

First Team Sports Scholar for basketball and selection to the 2007 ESPN The Magazine Academic All-District I college women's basketball first team.

She combines excellence in the classroom and on the basketball court with a remarkable drive to give back to the community and to help create opportunities for others. In fact, it is her drive to serve others that led her to apply to the Coast Guard Academy.

By virtue of her accomplishments at the Academy, she could have chosen any assignment in the Coast Guard. She chose the service's marine safety program.

She told me that she made this choice because she wanted to spend her career working to ensure the safety of the maritime transportation system and preserving our Nation's marine resources.

Mr. Speaker, the Subcommittee on Coast Guard and Maritime Transportation has been greatly concerned that as the Coast Guard expands to take on its critical new homeland security missions, the service's competence in its traditional missions—particularly the marine safety missions—is declining.

I am confident, however, that with officers of the caliber and dedication of Ensign Davis joining the marine safety field, the future of this critical mission is bright indeed.

Ensign Davis is truly an inspiring example of the best that the Coast Guard and our Nation have to offer. I look forward to watching the progress of Ensign Davis's career in the coming years—and I know that we will see remarkable things from this young officer.

Mr. Speaker, H. Res. 1241, as amended, also encourages the Coast Guard to seek and enroll diverse candidates in the Academy's cadet corps.

I—and many of my colleagues in the House—are deeply concerned that the Coast Guard Academy's student body does not reflect the diversity of our Nation. Only about 10 percent of the class of 2009, for example, is comprised of minorities.

Our Nation's diversity is a strength—but when a school such as the Coast Guard Academy does not have a cadet corps that reflects that diversity, it does not benefit from that strength.

In April, the House of Representatives passed the Coast Guard Authorization Act, H.R. 2830, by a vote of 395 to 7. This legislation included provisions that I authored that would alter the admissions process at the Academy to require that students be nominated by a Member of Congress.

While I strongly support the actions that the Coast Guard is taking to expand the recruitment of diverse applicants, I also believe that enactment of H.R. 2830—with the provisions requiring nominations to the Academy—offers the best opportunity to expand diversity at the Academy. I urge the Senate to quickly act on this measure.

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. OBERSTAR) that the House suspend the rules and agree to the resolution, H. Res. 1241, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The title was amended so as to read: "Resolution congratulating Ensign DeCarol Davis upon her serving as the valedictorian of the Coast Guard Academy's class of 2008 and becoming the first African-American to earn this honor, and encouraging the Coast Guard Academy to seek and enroll diverse candidates in the cadet corps."

A motion to reconsider was laid on the table.

AVIATION SAFETY ENHANCEMENT ACT OF 2008

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6493) to amend title 49, United States Code, to enhance aviation safety, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Enhancement Act of 2008".

SEC. 2. AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.

Section 106 of title 49, United States Code, is amended by adding at the end the following:

"(S) AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.—

"(1) ESTABLISHMENT.—There is established in the Federal Aviation Administration (in this section referred to as the 'Agency') an Aviation Safety Whistleblower Investigation Office (in this subsection referred to as the 'Office').

"(2) DIRECTOR.—

"(A) APPOINTMENT.—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

"(B) QUALIFICATIONS.—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

"(C) TERM.—The Director shall be appointed for a term of 5 years.

"(D) VACANCY.—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

"(3) COMPLAINTS AND INVESTIGATIONS.—

"(A) AUTHORITY OF DIRECTOR.—The Director shall—

"(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations, and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety;

"(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred; and

"(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Administrator in writing for further investigation or corrective actions.

"(B) DISCLOSURE OF IDENTITIES.—The Director shall not disclose the identity of an

individual who submits a complaint or information under subparagraph (A)(i) unless—

"(i) the individual consents to the disclosure in writing; or

"(ii) the Director determines, in the course of an investigation, that the disclosure is unavoidable.

"(C) INDEPENDENCE OF DIRECTOR.—The Secretary, the Administrator, or any officer or employee of the Agency may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted subparagraph (A)(i) or from reporting to Congress on any such assessment.

"(D) ACCESS TO INFORMATION.—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred.

"(4) RESPONSES TO RECOMMENDATIONS.—The Administrator shall respond to a recommendation made by the Director under subparagraph (A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation.

"(5) INCIDENT REPORTS.—If the Director determines there is a substantial likelihood that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety may have occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

"(6) REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

"(7) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of each year, the Director shall submit to Congress a report containing—

"(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

"(B) summaries of those submissions;

"(C) summaries of further investigations and corrective actions recommended in response to the submissions; and

"(D) summaries of the responses of the Administrator to such recommendations."

SEC. 3. MODIFICATION OF CUSTOMER SERVICE INITIATIVE.

(a) FINDINGS.—Congress finds the following:

(1) Subsections (a) and (d) of section 40101 of title 49, United States Code, directs the Federal Aviation Administration (in this section referred to as the "Agency") to make safety its highest priority.

(2) In 1996, to ensure that there would be no appearance of a conflict of interest for the Agency in carrying out its safety responsibilities, Congress amended section 40101(d) of such title to remove the responsibilities of the Agency to promote airlines.

(3) Despite these directives from Congress regarding the priority of safety, the Agency issued a vision statement in which it stated that it has a "vision" of "being responsive to our customers and accountable to the public" and, in 2003, issued a customer service initiative that required aviation inspectors

to treat air carriers and other aviation certificate holders as “customers” rather than regulated entities.

(4) The initiatives described in paragraph (3) appear to have given regulated entities and Agency inspectors the impression that the management of the Agency gives an unduly high priority to the satisfaction of regulated entities regarding its inspection and certification decisions and other lawful actions of its safety inspectors.

(5) As a result of the emphasis on customer satisfaction, some managers of the Agency have discouraged vigorous enforcement and replaced inspectors whose lawful actions adversely affected an air carrier.

(b) MODIFICATION OF INITIATIVE.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall modify the customer service initiative, mission and vision statements, and other statements of policy of the Agency—

(1) to remove any reference to air carriers or other entities regulated by the Agency as “customers”;

(2) to clarify that in regulating safety the only customers of the Agency are individuals traveling on aircraft; and

(3) to clarify that air carriers and other entities regulated by the Agency do not have the right to select the employees of the Agency who will inspect their operations.

(c) SAFETY PRIORITY.—In carrying out the Administrator’s responsibilities, the Administrator shall ensure that safety is given a higher priority than preventing the dissatisfaction of an air carrier or other entity regulated by the Agency with an employee of the Agency.

SEC. 4. POST-EMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.

(a) IN GENERAL.—Section 44711 of title 49, United States Code, is amended by adding at the end the following:

“(d) POST-EMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.—

“(1) PROHIBITION.—A person holding an operating certificate issued under title 14, Code of Federal Regulations, may not knowingly employ, or make a contractual arrangement which permits, an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration (in this subsection referred to as the ‘Agency’) if the individual, in the preceding 2-year period—

“(A) served as, or was responsible for oversight of, a flight standards inspector of the Agency; and

“(B) had responsibility to inspect, or oversee inspection of, the operations of the certificate holder.

“(2) WRITTEN AND ORAL COMMUNICATIONS.—For purposes of paragraph (1), an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the Agency if the individual makes any written or oral communication on behalf of the certificate holder to the Agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a flight standards inspector of the Agency.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to an individual employed by a certificate holder as of the date of enactment of this Act.

SEC. 5. ASSIGNMENT OF PRINCIPAL SUPERVISORY INSPECTORS.

(a) IN GENERAL.—An individual serving as a principal supervisory inspector of the Federal Aviation Administration (in this section referred to as the “Agency”) may not be re-

sponsible for overseeing the operations of a single air carrier for a continuous period of more than 5 years.

(b) TRANSITIONAL PROVISION.—An individual serving as a principal supervisory inspector of the Agency with respect to an air carrier as of the date of enactment of this Act may be responsible for overseeing the operations of the carrier until the last day of the 5-year period specified in subsection (a) or last day of the 2-year period beginning on such date of enactment, whichever is later.

(c) ISSUANCE OF ORDER.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an order to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this section.

SEC. 6. HEADQUARTERS REVIEW OF AIR TRANSPORTATION OVERSIGHT SYSTEM DATABASE.

(a) REVIEWS.—The Administrator of the Federal Aviation Administration shall establish a process by which the air transportation oversight system database of the Federal Aviation Administration (in this section referred to as the “Agency”) is reviewed by a team of employees of the Agency on a monthly basis to ensure that—

(1) any trends in regulatory compliance are identified; and

(2) appropriate corrective actions are taken in accordance with Agency regulations, advisory directives, policies, and procedures.

(b) MONTHLY TEAM REPORTS.—

(1) IN GENERAL.—The team of employees conducting a monthly review of the air transportation oversight system database under subsection (a) shall submit to the Administrator, the Associate Administrator for Aviation Safety, and the Director of Flight Standards a report on the results of the review.

(2) CONTENTS.—A report submitted under paragraph (1) shall identify—

(A) any trends in regulatory compliance discovered by the team of employees in conducting the monthly review; and

(B) any corrective actions taken or proposed to be taken in response to the trends.

(c) QUARTERLY REPORTS TO CONGRESS.—The Administrator, on a quarterly basis, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of reviews of the air transportation oversight system database conducted under this section, including copies of reports received under subsection (b).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Florida (Mr. MICA) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6493, and include therein extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very obvious support of H.R. 6493, the Aviation Safety Enhancement Act of 2008.

I consider this a first or, say, initial legislative step in reversing the complacency over safety regulations that has set in at the highest levels of the Federal Aviation Administration.

At the outset, I want to express my appreciation to Mr. MICA, the gentleman from Florida, the ranking member on our full Committee on Transportation and Infrastructure, Ranking Member PETRI from the Subcommittee on Aviation, and Chairman JERRY COSTELLO from Illinois, chairman of the Aviation Subcommittee. All of us have worked diligently on the hearing that we held on aviation safety and on the legislation that we bring to the floor today.

For years, the FAA has earned and held the distinction of the “gold standard for aviation safety” in the world. Other countries come to the United States to emulate the practices of the FAA in overseeing safety and setting standards for safety and maintenance of aircraft, engine and airframe. And it is, indeed, the charter of the FAA, in the very opening paragraph of the Organization Act of 1958, that created the Federal Aviation Administration from the old Civil Aeronautics Agency, quote, “Safety in aviation shall be maintained at the highest possible level.” Not the level airlines choose, not the level they can afford, but the highest possible level.

Safety in aviation must start in the corporate boardroom and permeate all through the organization. It is the responsibility of the FAA to set minimum standards and expect that not only airlines will meet them, but exceed them.

And there has been, over the years, a partnership in safety between the manufacturers of aircraft—whether it’s Boeing, McDonnell Douglas, Cessna, Cirrus, Piper, or these days Airbus in France—with the FAA in establishing standards, seeing that the standards are met, and then ensuring that in the course of operation of aircraft and the maintenance of aircraft safety is maintained at that highest possible level.

Over the last few years, we’ve seen a slippage with the FAA from that high standard. And following information we received from whistleblowers in the committee staff, and it came to my attention immediately, we found that there was a change in attitude at the FAA, a shift away from insisting on those highest standards, a move from a partnership to a customer service initiative in which the FAA directed its principal maintenance inspectors to treat airlines as though they were customers. I’ve never heard that term used in aviation in my 25 years of involvement in oversight of and setting standards for aviation safety. If there is a customer, it’s the traveling public, not the airline. And if the airline is your customer and the customer is unhappy with the service he is getting,

then that customer can complain. And that's what one of the airlines did, complained to the FAA about the principal maintenance inspector being too rigorous, overseeing too vigorously. And that PMI was removed from that position. Until the FAA found out that our committee was investigating a range of practices that strayed from the standard of vigorous oversight of and enforcement of aviation safety, then they brought the person back. Well, we found that one carrier with FAA complicity allowed at least 177 of its aircraft to fly with passengers in revenue service in violation of FAA regulations, the most serious lapse in safety I've observed in 23 years.

The investigation the committee launched led to the discovery of other instances in which inspections were not properly conducted and repairs were not properly made. The result, after we brought this to the attention of the FAA, and to the public in a statement that we released about the situation in preparation for our hearings, numbers of aircraft, hundreds, 972 aircraft were grounded by not only the airline in question, but other air carriers as well. Thousands of flights were cancelled. Serious questions were raised about whether high-ranking officials in the FAA were carrying out their safety responsibilities toward the industry and toward the traveling public.

□ 1445

Since the hearing we conducted on April 3, the investigative staff has been approached by individuals from other maintenance providers of other carriers alleging serious breakdowns in FAA's regulatory oversight. As a result of the rigorous investigation and the intensive hearing conducted in committee, there has been a shift in the FAA. The pendulum swung too far to the cooperation side and is now moving back to the middle with a more balanced relationship with airlines instead of the carrier-favorable relationship previously.

On June 30, 2008, the Inspector General of DOT issued a report entitled "Review of FAA's Safety Oversight of Airlines and Use of Regulatory Partnership Programs," observing that the IG made several recommendations to the FAA to strengthen its oversight of air carrier safety. Specifically, the IG recommended the FAA periodically rotate its flight standards safety inspectors and establish an independent investigative organization to examine safety issues found by FAA employees.

The FAA said it did not agree with the recommendation to rotate inspectors. It said it only partially agreed to implement the recommendation to establish an independent organization to investigate employee complaints, FAA employee complaints. The FAA's response has been to implement a Safety Issues Report System that duplicates existing hotlines, does not provide for independent review outside of FAA's

Aviation Safety Organization, which in the past had a long and successful and effective record of responding to complaints filed by whistleblowers. Well, I think FAA's response has been wholly inadequate.

This legislation will move us in the direction of correcting the problem and putting aviation safety back on the highest level, the gold standard, that has been characteristic of the FAA in years past.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and my colleagues, first of all, I want to pay tribute to Chairman OBERSTAR, the chairman of the Transportation and Infrastructure Committee, whom I have had the honor of working with and leading the Republican side of the committee with him. And I might say that when Mr. OBERSTAR and I get to agree on moving forward a transportation initiative that's in the benefit of the Congress and the American people that things do happen, and this is a fine example of trying to take FAA and its safety measures and make them even better for the safety of the American public. So I commend Mr. OBERSTAR, Mr. COSTELLO as the Chair of the Aviation Subcommittee, and Mr. PETRI as our Republican ranking member all for working together.

I come to the floor today as the former Chair of the Aviation Subcommittee during six very difficult times of trying to take an industry that had a number of problems. I became the chairman in 2001, the beginning of 2001. When I came to Congress, Mr. OBERSTAR was the chairman of the Aviation Subcommittee and did an outstanding job in his service. He was faced with challenges; I was faced with challenges.

Both of us, though, wanted to construct an FAA inspection system and safety system that assured the flying public that we had taken the very best measures and put them in place so that we would have a safe aviation national system. And I remember instituting early on and supporting the institution of a change in the way we did aviation inspection. What we did is we switched from sort of a we gotcha, we're-going-to-catch-you-if-we-can system or sort of a routine inspection system where it's Monday, we're going to inspect in Seattle at this aviation facility, or it's Tuesday, we're going to be in St. Louis, or it's Wednesday, we're going to be in New York and we are going to do these inspections whether we need to on a rotating basis or not. We switched to a somewhat controversial system of inspection of these aircraft called "self-reporting." And some people don't understand that, but what we did is we said there are no penalties. Everyone would report incidents where there is some problem or they see some defect, something that should command attention and should be noted, and we had a

reporting system. And that's the way we have operated with the self-reporting system. Some say it got a little too cozy, and probably when you repeat things and do things in a certain fashion, that does happen. It's part of human nature.

The reporting system is very important, though, because then we took and we adopted a risk-based inspection in going after problems. And since we have done that, ladies and gentlemen of the House, my colleagues, we have had the safest history for aviation ever in the United States and probably in the world. We instituted that. We put in some protections but probably not enough.

Now, as you know, in April of this year, the Committee on Transportation and Infrastructure held a hearing on the oversight of airline maintenance and brought to our attention, and through the investigative resources of the committee, we found lapses of proper attention, some conflict of possible interest, and some people who maybe got into too cozy a relationship. We held hearings on that, and as a result of that across the country, we asked that an audit be conducted. We wanted to see if what we saw in a limited incident or incidents was being repeated around the system.

The audit found that the United States carriers complied with more than 99 percent of the airworthiness directives sampled, and it's the remaining 1 percent that we want to make certain are addressed. So we instituted a new way of inspections. We instituted a new way of reporting. We found that we had some problems, and in this bipartisan effort, we are instituting corrective measures.

One of the things to deal with the cozy relationship is that we do establish a post-employment restriction for some of these FAA inspectors going back into industry for 2 years. I have some questions about the 2 years, but the other side of the aisle and the administration support the 2 years. I thought it might be a little bit too long. We will have to see how that works. It also requires that FAA principal supervisory inspectors rotate the office every 5 years, and we found also the cozy relationships, staying at one place, getting these relationships that sometimes might have a conflict of interest. We instituted that particular provision in this legislation. I have some questions about that too because it is difficult for these professionals and we want the very best to rotate and move their families around every 5 years, but we will see how that measure works. So those are the two questions that I probably have remaining. And what we have reached is a bipartisan accord.

But our intent here is to take a safe system where we found some problems and to correct it, institute some changes that will make certain that the system is even safer and that the problems that we have identified are corrected.

So I think this is an excellent measure. It shows what Congress can do working together to take a safe aviation system, make it even safer, correct some problems that we've identified, and make certain that the American public has the greatest confidence and that there are, in fact, measures being taken and having been instituted that will ensure that safety.

So with those comments, Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. I thank the gentleman from Florida, the ranking member of the full committee, for yielding.

I rise today, Mr. Speaker, in support of H.R. 6493, the Aviation Safety Enhancement Act of 2008.

Commercial aviation is enjoying the safest period in the history of flight. In fact, there hasn't been a wide-body aircraft passenger fatality since 2001. This excellent record is the result of the hard work of the FAA's Office of Aviation Safety, which has some 6,900 dedicated employees, including 3,800 FAA aviation safety inspectors, who oversee approximately 19,000 aircraft, including the 7,000 aircraft that make up the entire U.S. commercial airline fleet. Their charge is as important as it is large.

Even with such an excellent record, however, the aviation community and the FAA must remain vigilant in protecting the traveling public. H.R. 6493 is an important bipartisan bill that will go a long way towards addressing the inadequacies in the FAA's oversight programs discovered during the Department of Transportation Office of Inspector General audit earlier this year.

In addition to efforts already undertaken by the FAA, this legislation creates an Aviation Safety Whistleblower Office; requires modification of Customer Service Initiative to eliminate references to airlines and certificate holders as customers; establishes post-employment restrictions for FAA flight standards inspectors, a 2 year "cooling-off" period; requires reassignment of FAA principal supervisory maintenance inspectors, rotates the SPMIs every 5 years; requires an FAA headquarters review of the Air Transportation Oversight System database with the establishment of a team to review the ATOS database every month, requires monthly reports of any regulatory trends, which a description of any should include corrective actions if appropriate. A quarterly report to Congress is also required.

I want to applaud the FAA for the level of safety it's overseen in recent years, and I urge my colleagues to support this legislation that will continue to build upon the already impressive

safety record of the Federal Aviation Administration.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

The issues at stake in the hearing that we held relate principally to two major issues of aviation safety: One was hull inspection, and the other was inspection of the power control unit on 737 aircraft that regulate the movement of the rudder onboard those aircraft.

Both of these air worthiness directives and Federal air regulations that govern oversight of maintenance performed on high-time aircraft and on aircraft that have this unique power control unit resulted from accidents that involved loss of life.

The 737 of Aloha Airlines en route to Honolulu lost 18 feet of its hull in the air. The flight attendant was pulled to her death. Passengers strapped in suffered rapid, severe decompression injury but no other loss of life. The investigation that followed showed that there was extensive corrosion and metal fatigue and perhaps also improper technology used in putting the plates together in the hull of the aircraft.

There followed a worldwide conference on aging aircraft, which I was the lead speaker. We gathered aviation manufacturers, airline operators, and aircraft inspection agencies from every nation in the world that had commercial aviation operation.

□ 1500

And out of that conference resulted a number of recommendations which we crafted together in a bill that my then partner on the Aviation Subcommittee, the gentleman from Pennsylvania, Mr. Clinger, and I moved through subcommittee, full committee, to the House floor and through to enactment.

The language reads: The administrator of the Federal Aviation Administration shall prescribe regulations that ensure the continuing airworthiness of aging aircraft. The regulations prescribed shall at least require that the administrator make inspections and review the maintenance and other records of each aircraft and air carrier used to provide air transportation that the administrator decides may be necessary to enable the administrator to decide whether the aircraft is in safe condition and maintained properly for operation and air transportation.

The air carrier shall at least demonstrate that as part of the inspection, maintenance of the aircraft's age, sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety. And work performed under this section shall be carried out after the 14th year in which the aircraft has been in service.

That was not just a happenstance. It was a very specific directive dealing with high time aircraft, a very specific directive to the FAA and to airlines to undertake this rigorous inspection. The FAA failed to maintain that level

of vigilance. The air carrier failed to maintain its level of vigilance. And on some of those aircraft, there were found to be small cracks. But it's those small cracks that led to failures, the small cracks that led to life lost.

In another instance, the power control unit on 737 aircraft, something happened to an aircraft to cause the flight deck crew to lose control of that aircraft when the rudder made an uncommanded movement. And 137 people died in Pennsylvania. In the investigation conducted by the National Transportation Safety Board pursuant to the accident, it was found that this very small unit, this big, had failed. Up to that time, there had been 93 million hours of operation of 737s, and Boeing Company said, we haven't had any failures. But when the NTSB looked back in the record of other unexplained accidents, they were traced to this power control unit which was subsequently redesigned and retested under the extreme conditions that aircraft fly at high altitudes and rebuilt and reinstalled and a vigorous airworthiness directive put in place to require periodic inspections of the power control unit. Those inspections were missed. And the airlines involved, having missed the deadline, had to go back, take those aircraft out of service and inspect those parts. That is what we're talking about, vigilance at the highest possible level.

And I have seen a situation where in safety, a very comfortable relationship can exist between the overseer and the practitioner of safety. To say, as we do in the Congress, to say as we do about other members of the executive branch, that you must move around from one position to another in the executive branch, and we say to those who leave service, leave the Federal public service, "you cannot come back and lobby the Congress for a period of time" is an already established practice. To say that in a period of 2 years, a person who leaves the FAA to go work elsewhere outside of government, is not to say to that person that your service is not valued. We just want to make sure you're not using it to a contrary purpose to that which the person had served for all those years.

We only in this language prevent that person from working for the carrier they once oversaw. I think that is a reasonable step. It is one recommended by the Inspector General. I think it is in the best interest of safety to do this. It is in the best interest of safety to continue the Air Transportation Oversight System, ATOS, where airlines and manufacturers are engaged in developing trend lines, by watching these trend lines where we know and see certain things happening and take action before there is a failure and before there is a catastrophe, to prevent a tragedy. ATOS is a very good system. But it should not be transformed into one in which the airline is in the command position. There is a proper balance. And I think this legislation will

bring the FAA back into proper balance.

I reserve the balance of my time.

Mr. MICA. I yield myself such time as I might consume.

Mr. Speaker and my colleagues, as we conclude the debate on H.R. 6493, which makes changes to the way we conduct FAA airline inspections and how we make certain that we have the safest aviation system possible, I believe that it is important to point out just a couple of things. First of all, since November of 2001, there has not been a single large passenger aircraft fatality in the United States. We have had several commuter airlines, smaller aircraft, I know at least one in Charlotte, another in Lexington, and any loss of life in any size aircraft is not acceptable. Some of those did not relate to the inspection. The reasons for the air crash or fatalities was not as a result of inspections or the procedures we have before us today.

What we do have historically is again instituted a self-reporting system, probably a half a dozen years ago we shifted to this system. We do collect that data. That data is supposed to be acted upon by inspectors on a risk base. So we look at the data where there is a problem. And that is where we put our resources to make certain that the aircraft is operating, inspected and mechanically sound. And that has worked fairly well.

We have, again, to reiterate what I said before, the committee did investigate when whistle-blowers came to us. We found an instance or instances of this cozy relationship, and we felt that we should take some steps to first eliminate sort of the revolving door, stop the revolving door, put some time between those that worked for the FAA and then going out to the airlines, and also instituting some other protective measures.

Now I must say that even when the inspector general of the Department of Transportation investigated what was going on and what we found, they did not find the problem systemic. What they did say was that the data that was being collected on which we based our inspections and assessed risk was not adequately being adhered to. That data and the information was not being adhered to by all levels of FAA, for example, management, and eventually the Congress. So we also changed in this bill the recommendation that the inspector general made when they found that, again, the problem wasn't just the revolving door, but paying attention to the red flags and the signals that were being sent by the data.

So this is a good bill. This is a bipartisan effort to take a safe system, make it even safer, make certain that those warning signs are paid attention to both by FAA at all levels, inspectors, managers in this self-reporting system, and also by Congress who has the ultimate responsibility.

Also, I might say that how did this affect folks? Well, when Congress start-

ed to say we weren't properly inspecting or there were conflicts, FAA said, we're going to give you inspections. And they did give us inspections. And we closed down thousands of flights. And hundreds of thousands of people paid the price. And the airlines paid the price to make sure that zero tolerance was applied and that we did inspect those planes. But that is not exactly what we want to happen in the future.

H.R. 6493 will help us to avoid any future mass airlines groundings like the ones we saw this spring and the horrible inconveniences suffered by hundreds of thousands of people in the traveling public. This is an important bill that will ensure our national aviation system remains the safest in the world and that FAA provides the proper oversight of airlines and their maintenance programs that are so important to that safety.

I commend Chairman OBERSTAR, Mr. COSTELLO, Mr. PETRI, who is not with us, our ranking member, the staffs that worked on both sides. This is a good bill. I support it. It will make a good system even better.

And I think with that, Mr. Speaker, to assist the House in moving forward with the business of the day, I will yield back the balance of my time.

Mr. OBERSTAR. I yield myself the balance of our time. And I will not take all of whatever time remains.

An observation, and I appreciate the remarks of the gentleman from Florida, committing himself and the committee as a whole to vigorous oversight of safety. It is a good record, as the gentleman said, in air carrier safety over the last few years. What I have learned in my experience with safety in aviation, highways, railways, waterways and airways, is that that safety is just around the corner from the next accident. And while it may have been an inconvenience for passengers for the airlines to pull aircraft out of service, it's a horrible inconvenience to be dead or injured because of an airline accident. Had the airlines been conducting their inspections appropriately, vigorously and in keeping with the airworthiness directives in the time frames envisioned, it would not have had to pull these aircrafts out of service to do major inspections in blocks, as was done this spring. And as the gentleman from Florida said, this legislation, enacted, carried out by the FAA, will make sure that aviation stays on a steady path of constancy in oversight of aviation safety. That is what we want. That is the objective of this legislation. It is the continuity of inspection and of oversight of the air carriers who have the prime responsibility to maintain their aircraft in safe, airworthy condition.

And that is what we will achieve when we get this legislation enacted into law. I'm very hopeful that the other body will act promptly on this legislation, that it will be signed and carried out vigorously by the FAA and

reestablish its standing in the world community, which looks to the United States to set and maintain the gold standard for aviation safety.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in strong support of H.R. 6493—The Aviation Safety Enhancement Act of 2008.

Mr. Speaker, as many of us know, FAA's stated mission is "to provide the safest, most efficient aerospace system in the world."

Regrettably, recent aircraft groundings and flight cancellations by our Nation's air carriers to ensure compliance with safety directives calls into question whether or not the principal Agency charged with protecting the flying public is living up to its mission.

I think it goes without saying that over the years, the standing of our Nation's aviation system as one of the safest in the world can be directly attributed to the diligent efforts of dedicated inspection and maintenance personnel.

However, these respective personnel are only as good as their managerial and operational framework, and according to the U.S. Office of Special Counsel and our own Transportation and Infrastructure Committee's Oversight and Investigations staff, serious flaws exist within the management of FAA's safety inspection framework.

In a letter dated December 20, 2007, to Department of Transportation Secretary Mary Peters outlining allegations of two FAA inspectors, now known as the whistleblowers, the U.S. Office of Special Counsel states, "The whistleblowers allege that safety and adherence to regulatory compliance have taken a back seat to personal friendships and favors at the Southwest Certificate Management Office."

They have disclosed serious allegations of a compromise of the public safety mission at FAA. "Even in the face of investigations substantiating wrongdoing and safety breaches [with respect to the ADs] FAA does not appear to have held management and safety inspectors appropriately accountable for their actions and inaction. The information disclosed by [the whistleblowers] reveals a substantial likelihood that serious safety concerns persist in the management and operation of the inspection and maintenance programs at FAA."

Mr. Speaker, this type of behavior is simply unacceptable and warrants a complete overhaul of how the FAA goes about its business of safety inspections and over-reliance on Voluntary Disclosure Reporting Programs. H.R. 6493 is a step in this direction.

The bill establishes an Aviation Safety Whistleblower Investigation Office with an independent Director; modifies the Agency's customer service initiative; imposes post-employment on FAA inspectors; restricts the time a principal maintenance inspector may oversee a single carrier; and increases scrutiny of the Agency's air transport oversight system database.

When it comes to the proper adherence to safety protocols, FAA should be in the business of zero tolerance. If a plane is out of compliance for whatever reason, it should be grounded until it comes into compliance—period.

Yes, the American economy is dependent on the movement of people and goods, but this movement should not and cannot come at the expense of safety. Given the current, delicate nature of the airline industry, I cannot

imagine that there exists a single airline executive in this country that would sanction the operation of a noncompliant or unsafe plane.

As I close I want to thank the leadership of the Aviation Subcommittee, in addition to the leadership of the Full Committee for advancing this vital piece of legislation to the floor.

Mr. OBERSTAR. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. OBERSTAR) that the House suspend the rules and pass the bill, H.R. 6493, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. OBERSTAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has agreed to a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 94. Concurrent resolution recognizing the 60th anniversary of the integration of the United States Armed Forces.

□ 1515

CLEAN BOATING ACT OF 2008

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2766) to amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 2766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clean Boating Act of 2008".

SEC. 2. DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

"(r) DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.—No permit shall be required under this Act by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel."

SEC. 3. DEFINITION.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

"(25) RECREATIONAL VESSEL.—

"(A) IN GENERAL.—The term 'recreational vessel' means any vessel that is—

"(i) manufactured or used primarily for pleasure; or

"(ii) leased, rented, or chartered to a person for the pleasure of that person.

"(B) EXCLUSION.—The term 'recreational vessel' does not include a vessel that is subject to Coast Guard inspection and that—

"(i) is engaged in commercial use; or

"(ii) carries paying passengers."

SEC. 4. MANAGEMENT PRACTICES FOR RECREATIONAL VESSELS.

Section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322) is amended by adding at the end the following:

"(o) MANAGEMENT PRACTICES FOR RECREATIONAL VESSELS.—

"(1) APPLICABILITY.—This subsection applies to any discharge, other than a discharge of sewage, from a recreational vessel that is—

"(A) incidental to the normal operation of the vessel; and

"(B) exempt from permitting requirements under section 402(r).

"(2) DETERMINATION OF DISCHARGES SUBJECT TO MANAGEMENT PRACTICES.—

"(A) DETERMINATION.—

"(i) IN GENERAL.—The Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and interested States, shall determine the discharges incidental to the normal operation of a recreational vessel for which it is reasonable and practicable to develop management practices to mitigate adverse impacts on the waters of the United States.

"(ii) PROMULGATION.—The Administrator shall promulgate the determinations under clause (i) in accordance with section 553 of title 5, United States Code.

"(iii) MANAGEMENT PRACTICES.—The Administrator shall develop management practices for recreational vessels in any case in which the Administrator determines that the use of those practices is reasonable and practicable.

"(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator shall consider—

"(i) the nature of the discharge;

"(ii) the environmental effects of the discharge;

"(iii) the practicability of using a management practice;

"(iv) the effect that the use of a management practice would have on the operation, operational capability, or safety of the vessel;

"(v) applicable Federal and State law;

"(vi) applicable international standards; and

"(vii) the economic costs of the use of the management practice.

"(C) TIMING.—The Administrator shall—

"(i) make the initial determinations under subparagraph (A) not later than 1 year after the date of enactment of this subsection; and

"(ii) every 5 years thereafter—

"(I) review the determinations; and

"(II) if necessary, revise the determinations based on any new information available to the Administrator.

"(3) PERFORMANCE STANDARDS FOR MANAGEMENT PRACTICES.—

"(A) IN GENERAL.—For each discharge for which a management practice is developed under paragraph (2), the Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, other in-

terested Federal agencies, and interested States, shall promulgate, in accordance with section 553 of title 5, United States Code, Federal standards of performance for each management practice required with respect to the discharge.

"(B) CONSIDERATIONS.—In promulgating standards under this paragraph, the Administrator shall take into account the considerations described in paragraph (2)(B).

"(C) CLASSES, TYPES, AND SIZES OF VESSELS.—The standards promulgated under this paragraph may—

"(i) distinguish among classes, types, and sizes of vessels;

"(ii) distinguish between new and existing vessels; and

"(iii) provide for a waiver of the applicability of the standards as necessary or appropriate to a particular class, type, age, or size of vessel.

"(D) TIMING.—The Administrator shall—

"(i) promulgate standards of performance for a management practice under subparagraph (A) not later than 1 year after the date of a determination under paragraph (2) that the management practice is reasonable and practicable; and

"(ii) every 5 years thereafter—

"(I) review the standards; and

"(II) if necessary, revise the standards, in accordance with subparagraph (B) and based on any new information available to the Administrator.

"(4) REGULATIONS FOR THE USE OF MANAGEMENT PRACTICES.—

"(A) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall promulgate such regulations governing the design, construction, installation, and use of management practices for recreational vessels as are necessary to meet the standards of performance promulgated under paragraph (3).

"(B) REGULATIONS.—

"(i) IN GENERAL.—The Secretary shall promulgate the regulations under this paragraph as soon as practicable after the Administrator promulgates standards with respect to the practice under paragraph (3), but not later than 1 year after the date on which the Administrator promulgates the standards.

"(ii) EFFECTIVE DATE.—The regulations promulgated by the Secretary under this paragraph shall be effective upon promulgation unless another effective date is specified in the regulations.

"(iii) CONSIDERATION OF TIME.—In determining the effective date of a regulation promulgated under this paragraph, the Secretary shall consider the period of time necessary to communicate the existence of the regulation to persons affected by the regulation.

"(5) EFFECT OF OTHER LAWS.—This subsection shall not affect the application of section 311 to discharges incidental to the normal operation of a recreational vessel.

"(6) PROHIBITION RELATING TO RECREATIONAL VESSELS.—After the effective date of the regulations promulgated by the Secretary of the department in which the Coast Guard is operating under paragraph (4), the owner or operator of a recreational vessel shall neither operate in nor discharge any discharge incidental to the normal operation of the vessel into, the waters of the United States or the waters of the contiguous zone, if the owner or operator of the vessel is not using any applicable management practice meeting standards established under this subsection."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from