortunately, when it came to the law being passed by Congress, we gave better treatment to those airlines that went into bankruptcy and basically froze their pension plans and would not allow others to come into them. So it was a decision in that conference report which favored some airlines over others.

Senator ENZI spoke to this provision when he said on the floor:

> I am a little disappointed in the language from the House bill because it fails to treat all the legacy airlines equally. . . . The Senate bill gave amortization extensions to all four legacy airlines . . . but under the House bill, frozen plans receive 17 years to amortize their plan debt and an interest rate of 8.85 percent. . . . I prefer the language of the Senate passed bill. . . . I am very sorry that the House did not see fit to accept the Senate language, as it was the result of many and long negotiations.

I had made a statement on the floor as well.

Senator HUTCHISON of Texas addressed the then-majority leader, Bill Frist, a Republican of Tennessee, and said: I hope you know we are going to basically return to this. We can't leave it where some airlines are treated more favorably than others. It creates a competitive advantage in a very competitive marketplace. Senator HUTCHISON spoke for many of us when she said that.

Before the majority leader could even respond to her, other Senators, such as Senators VOINOVICH, CORNYN, and INHOFE, joined in, in support of Senator HUTCHISON.

Senator Frist, the then-Republican majority leader, said:

> . . . I can promise the Senators that I will continue to work with them on this issue after we return from the August recess.

Now fast forward to the middle of 2007 and nothing had been done. So Senator HUTCHISON and I took a small step to improve the situation by adding language to a supplemental appropriations bill that gave the airlines left behind in the original bill a bit more fairness in the rules.

I am troubled when my friend, Senator GRASSLEY, characterizes this as ''dark of the night activity.'' There was fair warning that the original pension bill did not solve the problem and created some real fundamental unfairness, fair warning that many Senators on both sides of the aisle wanted to revisit this issue. So it does not strike me as some underhanded or backroom deal. We let Senator GRASSLEY and all other Senators know this was an unresolved issue. Well, they came back this year and wanted to change the rules again, penalizing even more airlines, such as American Airlines that had avoided bankruptcy, was paying into their defined benefit plans, and had funded their pension plans well beyond 100 percent. American Airlines, for example, has funded their pension plan to the level of 115 percent. So even in a tough economy they are able to do this.

Now, we have warned Senator GRASSLEY and others if they are not careful, we could find other airlines facing bankruptcy. It is pretty common knowledge what is going on. This chart shows what has happened to airline losses in the first quarter of this year. Delta has lost $274 million; American Airlines, $328 million; and United, $537 million. United, my hometown airline in Chicago, announced they may have to lay off 1,000 people because of its losses.

Where do these losses come from? Well, it comes from the cost of jet fuel, as this chart shows. Airlines struggling with fierce competition now have jet fuel costs spiking, as we can see, at a time when they are struggling to survive, and these jet fuel costs are coming right off the bottom line. So as motorists are angry about gasoline prices and truckers are angry about diesel costs, airlines facing jet fuel costs are showing record losses as we go into this.

I make this part of the RECORD because it is fair warning to all of us to be very careful when we are changing the law as related to airlines. It might not take much to push some over the edge into bankruptcy. I don't think America and its economy will be stronger if we have fewer airlines. I think it is far better for us to move toward equitable treatment of all airlines and some sensitivity to the economic realities they face.

As of last week, we removed this contentious provision from the bill. As I said, I was a little surprised that Senator GRASSLEY wanted to revisit this issue again today, but I feel just as strongly this week as I did last week. I think what the committee had proposed would have been fundamentally unfair and would have created a hardship on many of these airlines that are struggling to survive.

In just a short time now the Senate will vote on a cloture vote as a result of the 69th Republican Senate filibuster of this session, a recordbreaking number of efforts to slow down and stop legislation—even this bill, a bill to reauthorize the Federal Aviation Administration. One would think this bill would rise above the partisan divisions in this Chamber. But last week, or the week before, we even had a filibuster—a Republican filibuster—of a veterans health benefits program. So it appears they are going to filibuster everything that is moving or everything that tries to move on the floor of the Senate.

I see Senator ROCKEFELLER has returned. As chairman of the aviation subcommittee, he has done a great job on this bill. I am certainly going to support his efforts. I think they will move us forward in the world of airline safety.

If there is no one else seeking recognition at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CARPER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, as I think everyone on this side of the aisle has made perfectly clear, we do not oppose moving forward with an FAA modernization bill. In fact, we would be more than happy to move forward on the aviation provisions of the Commerce Committee and Finance Committee titles of the bill that are on the Senate floor.

The ranking member of the Aviation Subcommittee, Senator HUTCHISON, has been on the Senate floor for a week flagging the extraneous, nonaviation-related provisions in the Finance Committee package as a problem. She has called repeatedly on the majority bill manager to join her in seeking to remove these extraneous controversial provisions and move forward with a clean FAA bill. Unfortunately, the majority has not accepted her offer to date, and so we find ourselves in a stalemate. I think this is unfortunate and unnecessary. But there is a way to pass this bill in a bipartisan way if our colleagues will only take yes for an answer.

So bearing that in mind, I have indicated to the other side that I would propose a unanimous consent agreement.

I now ask unanimous consent that the Senate proceed to the immediate consideration of S. 2972, a bill to reauthorize and modernize the Federal Aviation Administration. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. Mr. President, reserving the right to object, I would ask the Senator to modify his request and include an amendment which includes all of the provisions of my pending amendment.

Mr. MCCONNELL. Reserving the right to object, I assume that would put us right back in the same place we are now. I will not restate what I said earlier. But it was my hope, following the advice of the senior Senator from Texas, and our expert on this issue, that we would simply take up and pass those portions of the bill that seemed to be noncontroversial.

The proposal of the Senator from West Virginia puts the controversial measure back before us, upon which we will have the cloture vote shortly. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Will the minority leader yield for a question?

Mr. MCCONNELL. I yield the floor.

Mr. DURBIN. Mr. President, at the risk of asking someone on the Republican side, isn't there such a thing as a motion to strike? Could we not bring this bill up and you could move to strike the provisions you don't like, and we could have a debate on the floor and actually have a vote and actually get this bill moving forward? Isn't that where we were last week when this ground to a halt and nothing has changed? What is wrong with, if you don't like a provision of the bill, moving to strike it? I ask that question through the Chair if any Republican is willing to respond.

The PRESIDING OFFICER. The Senate is to proceed to a vote at 2:30.

Mrs. HUTCHISON. Mr. President, I am happy to go to the vote. But the problem is we don't have the opportunity to amend and strike. That has been taken away from us by the majority. The bottom line is we should go to a vote, reject this bill, and we should go back to the drawing board with the Commerce Committee, to a bipartisan bill for FAA reauthorization.

Thank you.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 4627 to H.R. 2881, the FAA reauthorization.

Harry Reid, Jay Rockefeller, Barbara Boxer, Kent Conrad, Patrick J. Leahy, Robert P. Casey, Jr., Mark Pryor, Sherrod Brown, Patty Murray, Ken Salazar, Max Baucus, Tom Carper, Amy Klobuchar, Sheldon Whitehouse, E. Benjamin Nelson, Dick Durbin, Blanche L. Lincoln, Daniel K. Inouye.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 4627 to H.R. 2881, the FAA reauthorization bill, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New York (Mrs. CLINTON), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from Idaho (Mr. CRAIG), the Senator from Nebraska (Mr. HAGEL), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 42, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—49

Akaka	Feinstein	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Biden	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kennedy	Roberts
Brown	Kerry	Rockefeller
Brownback	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Snowe
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Conrad	Lincoln	Webb
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	Wyden
Durbin	Mikulski	
Feingold	Murray	

NAYS—42

Alexander	DeMint	McConnell
Allard	Dole	Murkowski
Barrasso	Domenici	Reid
Bennett	Ensign	Sessions
Bond	Enzi	Shelby
Bunning	Graham	Smith
Chambliss	Grassley	Specter
Coburn	Gregg	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Thune
Collins	Isakson	Vitter
Corker	Kyl	Voinovich
Cornyn	Lugar	Warner
Crapo	Martinez	Wicker

NOT VOTING—9

Bayh	Craig	Landrieu
Burr	Hagel	McCain
Clinton	Inhofe	Obama

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the Rockefeller substitute amendment No. 4627.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Mr. President, I ask unanimous that the cloture motion on H.R. 2881 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I wish today to urge my colleagues to support the Rockefeller substitute to H.R. 2881, the Aviation Investment and Modernization Act. Aviation is a central element of our globalized economy. The United States is the world's leader in aviation, and if we are to maintain this position, we must invest the proper resources.

I wish to congratulate Senator ROCKEFELLER for bringing together diverse interests and crafting a measure that will bolster oversight of the Federal Aviation Administration's, FAA, safety system, provide guaranteed funding to modernize the air traffic

control system, strengthen passenger protections, and fund air service to small communities throughout the Nation.

I am very proud of the efforts of Senator ROCKEFELLER and the members of the Senate Commerce Committee. The Commerce Committee provisions in the substitute before us represent a well-crafted effort that enjoys bipartisan support.

The substitute before us represents a rare opportunity to significantly shape the future of the national air transportation system, and therefore, ensure our standing will remain at the forefront of the aviation industry.

The actions we take to reauthorize the FAA will affect the public for decades to come. Legislation to reauthorize the FAA is long overdue, and it is vital that we pass this bill that addresses the challenges facing our Nation's aviation system. We must ensure that the national airspace system continues to serve the public effectively, and at the same time, we must move forward aggressively with modernization to make certain we do not inhibit our economic growth.

The Nation's existing air transportation system is already stretched to its limits. Current passenger traffic has exceeded all previous records and is expected to exceed 1 billion passengers per year within the next decade.

To accommodate this growth in a safe and cost-effective manner, we must increase capacity by expanding our airports, modernizing our air traffic control, ATC, system, and most importantly, ensuring the FAA has the resources and staffing required to provide effective oversight of the most complicated airspace system in the world.

Recent events highlight the cracks developing in our air transportation system. Domestic air carriers are being crippled by the high price of fuel. Seven airlines have declared bankruptcy since the beginning of the year, and early reports indicate the industry has lost billions of dollars in the first quarter of this year alone.

Most disturbing, however, are the lapses in the FAA's safety oversight system that have been recently highlighted. Over the past few months, air carriers cancelled thousands of flights, leaving passengers stranded after the FAA belatedly discovered air carriers had not performed required safety inspections. Congress must take the necessary steps to ensure that the safety of the U.S. aviation system is never compromised.

With our Nation's aviation system at a critical juncture, I urge my fellow Members to close debate on the Rockefeller substitute and adopt this important legislation.

Mr. INHOFE. Mr. President, as one of the Senate's commercially licensed pilots, I wish to talk about an issue near to my heart—flying. As many in this Chamber know, I have flown thousands of hours, I attend the well-known AirVenture aviation event in Oshkosh, WI, every year, and I have even recreated Wiley Post's trip around the world.

Today, I am here to acknowledge a group of people who share my love of flying—volunteer pilots and nonprofit, charitable associations called Volunteer Pilot Organizations, VPOs, that provide resources to help these self-sacrificing pilots serve people in need. I have introduced an amendment, S.A. 4606, to provide much needed liability protection to these pilots and nonprofit organizations. My legislation is supported by the American Red Cross, the General Aviation Manufacturers Association, and many volunteer pilot organizations throughout the Nation.

Unfortunately, the majority has used a procedural tactic to restrict my ability to offer this amendment to the bill we are currently debating, the FAA Reauthorization Act. However, I would like to take this opportunity to discuss my amendment and to encourage my colleagues to join me in seeking to pass basic liability protection for volunteer pilots into law at the first opportunity.

There are approximately 40 to 50 VPOs in the United States—ranging from small, local groups to large, national associations. Air Charity Network, ACN, is the Nation's largest VPO and has seven member organizations that collectively serve the entire country and perform about 90 percent of all charitable aviation missions in the United States. ACN's volunteer pilots provide free air transportation for people in need of specialized medical treatment at distant locations. They also step in when commercial air service is not available with middle-of-the-night organ transplant patient flights, disaster response missions evacuating special needs patients, and transport of blood or blood products in emergencies.

ACN and its more than 8,000 volunteer pilots use their own planes, pay for their own fuel, and even take time from their ''day'' jobs to serve people in need. These Good Samaritans provided charitable flights for an estimated 24,000 patients in 2007 and their safety record is phenomenal. In more than 30 years of service, the pilots of ACN have flown over 250,000 missions covering over 80 million miles and have never had a fatal accident.

Following the September 11 terrorist attacks, ACN aircraft were the first to be approved to fly in disaster-response teams and supplies. Similarly, in 2005, ACN pilots flew over 2,600 missions after Hurricanes Katrina and Rita, reuniting families torn apart by the disaster and relocating them to safe housing. Their service was invaluable to thousands of people.

My own State of Oklahoma is served well by a number of volunteer pilot organizations, including Angel Flight South Central and Angel Flight Oklahoma. On a daily basis, they selflessly serve my constituents by flying individuals to get surgeries and treatments.

I would like to share comments from two of my constituents with you. Angela Looney, from Norman, OK, says that, ''I could not have received the care I've gotten without Angel Flight. No one in Norman or anywhere in Oklahoma could perform my surgery. I had to get to M.D. Anderson.'' Tonya Dawson, from Broken Arrow, OK, travels with Angel Flight to treatment at the Mayo Clinic in Rochester, MN. She reports, ''The pilots are great. I can't say enough good things.''

Despite this goodwill, there is a loophole in the law that subjects these heroes and charitable organizations to frivolous, costly lawsuits. Currently, although volunteer pilots are required to carry liability insurance, if they have an accident, the injured party can sue for any amount of money. It would be up to a jury to decide on an amount. If that amount is higher than the liability limit on a pilot's insurance, then the pilot risks being held personally responsible, potentially bringing him or her financial ruin.

Additionally, the cost of insurance and lack of available nonowned aircraft liability insurance for organizations since the terrorist attacks of September 11 prevents VPOs from acquiring liability protection for their organizations, boards, and staff. Without this insurance, if a volunteer pilot were to have an accident using his or her own aircraft, everyone connected to the organization could be subject to a costly lawsuit, despite the fact that none of those people were directly involved with the dispatch of the flight, the pilot's decisions, or the aircraft itself.

Exposure to this type of risk makes it difficult for these organizations to recruit and retain volunteer pilots and professional staff. It also makes referring medical professionals and disaster agencies like the American Red Cross less likely to tell patients or evacuees that charitable medical air transportation is available for fear of a liability suit against them. Instead of focusing on serving people with medical needs, these organizations are spending time and resources averting a lawsuit and recruiting volunteers.

In order to close this costly loophole, I have introduced Senate amendment 4606. My amendment expands the Volunteer Protection Act of 1997, which was passed into law to increase volunteerism in the United States, to protect from liability volunteer pilot organizations, their boards, paid staff, nonflying volunteers, and referring agencies, should there be an accident. It also provides liability protection for individual volunteer pilots over and above the liability insurance that they are currently required to carry.

My amendment will go a long way to help eliminate unnecessary liability risk and allow volunteer pilots and the charitable organizations for which they fly to concentrate on what they do best—save lives.

I ask unanimous consent to have Senate amendment No. 4606 printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

At the appropriate place, insert the following:

SEC. ___. LIABILITY PROTECTION FOR VOLUNTEER PILOT NONPROFIT ORGANIZATIONS THAT FLY FOR PUBLIC BENEFIT AND TO PILOTS AND STAFF OF SUCH NONPROFIT ORGANIZATIONS.

Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended—

(1) in subsection (a)(4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by striking ''the harm'' and inserting ''(A) except in the case of subparagraph (B), the harm'';

(C) in subparagraph (A)(ii), as redesignated by this paragraph, by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(B) the volunteer—

''(i) was operating an aircraft in furtherance of the purpose of a volunteer pilot nonprofit organization that flies for public benefit; and

''(ii) was properly licensed and insured for the operation of such aircraft.''; and

(2) in subsection (c)—

(A) by striking ''Nothing in this section'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section''; and

(B) by adding at the end the following:

''(2) EXCEPTION.—A volunteer pilot nonprofit organization that flies for public benefit, the staff, mission coordinators, officers, and directors (whether volunteer or otherwise) of such nonprofit organization, and a referring agency of such nonprofit organization shall not be liable for harm caused to any person by a volunteer of such nonprofit organization while such volunteer—

''(A) is operating an aircraft in furtherance of the purpose of such nonprofit organization;

''(B) is properly licensed for the operation of such aircraft; and

''(C) has certified to such nonprofit organization that such volunteer has insurance covering the volunteer's operation of such aircraft.''.

Mr. SPECTER. Mr. President, I seek recognition to explain my vote against the motion to invoke cloture on the Rockefeller substitute amendment No. 4627 to H.R. 2881, the Federal Aviation Administration Reauthorization Act.

There are many aviation-related provisions in the substitute amendment which are of critical importance to both the Nation and my State, including: $290 million per year to modernize the air traffic control system; a $15.8 billion authorization of funds for the Airport Improvement Program; a requirement that airlines post the on-time performance of chronically delayed flights on their Web sites; a $175 million authorization of funds for Essential Air Service, EAS, to rural areas; and an extension of EAS eligibility for Lancaster, PA; and safety improvements related to the FAA's oversight of aircraft inspections. The legislation also includes nonaviation provisions to restore the solvency of the highway trust fund, which is a matter of critical importance, and to provide tax credit bonds for high-speed rail service, a measure that I helped put together. For these and other reasons, I believe it is imperative that the Senate act on this bill.

However, I do not believe it would be appropriate to act on it without necessary and proper debate, and that is precisely what a vote for cloture on the substitute amendment would have represented. The Senate was precluded from having any meaningful or traditional debate on this legislation due to a decision to fill the so-called ''amendment tree'' so that no other amendments could be freely debated and considered. I filed two amendments to this bill, one attempting to address overscheduling of airline flights and one prohibiting unnecessary flights over residential areas, which I was precluded from offering. I believe my amendments address critically important issues that deserve the attention and consideration of the Senate, and I am told that other Senators hold similar sentiments with respect to amendments they intended to pursue.

On February 15, 2007, I introduced a resolution which would prohibit this abhorrent practice of filling the ''amendment tree'' so that the Senate can conduct its business. In the absence of this much-needed reform, I voted against cloture on the substitute amendment, not because I fail to recognize the importance of the provisions contained therein, but because the Senate was effectively blocked from offering and debating any amendments to improve it.

It is my hope that the chairman and ranking members of the relevant committees can work out an agreement that will allow this bill to come back before the Senate, and with it a process for its consideration that will allow for the kind of meaningful and traditional debate fitting of the Senate.

FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 460, S. 2284, the National Flood Insurance Act Amendments.

Harry Reid, Barbara Boxer, Patty Murray, Byron L. Dorgan, Edward M. Kennedy, Christopher J. Dodd, Daniel K. Akaka, Benjamin L. Cardin, Patrick J. Leahy, Bernard Sanders, Sherrod Brown, Amy Klobuchar, Ken Salazar, Sheldon Whitehouse, Max Baucus, Daniel K. Inouye.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2284, the National Flood Insurance Act Amendments, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New York (Mrs. CLINTON), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from Idaho (Mr. CRAIG), the Senator from Nebraska (Mr. HAGEL), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. SANDERS). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 90, nays 1, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—90

Akaka	Dorgan	Mikulski
Alexander	Durbin	Murkowski
Allard	Ensign	Murray
Barrasso	Enzi	Nelson (FL)
Baucus	Feingold	Nelson (NE)
Bennett	Feinstein	Pryor
Biden	Graham	Reed
Bingaman	Grassley	Reid
Bond	Gregg	Roberts
Boxer	Harkin	Rockefeller
Brown	Hatch	Salazar
Brownback	Hutchison	Sanders
Bunning	Inouye	Schumer
Byrd	Isakson	Sessions
Cantwell	Johnson	Shelby
Cardin	Kennedy	Smith
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Cochran	Kyl	Stevens
Coleman	Lautenberg	Sununu
Collins	Leahy	Tester
Conrad	Levin	Thune
Corker	Lieberman	Vitter
Cornyn	Lincoln	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	Webb
Dodd	McCaskill	Whitehouse
Dole	McConnell	Wicker
Domenici	Menendez	Wyden

NAYS—1

Coburn

NOT VOTING—9

Bayh	Craig	Landrieu
Burr	Hagel	McCain
Clinton	Inhofe	Obama

The PRESIDING OFFICER. On this vote the yeas are 90, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I understand now there will be a period of 30 hours of debate on the motion to proceed. My understanding is—and my friend and colleague from Alabama will