

(The bill will be printed in a future edition of the RECORD.)

Mr. TESTER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

#### MORNING BUSINESS

Mr. TESTER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### NOMINATION OF MICHAEL PUNKE

Mr. TESTER. Mr. President, I rise today to urge the immediate confirmation of Michael Punke to be the U.S. Ambassador to the World Trade Organization.

The United States has been without an ambassador for more than 6 months because one Republican Senator has been holding up his nomination for no good reason. This is another example of standing in the way of doing what is right for our country.

Michael Punke is well qualified. He is ready to serve. He happens to be from Montana. Michael's qualifications are as follows: Michael received his undergraduate degree in international affairs from George Washington University. He then attended Cornell Law School where he earned his juris doctorate with a specialization in international legal affairs. He also served as editor in chief of the Cornell International Law Journal.

For 14 years Michael served in government and private practice in Washington, DC. From 1991 to 1992 he acted as international trade counsel to Senator MAX BAUCUS, then-chairman of the Finance Committee's International Trade Subcommittee.

Michael has been fully vetted. He received strong bipartisan support in his Senate Finance Committee hearings, and the Finance Committee unanimously approved his appointment. Let me repeat that. Michael Punke passed out of the Finance Committee with the support of all the Senators on that committee. That means all the Democrats and all the Republicans supported his nomination, including the junior Senator from Kentucky, who continues to hold up his nomination. The reason Senator BUNNING is giving for his hold? He wants Canada to repeal parts of the antismoking law that they passed in the Canadian Parliament. I don't think that holds water.

This job is too important to remain open because one Senator has a flimsy policy beef with a foreign country. Common sense has to prevail.

Expanding U.S. exports will help rebuild our economy by creating jobs. Michael Punke is an important part of

that goal. Michael will be responsible for promoting and securing U.S. trade interests abroad to create jobs for America's farmers, workers, and businesses right here at home. Our trading partners use his absence as an excuse to stall progress on serious negotiations. Standing in the way is hurting America's businesses and workers who are affected by these very important negotiations.

Michael could be working right now to create jobs for American farmers, workers, and businesses. But, instead, some issue about tobacco in another country is keeping us from moving forward. That is not right.

That is why a broad coalition of America's farmers and businesses have been calling for quick approval of Michael Punke by the Senate. A coalition of 42 food and agriculture groups wrote Senator REID and Senator MCCONNELL last January to call for Michael's quick confirmation saying:

U.S. food and agriculture exports are under assault in many markets with trading partners erecting even more barriers in recent months . . . The longer the delay in confirming Mr. Punke, the more likely that the U.S. loses exports and jobs.

So if we act today to confirm Michael Punke, the Senate will have done something right now to help create jobs in America. Holding up Michael Punke does just the opposite. For all these reasons—oh, and may I add this guy is one quality individual—I would request we confirm Michael Punke in the Senate, we do it as soon as possible, and confirm him to the position of U.S. ambassador to the World Trade Organization.

#### BIG SANDY PIONEERS

Mr. TESTER. Mr. President, I rise to share some news from my hometown of Big Sandy, MT. It is a town of just over 700 folks. That means in Montana, it is a Class C town. In Montana, Class C basketball isn't just a tradition, it is a way of life. For a lot of Montanans, the entire year revolves around that basketball season.

Last week, Coach Roy Lackner led his boys—the Big Sandy Pioneers—to the Class C basketball tournament. They fought their way to the championship game on Saturday night and they played another outstanding Class C team in the Power Pirates.

It was one of those games folks will be talking about for years. After a last-second foul, with less than a second on the clock, senior forward Corbin Pearson broke the 49-to-49 tie by sinking both free throws. I was 6 years old the last time Big Sandy boys won a State championship. That was 47 years ago.

So I rise in honor of Coach Lackner, assistant coach Gregg King, and the Big Sandy boys basketball team, including Corbin Pearson, Zac Leader, Blake Brumwell, Taylor Ophus, Colter Darlington, Trevor Lackner, Jeff Zeiger, Scott Drga, Dallas Briese, Kaden Beck, Matt Gullickson, and C.J. Hansen.

I am sharing this good news not just because these young men are from my hometown—although I am very proud of that—I am sharing this news because we can all use a reminder that hard work, working together, and teamwork pays off. Coach Lackner says winning a State championship was a matter of perseverance. It is. The Big Sandy Pioneers persevered. They worked hard as a team. They won their championship, and I congratulate them on that.

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

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

#### TAX ON BONUSES RECEIVED FROM CERTAIN TARP RECIPIENTS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 36, H.R. 1586, and that once the bill is reported, I be recognized to offer a substitute amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1586) to impose an additional tax on bonuses received from certain TARP recipients.

#### AMENDMENT NO. 3452

(Purpose: In the nature of a substitute.)

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 3452.

Mr. ROCKEFELLER. I ask unanimous consent that the reading of the amendment be waived.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. ROCKEFELLER. Mr. President, I am very happy to be here this afternoon with the most excellent ranking member of the Commerce Committee, Senator KAY BAILEY HUTCHISON of Texas, to lay down our Transportation bill, and in so doing we say that our transportation system is at a crossroads, and not a comfortable one.

For decades, the Federal Aviation Administration has done an excellent job of operating the world's most complex airline system. Nobody else comes close. The system has served us very well. Not only is it the safest airspace system in the world, it is a critical component of the national economy. I cannot overstate the importance of a

vibrant and strong aviation system. It is fundamental to our Nation's long-term growth—from the largest cities to the very smallest of towns—because it connects our citizens and it connects our businesses with the global economy.

Increasingly, however, our air transportation system and the FAA—the Federal Aviation Administration—are strained beyond capacity. Our skies and airports have become plagued with congestion and delay, and what is more, on a pretty regular basis. Over the past decade, we have seen passengers delayed for hours on runways, and we hear about it. During peak times, such as the holidays, the system is often paralyzed—stopped. Disruptions at just one key airport—maybe JFK, maybe O'Hare, maybe Los Angeles, should they be in trouble at any one of those places—can quickly cascade throughout the entire system.

With airline capacity cut, these delays can easily extend to days for passengers who cannot find flights with empty seats because the capacity has been reduced. Our constituents are frustrated about flying and, frankly, rightly so.

When our economy recovers, and I believe that growth has slowly begun—we shall see—congestion and delay will only get worse. The FAA predicts that commercial air traffic will increase by nearly 50 percent over the next decade. Putting that in other terms, from our current level of 700 million passengers a year, it will be well over a billion passengers per year. In a complex system as ours, everything has to work so the possibility of a meltdown of the air traffic control system may in fact become a reality and this will put passenger safety at extreme risk.

These are not the only troubling signs; there are more. While aviation has an excellent safety record, as I have indicated, the Federal Aviation Administration and the industry's focus on safety and vigilance in maintaining it as the highest priority, has come into question—the question of safety. The grounding of thousands of aircraft throughout the system in 2008 raised questions about the quality of airline maintenance practices and the FAA's ability to provide sufficient oversight of air carriers.

The tragic accident of flight 3407 has exposed problems with pilot training, crew fatigue, and the ability of the industry to assure the traveling public that there is one level of safety throughout the entire system, and that does not exist.

For all these reasons I stand here, along with my distinguished colleague, and encourage my colleagues in as strong a fashion as I can possibly muster to move forward and pass S. 1451, the FAA Air Transportation Modernization and Safety Improvement Act. I will only say that once.

I want to spend a few minutes discussing how and why we have made so little progress in addressing the issues

facing our Nation's aviation system. In 1999 and 2000, the aviation system was experiencing the worst congestion and delays in its history. There was, indeed, a growing recognition that fundamental change was needed. Nonetheless, I worked with Senator Lott to author Vision 100, in effect the 2003 FAA reauthorization bill. This bill laid the foundation to build a modern digital satellite-based air traffic control system. We created the joint planning and development office and authorized a significant increase in FAA's capital budget to meet the specific air traffic control modernization needs—a lot of what I say will be based on that—an increase based upon the administration's own budget requests.

But instead of investing in the system in 2004, 2005, and 2006, the previous administration proposed dramatic cuts in the FAA's facilities and equipment, the F&E account, the account that funds air traffic control modernization.

The urgency of 2000 understandably but regrettably waned as air traffic fell after 9/11. Today we find ourselves in a similar situation. The recession has prevented widespread delay—temporarily. We must not let this temporary reprieve keep us from taking action to address these concerns once again. Our economy has begun, as I indicated, to slowly turn around and I am confident that demand for air travel will soon begin to grow. If we do not act quickly, our system will simply not have the capacity to cope with the growth in demand.

That is where you get in trouble. I believe everyone in aviation recognizes the need to modernize our national air transportation system in order to meet the growth in passenger traffic. In addition to creating much more capacity, a new satellite-based air traffic control system, an ATC system, will allow airplanes to move more efficiently by taking more direct routes, being able to be closer to each other but without danger. These improvements will save our economy millions of dollars annually.

Most importantly, the next generation air transportation system, which we refer to as "NextGen," will dramatically improve the safety of air transportation by providing pilots and air traffic controllers with better situational awareness. They will be able to see other air traffic and detailed weather maps in real time. President Obama clearly recognized the value of investing in our air transportation system and this is, in fact, reflected in his fiscal year 2011 budget request. The administration has proposed spending a total of \$1.1 billion in fiscal 2011 on the NextGen program, which is more than a 30-percent increase. That is not in line with the so-called freeze. So it is a 30-percent increase over 2010.

We oversee all of transportation—trains, cars, airplanes, trucks, whatever you have. I will say at this point for the record that the same financial requests or needs for the Surface Transportation Board, which interacts

with railroads and shippers, has not been increased sufficiently. It is \$31 million and it needs to be closer to \$44 million. These efforts, however, are only the first steps in a long journey. Modernizing the ATC system will require sustained focus and substantial resources. S. 1451 takes concrete steps to make sure that the FAA accelerates the NextGen—that is the modern system—programs, and that the agency implements modernization efforts in an effective and efficient manner over the long run. The FAA estimates that NextGen will cost the agency \$20 billion through 2025, and the airlines another \$20 billion in aircraft equipage—how they, as individual airplanes, respond and react to that system so it can work.

I have worked with Senators INOUE and BAUCUS to reach a deal that I believe moves us in the right direction. S. 1451, the bill under discussion, will create a new subaccount with the aviation trust fund to fund FAA's modernization efforts. This modernization subaccount will dedicate \$500 million annually to NextGen efforts. I appreciate the hard work of my colleagues on this provision, to develop it, to make it become possible.

I wish to spend some time talking about the highest priority in aviation and that is called safety. Statistically, the United States has the safest air transportation system in the world. I indicated that. But statistics do not tell you the whole story. It has been a little more than a year since the tragic crash of flight 3407 in Buffalo, NY, that took the lives of 50 people. It is clear from the National Transportation Safety Board investigation that we need to take serious steps to improve pilot training, address flight crew fatigue, to make the cockpit isolated from extraneous conversation, and reform air carrier employment practices. I commend Senator DORGAN in particular for the work he has done to promote the safety in the aftermath of this accident. He has attached himself to this cause ferociously.

The committee's work has prompted the FAA to initiate a number of activities to improve aviation safety. The agency has been able to get many air carriers to make voluntary commitments to implement important safety measures and the agency has committed to initiate new regulations on flight and duty time regulations in coming months.

Despite this progress, our work remains far from complete. We must also make certain that the FAA remains as vigilant on other safety priorities—the oversight of airline operations and the maintenance, reducing runway incursions, and air traffic controller staffing issues. Just as with modernization, we must make sure the FAA has the tools and the resources to accomplish these safety objectives.

I am especially proud of the safety title we have developed and included in this bill, S. 1451. This title will do the

following, in part: address pilot fatigue by mandating the FAA revise flight and duty time limitations based on the latest in scientific research; ensure one level of safety exists throughout commercial aircraft operations by requiring that all carriers adopt aviation safety standards. The bill also requires stronger safety oversight of foreign repair stations, which is a very controversial subject. They are a relatively small percentage of air maintenance. Most of it is done in this country. But there is some argument as to how well it is done overseas.

These are critical measures that will help us identify safety issues and prevent problems before they occur and this is the best way to address safety.

A word on small community air service. The State I come from is not large. In fact, it is small and it is rural. But it is important and it is a good place. We need to keep America's small communities connected to the rest of the world. If one lives in a rural State or in a rural part of a rural State, one is no less important than if one lives on Fifth Avenue in New York City. The nature of the individuals may be the same, the entrepreneurship may be the same, but access to international aviation or transcontinental aviation is not the same. The continuing economic crisis has hit the United States airline industry very hard. They are in and out of bankruptcy. We have all read about that. They are cutting back on things they offer that they used to offer in flight and do not now. We grump about it but there is a reason they do that so I don't grump about it, and this affects the future of hundreds of rural communities across our country.

In their effort to cut costs, air carriers have drastically reduced service to small or isolated communities. From a business point of view, I guess that makes sense. From my policy point of view, that does not make sense and it is not fair. They are the first routes to go, the rural ones. They go in tough economic times, and that is where we are right now. The reduction or elimination of air service has a devastating effect on the economy of a community. Having adequate air service is not just a matter of convenience but also a matter of economic survival. Without access to reliable air service, no business is willing to locate their operations in these areas of the country, no matter how attractive the quality of life. Airports are economic engines that attract critical new development opportunities and jobs.

The Federal Government needs to provide additional resources and tools for small communities to help them attract adequate air service. Our legislation does this by building on existing programs and strengthening them. Authorizing funding for the Essential Air Service Program is increased to \$175 million annually. The bill also extends the Small Community Air Service Development Program—incredibly important for small airports. This program

has provided dozens of communities with the resources necessary to attract and retain air service.

In conclusion, when I began work on this bill, I had four simple goals: No. 1, take steps to address the critical safety concerns—that was always No. 1 and always will be; No. 2, to establish a roadmap for the implementation of NextGen and accelerate the FAA's key modernization programs; No. 3, make certain we adequately invest in airport infrastructure; and, No. 4, continue to improve small communities' access to the Nation's aviation system.

I believe we have worked hard in a truly bipartisan fashion with Senator DORGAN, obviously Senator KAY BAILEY HUTCHISON from Texas, Senator DEMINT from South Carolina, to develop a bill that I think advances these goals and which all of my colleagues can support.

This bill is not being held up. There is a reason for that. We worked out our problems early. This bill takes the steps needed to advance the system. The FAA must be provided with the tools, the resources, and the clear direction and deadlines to make sure the agency provides effective oversight of the aviation industry itself.

I think we all recognize the United States must significantly expand the capacity of our Nation's transportation system. There are no quick or easy solutions to the problem, and I believe our situation is going to get worse before it gets better. But we do have to take the actions we can right now. We cannot ignore the aviation system anymore.

We cannot float on nice memories of a glorious past. The United States is losing its position as a global leader on aviation. The American public is not happy with the aviation system or with us. We must move boldly, just as we have with our investments in high-speed rail, or risk losing our leadership in the world.

Given the challenges our Nation's aviation system faces, we must act now to pass S. 1451, the FAA Air Transportation Modernization and Safety Improvement Act.

Is it the order that the Senator from Texas will have the floor?

The PRESIDING OFFICER (Mr. FRANKEN.) There is no order to that effect.

Mr. ROCKEFELLER. Business as usual.

The PRESIDING OFFICER. Correct.

Mr. ROCKEFELLER. I yield proudly to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I thank the distinguished chairman of the committee, and I wanted to say, as the ranking member of the Commerce Committee, I believe this FAA reauthorization bill is a very good, solid bill. It is very bipartisan, and we have worked through many of the sticky issues that have held up the long-term extension of FAA reauthorization.

I think this is a bill that most everyone on this floor will support if the bill stays as it has come out of the committee. I want to say also that I believe the Aviation Subcommittee chair and ranking members, Senators DORGAN and DEMINT, deserve a lot of credit for this bipartisan bill as well because it does provide a solid roadmap for the direction and future of our aviation system, and its enactment is long overdue.

So I very much appreciate—as a matter of fact, Senator ROCKEFELLER and I had been the chairman and ranking member of the Aviation Subcommittee when this bill was written. Then we both went to the full committee, chairman and ranking member slots, and so we have now two new Aviation Subcommittee chair and ranking members who have also done an excellent job.

So I feel strongly about this bill and how much it is going to do for the stability of our system. When you are looking at the reason for an FAA reauthorization bill, you have to have stability. We need to improve aviation safety. We need to modernize our air traffic control system, which is known as NextGen. We have to do that.

We are behind the rest of the Nations in the world that have major air traffic control systems in this modern age. If we are going to keep up with the added traffic in our airspace, we are going to have to have NextGen. This bill does provide the way forward on that.

We need to make the investments in infrastructure where there is a knowledge that this infrastructure support will be ongoing.

I am the former Chairman, Vice Chairman—actually Acting Chairman as well—of the National Transportation Safety Board. So I know the crucial mission the FAA has in overseeing our Nation's airlines and the aviation system.

Aviation safety and the public trust that go along with it is the bedrock of our national aviation policy. We cannot allow for any degradation of safety to the flying public. I believe this bill goes a long way toward achieving that goal. While I continue to have great confidence in the safety of our aviation system, it was made obvious that there is still room for improvement after the tragic crash of Colgan flight 3407 in Buffalo, NY, last year.

Despite the remarkable safety record of the U.S. aviation industry, that accident reminds us that we must remain vigilant and always look for ways to improve our safety system.

While tremendous strides have been made in aircraft technology and maintenance practices in recent decades, little has been done to address the human factors side of the safety equation in areas such as pilot fatigue, quality of pilot training, quality of pilot experience, commuting and pilot professional responsibility.

Over the course of a year, and through six Commerce Committee hearings regarding the aftermath of

the Colgan accident, we worked in a bipartisan manner to craft proposals to address these human factors issues.

During these hearings, the family members of those lost in flight 3407 were there every step of the way. I applaud their continued activism for improving aviation safety.

A few of the safety improvements that we call for in this legislation include mandating the FAA complete a rulemaking on flight time limits and rest requirements for pilots; improving safety for helicopter emergency medical service operations; addressing inconsistent application of FAA airworthiness directives by improving the voluntary disclosure reporting processes to ensure adequate actions are taken in response to reports; and limiting the ability of FAA inspectors to work for air carriers over which they have oversight; also conducting independent reviews of safety issues identified by employees; requiring enhanced safety oversight of foreign repair stations; taking steps to ensure "one level of safety" exists in commercial aircraft operations, including a mandate that all carriers adopt the Aviation Safety Action Programs and Flight Operational Quality Assurance Programs.

This legislation would also require air carriers to examine a pilot's history for the past 10 years when considering hiring an individual, and annual reporting on the implementation of NTSB recommendations and reevaluating flight crew training, testing, and certification requirements.

Another priority and centerpiece of this bill is focusing on and expediting the FAA's air traffic control modernization program, known as NextGen. The FAA operates the largest and safest air traffic control system in the world. In fact, the FAA air traffic control system handles almost half the world's air traffic activity. The United States is a leader in developing and implementing new technologies to create a safer, more efficient airspace system.

However, today's air traffic control system is not much different from that used in the 1960s. This system is still fundamentally based on radar tracking and ground-based infrastructure. NextGen will move much of the air traffic control infrastructure from ground-based to satellite-based by replacing antiquated, costly ground infrastructure with orbiting satellites and onboard automation. By doing so, the FAA will be able to make our aviation system more safe and efficient while also increasing capacity.

Some of the modernization provisions in the bill include establishing clear deadlines for the adoption of existing global positioning system navigation technology.

Airports: Finally, the bill would also increase our Nation's investment in airports. As we all know, you can have the best planes and the best air traffic system, but they mean nothing without the proper airport infrastructure in

place. Our Senate legislation is different from the House-passed bill in several areas.

I look forward to working with my colleagues on the bill this week. If we are able, and I hope we are, to pass a bipartisan, commonsense FAA reauthorization bill, we will still have a long way to go. But it will be an important step toward improving our aviation system and improving aviation safety for the millions of air passengers who should expect no less from this Congress.

I do hope we are able to keep the bill pretty much intact. I know there are amendments that some Members will have. I urge Members who do have amendments to come to the floor and begin to let us see their amendments so they can offer them and we can begin to address the amendments and try to expedite the bill as much as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, first of all, I am pleased with the work the chairman and ranking member of the Commerce Committee have done. I am chairman of the Aviation Subcommittee and have worked closely with them to produce a piece of legislation that I think is bipartisan, is a very important and urgent piece of legislation that will strengthen this country's system of air travel. I want to talk some about that today.

A couple of things this legislation will do. I am not going to repeat everything my colleagues have said, but it will advance aviation safety, which I think is very important. It will accelerate the modernization of the air traffic control system. It is going to support jobs by investing in aviation infrastructure; that is, airports and runways and the kinds of functions that accommodate our air travel system. It will ensure that our rural communities in States such as North Dakota, my home State, have continued access to the Nation's aviation system.

So I am very pleased with this bill. Since the last FAA reauthorization bill expired in 2007, the Congress has passed 11 separate extensions of this law. There was a suggestion that we pass another 1-year extension, which I opposed. We do not need to extend this; what we need to do is pass new authorizing legislation that addresses the fundamental issues that we need to address with respect to air travel in this country.

The Federal Aviation Administration is charged with operating what I think is the world's most complex airspace system in the world. By and large, they do an outstanding job. The United States has the safest skies in the world. There is no question about that. But we have seen changes in the aviation industry, in the airline industry, that have impacted safety, and we need to take action to deal with and address it.

The FAA predicts that air travel in this country will increase by 50 percent

in the coming decade. That brings it to probably 1 billion passengers a year. That is a big system, a system that is very strained at this point. As the economy recovers, we will see substantial increases in demand.

As we do that, we desperately need to modernize this system. Let me describe the circumstances of commercial air travel, and then I am also going to talk about general aviation.

I learned how to fly many years ago. I was not much of a pilot, so I did not keep it up. But I learned how to take off in an airplane and go fly up someplace and land. It is an extraordinary feeling. It is one of those moments in life that you never forget, when your instructor gets out of the plane and says: All right, now you go fly the airplane by yourself. When you take off wearing this metal suit with an engine, you think: Oh, my gosh, it is pretty unbelievable to be able to fly an airplane.

General aviation, people flying their own planes around for recreation, for business, is a very important part of our air travel system. I wish to talk about that at another time during this discussion.

Commercial aviation is the companies that put together the structure, the capital and the airplanes and then haul people around the country and the world at scheduled times and places. That is very important. It is significant that in many areas of our country now, such as in my home State, Bismarck, ND, when you go out and see that strip of runway, maybe 6,000, maybe 8,000, maybe 10,000 feet of runway, you are one stop away from anywhere in the world. Because you take off on that runway and one stop later change a plane and go to South America, go to Europe, go to Asia, you are one stop away from the world. That is what air travel has done for us. It is extraordinary.

Go back to the origins of commercial air travel. Airplanes were used originally to haul the mail. Go all the way back to December 17, 1903, when Orville and Wilbur Wright left the ground for the first time. It was only 59 seconds, but what an extraordinary achievement. They learned to fly. They didn't just learn to fly that day. They had tried 700 times, again and again and again and again, continually failing until one day at Kitty Hawk the engine took hold. The pilot was lying on the fuselage of this rickety-looking structure, and they flew above the ground in powered human flight for 59 seconds. It was quite an extraordinary achievement.

It was not too long after that, having decided we can shape a wing that can allow us, with power, to escape gravity and fly, we were flying in combat. American pilots were in Europe flying in combat. We began flying mail with commercial airplanes. Then you could only fly during the daytime because you couldn't see at night. So you couldn't fly an airplane at night because where would you land. As they

began to haul the mail, what they began to do was to build bonfires every 50 miles or 100 miles, big old fires. Then a pilot could fly in the dark of night toward a fire and land. So you hauled the mail at night. Then when they decided they could do something better, they put up light stanchions and shined lights into the sky. So the pilot would fly to the lights flashing into the sky.

Then they invented radar. Then you have ground-based radar so we can determine here is an airplane in the sky. We can direct that airplane and put a light on the runway. All that changed air travel 24 hours a day, during the daylight hours but also at night. Ground-based radar was extraordinary. So if you get up in an airplane today, there is going to be a control tower someplace. In your cockpit, you will have perhaps a transponder. Your cockpit from that airplane is going to send a signal. You have 125 people who are riding in the back, and you are sending a signal that goes to a control tower and is on a screen. It is a little dot on the screen that blinks, and that is your airplane, except all that does is say: Here is where that airplane is right this nanosecond. But in the next nanosecond, that airplane is somewhere else, especially if it is a jet. All we know is, at this moment, the airplane is here, and for the next 7 or 8 seconds, as the sweep goes around on the monitor, that airplane is somewhere else, perhaps 1 mile, perhaps 8 miles away, but the airplane is somewhere else. We know about where an airplane is based on ground-based radar. Because we don't know exactly where it is, we space those airplanes for safety and have them fly certain routes for safety.

Contrast that ground-based radar with your child. Your child has a cell phone. If your child has the right cell phone at this moment—and there are cell phones with this technology—your child can ask 10 of their best friends, do you want to track each other of our whereabouts with GPS. If the friends say yes, 10 of them could decide to link up with cell phones and figure out where their friend Mary is or where Lester is, and the GPS will tell them exactly where Mary and Lester are because they have their phones with them, so we know exactly where they are. Our kids can do that with GPS with cell phones. We don't do it yet with commercial airliners. Isn't that unbelievable? That is what this is about, modernization, next-generation air traffic control, ground-based radar to GPS. It is complicated. It is difficult. But it is where we are going. We are not going there in the next 20, 30, 40 years. We want to go there soon. I have met with the Europeans and others. They are moving in exactly the same direction.

Here is what it will allow us to do. If we know exactly where an airplane is, as we know where a car is with GPS—a lot of people have GPS in their vehicles and get directions from it, so you know exactly where that vehicle is at

every moment—if we do that for airplanes, we can have more direct routing from one city to another and less spacing between planes because we know exactly where they are. We save energy. We have less pollution in the air. We get there faster. It does all the things that are advantageous for everybody.

It is called NextGen, next-generation air traffic control modernization. We could have extended this bill for another year, as some wanted to do, but instead what I wanted to do, and what my colleagues, Senators ROCKEFELLER and HUTCHISON and others want to do, is to get about the business of getting this done, modernizing our air traffic control system, bringing it into the modern age. That is what this is about.

I will describe briefly what we do with that. We set up timelines on such things as Required Navigation Performance, and the Area Navigation or RNAV system at 35 airports must be completed by 2014. We will create circumstances where the entire national airspace system is to be covered by 2018. We ask FAA to study providing best-served status for those providing the right equipment for their planes and come in with GPS, best equipped, best served. We create a NextGen officer at the FAA. It is a new position to help guide and create these programs for modernization. We are doing all these things. It is so important we complete them and truncate the time with which to complete them.

The other issue that is important is the issue of aviation safety. We have worked a lot on that. I have done now eight hearings on aviation safety, especially focusing on issues we have now discovered from the Colgan Air crash, which tragically killed 50 people in Buffalo, NY. The Colgan crash raised a lot of questions. Let me describe the circumstances.

As I do, I think I speak for all my colleagues on the committee that the relatives, the families of those who were killed in the Colgan crash have made it their mission to be at every hearing, to be involved in every decision about this issue of air safety. God bless them. The fact is, their diligence and work is making a difference. It made a difference in this bill. There are provisions in this bill as a result of their diligence and concern.

Let me describe the circumstances of that particular crash. It was an evening flight in weather that was not so good, with icing conditions for an airplane. They were flying a propeller airplane called a Dash 8. Colgan flight 3407, 2 pilots, 2 flight attendants, and 45 passengers lost their lives, and one person on the ground. It was a Bombardier Q400 airplane, operated by a captain and copilot.

What we discovered in reviewing the circumstances of that crash was quite extraordinary. The pilot had not slept in a bed the two previous nights. The copilot had not slept in a bed the night before. The pilot commuted from his

home in Florida to his duty station at Newark in order to begin flying. The copilot flew from Seattle, WA, deadheaded on a FedEx plane that stopped in Memphis, TN, and then continued on to New York in order to reach her duty station at Newark, an all-night flight. There is no evidence, the night before the flight, that either the pilot or the copilot did anything other than stay in the crew lounge, and there is no bed there. For the pilot, it was two nights, no record of him sleeping in a bed. So you have two pilots who commuted long distances just to get to work without any evidence that they had a night's sleep in a bed prior to the flight and were on the airplane.

If you read the transcript of the voice recorder, a series of problems existed in that cockpit. There was not a sterile cockpit below 10,000 feet, which is supposed to be the case. There was visiting about careers and a range of things as they were flying through icy conditions, violative of the regulations. The copilot, it is said, was a young woman who worked two jobs in order to make ends meet.

The copilot was paid something in the neighborhood of between \$20,000 and \$23,000 a year, commuting all across the country just to get to work. When they ran into icing conditions, there was a stick pusher that engaged, a stick shaker as well. It turns out there had not been adequate training with respect to that. A whole series of things occurred with respect to that flight that raise lots of questions about training, about fatigue, a whole series of things.

As a result of that, just that case to try to understand what does this mean for others, what does it mean for regulations that are necessary. Randy Babbitt, new head of the FAA, someone for whom I have great respect, has just finished a rulemaking on fatigue. I believe that now exists at the Office of Management and Budget, awaiting action by OMB—a step in the right direction, in my judgment.

This bill has another piece that needed to be done that we discovered as a result of this crash. The pilot, over the years, had failed a number of competency tests and then subsequently succeeded or passed those tests. But nonetheless, he had a number of failures. The airline that hired that pilot didn't know that because the records were not transparent. The airline has since said, had we known that record of failures, that pilot would not have been hired by us. But they didn't know. This legislation will correct that. When you are hiring a pilot, you will know the entire range of experience that pilot has had, including the tests and the passage or failure of certain competencies along the way. That is a very important provision in this piece of legislation.

Pilot training and experience is another issue we are talking about and working with. It is not an irrelevant issue. There is supposed to be one

standard and one level of safety with respect to airlines.

Regional carriers are now carrying 50 percent of the passengers in our country. They get on the airplane, and they see the airplane, and it is painted Continental or US Airways or United or Delta, but that may not be the company that is flying that airplane. It may be Pinnacle. It may be Mesaba. It may be any number of other regional carriers. The passenger doesn't know. All the passenger sees is what is marked on the side of that fuselage. This legislation will also require information on the tickets of who is transporting that passenger.

There are a number of things this legislation does in the area of safety that are very important. We prohibit the personal use of wireless communication devices and laptop computers in the cockpit. We all remember the pilots who were flying to Minneapolis and flew well into Wisconsin, well past the city of destination, and didn't know where they were, apparently. They indicated they were busy visiting or they were busy on their laptop computers. But whatever the circumstances, while it is, in many cases, an airline requirement that they not do that, there is no FAA requirement that personal use of wireless communication and laptops in the cockpit is prohibited. We do that.

We also require enhanced safety oversight at foreign repair stations. That also is very important. The outsourcing of maintenance, repair, and overhaul work is now a routine practice. Much of it is outsourced in this country by the major carriers, and our legislation will require enhanced safety oversight and inspections with respect to that outsourcing.

So those are a few of the items that are included in the bill.

I should also point out this bill includes the passenger bill of rights, which I think is important. I have just mentioned a couple of the provisions, but one of them that has gotten the most attention is to say: You have a requirement as an airline and you have a right as a passenger not to be stuck on an airplane for 6 hours, sitting out on a runway somewhere. This is a 3-hour requirement, as part of the passenger bill of rights. They are not going to be able to keep you on an airplane 5 or 6 hours, sitting on a runway, waiting in the middle of a big storm. Three hours: back to the gate and allow the passengers to deplane.

We also have substantial amounts of airport improvement funding here. This authorizes the AIP. It streamlines what is called the passenger facility charge, the PFC. We provide greater flexibility of the use of the PFC.

We improve the airline service in small community service provisions. Some communities in this country rely on essential airline services called EAS, which is the way for them to get the services they were guaranteed when we deregulated in this country,

which is, by the way, another subject for perhaps another day. Although I again say, as I have said on the floor previously, deregulation might have been a wonderful boon for those who live in very large cities and travel to other large cities. If you do, you are given a lot of opportunity. You are given many opportunities for different carriers and different pricing. I would bet if we left the floor at this moment and decided to go to one of these search engines and buy a ticket from Washington, DC to Los Angeles, in order to visit Mickey Mouse at Disneyland or we decided we will have two alternative tickets: We will purchase one from Washington, DC to Los Angeles to visit Mickey Mouse or we will go to Bismarck, ND, which is only half as far, to see the World's Largest Holstein Cow sitting on a hill over New Salem, ND, called Salem Sue. So the choice: to go twice as far to see Mickey Mouse or go half as far to see the World's Largest Holstein Cow—I will bet the search engine on the computer will tell us we get to pay half as much to go twice as far, and twice as much to go half as far.

So think of that. You get to pay half price to go double the miles or you get to pay twice the price to go half the miles. Yet that is the kind of circumstance we have in our country today. The higher yield tickets are on the end of a spoke in a hub-and-spoke system, where there is little or no competition. So we are not addressing that. It was just therapeutic for me to talk about that again. We are not addressing that on the floor of the Senate today. But it is something I think is of great concern. Because if you are flying from Chicago to Los Angeles, you have plenty of competition, plenty of price competition and opportunities to get better prices. That is not the case for a number of small States on the back end of a hub-and-spoke system.

Well, there are many other provisions. As I indicated earlier, I am going to speak some at another point on the subject of general aviation because while we focus a lot on the issue of commercial aviation, general aviation is a very important part of this country's air travel system. The folks who live out on a farm some place and have a small airplane in a shed—from those folks, to people who fly corporate planes and move people around so they can leave in the morning from Washington, DC, and fly to Los Angeles, down to Dallas, and get back—that is general aviation and a very important part of our air travel system. I am going to talk about that at some point later.

Let me again say I think we have at last, at long, long last, put a piece of legislation together that avoids some of the controversy of past attempts, that will substantially improve infrastructure, substantially address the safety issues. I will talk a little later about pilot hours and some related issues we have been talking about that we hope would be in a managers' package.

But all of these things I think finally bring to the floor in this bill a victory for those who want to modernize the system. I know there will be some amendments. We have not addressed some issues that are in the House bill. But our concern is to try to get a bill through the Senate, into conference with the House, and get something signed by the President to get something done. We will be dramatically advantaged as a country if we can enhance the efforts in a shorter period of time to modernize the system and go to a completely different air traffic control system called NextGen, which works off of the GPS system. It will save energy, create safety in the skies, and allow people to be transported more directly with less time. I think it will be very positive for our country.

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

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

Mr. DORGAN. Mr. President, I withhold that suggestion.

I did want to make one additional point. I did not do this when I talked about the issue of the Colgan tragedy. The larger question is not addressed directly in this legislation. We address many of these issues, but we do not address the larger question of commuting.

I want to show, if I might, something Senator ROCKEFELLER and I and others have used in the Commerce Committee. This map describes where the Colgan pilots commute from. But do you know what. This chart could probably have been describing almost any regional airline or any trunk airline or major airline, for that matter.

Pilots live in one part of the country and work out of another part of the country. The fact is, with respect to this tragedy, the Colgan crash, I am convinced that mattered. I am convinced that flying through difficult nighttime icy conditions—with two pilots, neither of whom had slept in a bed the night previous—I am convinced this kind of commuting has caused significant difficulties.

There was a Wall Street Journal piece that pretty much says it all. This was an veteran pilot describing the routine of commuter flights with short layovers in the middle of the night, which is pretty typical. He said:

Take a shower, brush your teeth, pretend you slept.

That is something we have to pay some attention to. I am not suggesting today that you cannot commute. We do not in this legislation prohibit commutes. But I think these are instructive pieces.

As shown in this picture, this is what is called a crash pad. I was completely unaware of a crash pad until we began to hold these hearings. But this is a pilot watching a movie on his computer at a crash house in Sterling Park, VA. They can have up to 20 to 24 occupants at a time. They are designed to give flight crews from regional airlines a quiet place to sleep near their



base airports. Many cannot afford hotels so they use crash houses where the rent is \$200 a month for a bed.

When I described the copilot of the Colgan tragedy—a copilot who is making \$20,000 or \$23,000 a year, traveling across the country, all night long, if that copilot had traveled the day before, are they in a situation to be able to purchase a hotel room at an airport when they are making \$20,000 or \$23,000 a year?

In fact, I believe there is a substantial cargo operator that pays for hotel rooms for their pilots who come in the night before. I do not believe there is an airliner that does that. But I did not make the point during the Colgan discussion. I wanted to make the point that I think fatigue, commuting, and other issues, are serious and significant.

I know Administrator Babbitt believes as well that we need to continue to look at these issues. We need to visit with pilot organizations and others to understand how we might see if we can reduce some of the risks here. We have a safe system of air travel, to be sure. But the Colgan crash and all of the details and circumstances of it should remind us not everything is as it seems, and we need to take action from time to time to address some of those important issues.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3453 TO AMENDMENT NO. 3452

(Purpose: To reduce the deficit by establishing discretionary spending caps)

Mr. SESSIONS. Mr. President, I have an amendment, No. 3453, at the desk, and ask that it be called up.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mrs. McCASKILL, proposes an amendment numbered 3453 to amendment No. 3452.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. SESSIONS. Mr. President, briefly, I will call my colleagues' attention to this serious bipartisan effort with Senator MCCASKILL of Missouri to contain our penchant in this body to violate or manipulate the budget and spend more money than we intend to spend. Sometimes we are our own worst enemies, and Members of both parties have been guilty of that.

I originally offered a very similar amendment that adopted the budget

amounts passed by this Congress, our Democratic leadership, and would have made those amounts that we said would be our top spending amounts—the budget maximum. It would have set a statutory cap at those levels and say if we were going to violate those limit, it would take a two-thirds vote to do so.

A number of senators were concerned about it, but it received broad bipartisan support. When we voted, 56 people voted for it—4 short of the 60 necessary to be adopted. But I thought it was a positive step, and I know Senator MCCASKILL felt it was, too.

I believe we can dispute how much we ought to spend, but one of the biggest dangers and problems the Senate confronts—and often fails to meet—is breaking our own budget. This amendment would have made it harder to break the budget, and 56 Senators voted for it.

Then we listened to our colleagues because people were saying: This year, JEFF, I believe we have to do some things that we may not have to do in the future—and that we do not want to do in the future—but this year our economy is in such a state that we can't be so limited.

So Senator MCCASKILL and I proposed another amendment that we voted on, which would have exempted this year and made it a shorter bill. We would remain under the normal budget rules for this year and would therefore not be creating the power to block additional stimulus legislation a number of Senators were concerned about. Frankly, I felt that was a compromise we could make. I would have preferred to have had it apply to this year, but I understand that concern and we made that change. So 59 Senators voted for it—1 short of the necessary vote to make it a part of the legislation.

So now, we listened again to some of the concerns we have heard from our colleagues. Senator MCCASKILL and I believe this bill, with the additional changes we made, will be the kind of legislation that could garner perhaps very broad bipartisan support and could actually make it into law. It would significantly help us honor the budget process. It would send a positive message to the world markets and our financial world because some rightly think we have lost our spending bearings and we are spending crazily here. We could send them a message that we have a budget out there that you may or may not like, but at least we are not going to bust it wide open and we will be more faithful to those limits. It would suggest less of a danger of massive deficits than we have had over the last 2 years.

What were the changes we made? Well, we exempted emergencies. In other words, some people felt we may need to pass emergency legislation and that a two-thirds vote—67 votes—is too much, and they would prefer to be able to pass emergencies by 60 votes. So we have acquiesced and put that in there.

If a Senator is proposing extraordinary spending, they would have to openly state that it was an emergency, advocate for that, and the current law would still be in effect then. It would only take 60 votes to declare an emergency.

We made another change, one that I kind of hate to do but I am not unwilling to do. We would exempt year 2014, so it would only be a 3-year statutory cap on spending. Some people said: Well, we don't know what will happen in 2014. We may be in better financial condition. We won't have to contain our spending to the budget levels we passed last year, and we could do it in that fashion. I think that is all right. I really accept that if it helps us get the votes necessary.

So now we have 3-year legislation that does not change the law with regard to what is an emergency. We could violate the budget if it is an emergency, and we would have the votes to do it, but I still think it would be a good deal harder to take basic spending levels and break the budget on those. Technically, you could declare it an emergency. Most anything with 60 votes could be an emergency, but I think most Senators have some conviction that we shouldn't abuse the emergency spending level.

We will leave the emergency spending definition with the same number of votes, but the basic spending of our country needs to be within the budget caps. Remember, this is the level of spending a Democratic majority voted to pass last year. I voted against it. I thought it had too much spending in it, particularly last year. This year's spending was also too much, but the outyears had pretty tight budgets with 1 or 2 percent spending increases. The Congress and the Senate voted for it, and I think if we live with that, we might surprise ourselves to see that it would create a positive impact on the size of our deficit.

I am confident we are moving in the right direction. Again, it is a statement to ourselves if we pass this legislation. It is also a statement to the world markets that we are going to be less likely to violate our budgets in the future and more likely to contain our spending increases to levels that are acceptable.

I would note one more thing. President Obama, in his State of the Union, announced a freeze over the next 3 years, and he believes that in our discretionary spending accounts—which is what this essentially covers—we should actually have a freeze. I intend to support him on that. But this bill does not call for a freeze. It allows for a modest increase of 1 to 2 percent consistent with last year's budget.

I will just say that we should and hopefully we will pass a budget this year that has a freeze in the discretionary accounts. But if we don't or if people attempt to break it and go above it, at least we would have a stronger high ground from which to defend budget-busting legislation.

This is a bill that deserves bipartisan consideration, and I think it has gotten bipartisan consideration. I know 18 Democrats and every Republican voted for it last time. We have listened to the concerns of some of our Members, and we amended the legislation to be more amenable to those concerns. I hope we can pass it.

Let me say one thing that is an obvious matter of law. If 60 of my colleagues feel as though this is too restrictive, then they can pass a piece of legislation with 60 votes that wipes this out entirely from the books. It is mostly a self-imposed discipline. But it would be harder to pass legislation to wipe out the two-thirds vote level just because somebody has hard feelings that they didn't get enough spending in this or that bill as part of the normal governmental process. So I think it would be an effective tool. But as a matter of power in the Senate, make no mistake, this is not a two-thirds rule that would keep the Senate from doing anything. The Senate can pass legislation promptly to eliminate this statute any time we want to.

I believe it will work. It worked before. In the early 1990s, such legislation was passed, and it was extended periodically, up through 2002. From sizable deficits in the early 1990s, the spending was contained to much lower levels than we have adopted in recent years and it resulted in a budget surplus at the end of the 1990s. I am absolutely convinced a significant tool in the effective effort to contain spending and put our budget back in balance was the statutory limit on spending, consistent with what we voted for in a budget. That is what we are doing today. This is not new legislation, really, but we are fundamentally reestablishing the kind of legislation we previously had.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me just make a point. This is an authorization bill that is on the floor, the FAA reauthorization. We have waited a long time to get it here. We have had 11 extensions to get this bill to the floor.

The Senator who offers the amendment certainly is allowed to offer it on this bill. Of course, his amendment really doesn't relate to passing an FAA reauthorization bill, so I hope he will withhold at some point and do this at another moment on another piece of legislation because I fear that—at long last, trying to get an FAA reauthorization bill 3 years after it previously expired, with 11 different extensions, my hope is we can stay on the FAA reauthorization, have amendments that relate to this bill, debate them, and then vote on those amendments. That would be my hope.

I understand the Senator has a right to do that. Somebody could bring an amendment on abortion or whatever somebody wants to the floor of the Senate on an open authorization bill. The Senator has had two other oppor-

tunities to offer this. I hope he will find a third at some point.

The budget deficit is a very serious problem. We are on an unsustainable path. Let me give just a slightly different observation on the subject as long as I am on my feet.

It is true that 10 years ago our country was running a budget surplus. It is true that 10 years ago we had a budget surplus. It is also the case that when President George W. Bush came to town, he said: You know what, we have a budget surplus. Alan Greenspan is not going to sleep at night, he said, because he worried that the surplus was going to pay down the Federal debt too fast. He literally said that. He worried about paying down the Federal debt too fast, so we need to be a little careful about accruing these surpluses. So President Bush said: What we need to do is have a very large tax cut.

I stood here on this floor of the Senate and said: You know what, these surpluses exist this year only and the next 10 years of projected surpluses don't yet exist. They are simply projections. Let's be a bit conservative. What if something happens?

They said: "Katy, bar the door," we are going to do this anyway, and did it—very large tax cuts, very substantial reductions in Federal revenue. About 50 percent of the structural budget deficit at the moment is as a result of reducing the revenue base 10 years ago—9 years ago.

I said on the floor of the Senate: You know, let's be a little conservative. What if something happens?

Well, guess what happened almost immediately. We passed the tax cuts—not with my vote—the majority of which, the bulk of which went to the wealthiest Americans. Very quickly, we discovered we were in a recession. Very quickly, there was an attack on our country on 9/11. Then we were in a war in Afghanistan and then a war in Iraq. We sent young men and women off to war and did not pay for one penny of it—not a penny. So we cut the revenue base very substantially. We experienced a recession, an attack against our country, engaged in two wars, sent men and women to other parts of the world to fight, and did not pay for a penny of it. We added it all to the debt and increased deficits.

I happen to think the Senator's presentation about the danger of the deficits is very real. I agree with that. But in order to reduce these deficits—this is not rocket science—if we are going to send young men and women to Afghanistan to risk their lives, if they are going to get up this morning and put on body armor because they are going to face real live bullets, pay for every bit of it. Pay for it. Let's ask the American people to sacrifice, not just the soldiers. We are going to cut spending? Then let's really cut spending.

I offered an amendment on the floor and lost it. I said: Let's cut TV Marti. I couldn't get it passed. TV Marti broadcasts signals into Cuba, spends

\$¼ billion broadcasting television signals into Cuba that the Cuban people can't see. From 3 in the morning until 7 in the morning, we spend taxpayers' dollars broadcasting television signals into Cuba that Cuba blocks and the Cuban people can't see. We spent \$¼ billion, and we can't cut the spending? I don't understand that at all.

The prescription drug amendment I offered on the floor of the Senate would have saved the Federal Government \$20 billion in spending, and I lost it.

If we are going to cut the deficit, we have to cut real things. When those things come to the floor and we have an opportunity to really cut spending, let's do that.

By the way, it is not just spending. We need to work on spending, and I have offered amendments to cut spending, but it is also the revenues. I hope the Senator would agree with me that when the richest—well, let me rephrase that. When the person in America in 2008 who made the highest income—\$3.6 billion running a hedge fund—when that person pays the lowest income tax rate, would the Senator agree with me that perhaps we ought to increase that rate?

This person comes home, and his spouse says: Honey, how are we doing? He says: Well, pretty good—\$3.6 billion.

That is \$300 million a month; that is \$10 million a day. Honey, how are we doing?

Well, pretty good. I made \$10 million. But guess what. I get to pay the lowest income tax rate in the country because I declare it as carried interest.

Do we want to plug that loophole and ask that person to pay the same income tax rate that the people who get up and go to work and then have to shower after work because they have dirt under their fingernails have to pay?

How about making those changes? I am for all of those things. I want to work with the Senator from Alabama and every other Senator who wants to do all of these things.

What happened at the start of this past decade is, somebody put sand in the gas tank and the car will not run and we are up in the engine department trying to figure out how the carburetor works.

This is not difficult. You are going to go to war, pay for it. You are going to cut spending, then take a look at the most egregious abuses and pay for those by cutting the spending.

Take a look at the history on this floor. We have been through a long, tortured decade of what I consider irresponsible fiscal policy.

I understand it is not the case where one side is all to blame and the other side not. I understand all that. But I also understand this: I was on this floor saying: Let's pay for the cost of war. I did 20 hearings on the most egregious waste, fraud, and abuse in this country by contractors doing work in Iraq and Afghanistan. I spoke dozens of times on



this floor on those issues and could not get much support: cutting spending for contractors who were abusing the American people by sending contaminated water—more contaminated than raw water from the Euphrates River—to the military bases in Iraq for the soldiers to use and getting paid for it; getting paid bonuses to do electrical work at the military camps in Iraq and Afghanistan that was so shoddy—done by third country nationals hired by our contractors—such shoddy electrical work that Mr. Maset, a Green Beret, goes in to take a shower and he is electrocuted, killed in a shower. We paid bonuses to that contractor for that work. It is unbelievable to me.

We have a lot to answer for—all of us do. Every single Member on the floor of this Senate has a lot to answer for. But we can work together on spending and asking those who are not paying their fair share of taxes—by the way, the President, when he gave his State of the Union Address in the House Chamber, said something I have had a vote on four times on the floor of the Senate and lost all four times. The President said: Let's shut down the tax break that gives tax breaks to companies that shut down their American manufacturing plants, fire their workers, and move to China or some other foreign country. Do you know we do that?

We have tried to shut that down. We give a tax break. If you lock up your manufacturing plant, shut the plant, fire every single worker, and move your manufacturing to China, we give you a big, fat tax break for doing it.

That is unbelievably ignorant. The President said in his State of the Union Address: Shut that down. I have been trying to shut that down for many years and have been unable to do it. It is not as if there are not candidates for some common sense and some sanity in fiscal policy to bring us back into some balance.

We need a revenue base that is a reasonable revenue base. We took a lot of that away about 9 years ago with a vote that I did not cast. Then we need to tighten our belt on spending and get rid of the things that do not work.

I know I have gone far afield, and the Senator from Alabama—I have not heard him gritting his teeth, but he probably is.

My point is this: He raises an important subject—an unsustainable fiscal policy. This President inherited an economic wreck; there is no question about that. We are trying to get out of this. But you cannot look out 5 and 10 years and see what we see without understanding this is unsustainable and all of us have to work together to fix it—all of us. I am committed to doing that.

I say to the Senator from Alabama, I hope he will find another vehicle in the next few days on which to offer this amendment because Senator ROCKEFELLER and I have put together this FAA reauthorization bill along with Senator HUTCHISON. We have worked

very hard after so many years to finally get it to the floor of the Senate. We want to get this bill passed. Air safety, modernization—all of it—depends on us getting this legislation through the Senate soon.

I thank the Senator from Alabama for staying and listening. I expect he will retort or respond. Again, these are all important issues, but we must get this FAA reauthorization bill done.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator DORGAN for his comments and the frustrations we all share. He comes at it from one party's perspective, and I have my party's perspective. We can argue these issues for a lot of time.

I have gotten to the point—and I think Senator McCASKILL and a lot of Members of the body have as well—that we need to do something that might actually work. I say to Senator DORGAN, the reason I believe we should go forward on this amendment is because the first time we had an amendment with 56 votes and bipartisan support. Then the last time it was 59. We made some more changes to primarily assuage concerns of my Democratic colleagues that Senator McCASKILL still believes could put us in a position to pass this legislation. It will make some difference.

I was at a townhall meeting. The questioner criticized me for something. I said: I wrote a letter about that to the Cabinet person and complained. He sat there and looked at me.

He said: You wrote a letter. Thank you a lot.

I didn't have much to say.

At some point we have to do something. I have made speeches. Senator DORGAN, one of the most eloquent—Members of this body, has made speeches. But we are not doing anything. Deficits are surging beyond limits. We have a possibility of passage here and that is why I think we should go forward. We have the possibility of reaching this agreement that for 3 years will place in statutory form the budget my Democratic colleagues passed, which is higher than what President Obama is saying we should spend. We could at least have that as a firewall. It would be difficult to go above those amounts, but it would not eliminate or make it even any harder to pass an emergency bill because we amended our amendment to change that part we previously had in there that would have made it harder to declare something an emergency.

One thing I would like to share with my colleagues—I see Senator DORGAN is gone—about the allegations, which are not all wrong, that President Bush and Mr. Greenspan were insignificantly concerned about deficit spending after we had a series of surpluses.

But first, let me go back. One of the great political efforts in this Congress—and it has had some success and partisan success—is to give President

Clinton credit for the balanced budget. Not a dime can be spent by any President that is not appropriated by the U.S. Congress.

Republicans took over the Congress in 1994 and shut down the government in a dispute with the President over how much money he ought to be spending. It caused a big controversy. But they fought and fought against spending. People were sleeping in their offices. But the budget got balanced for several years.

After 9/11, we slipped into a recession. We were in a war. As a matter of fact I heard Mr. Greenspan, in effect, say he believed the country could take on more debt. Senator ROCKEFELLER probably remembers essentially that. He serves on many of these committees.

He said: I think we can take on more debt.

What Mr. Greenspan and, I think, Mr. Bush did not realize was that once you start taking on more debt, it gets harder and harder to stop. We started a trend of taking on more debt as if it did not matter. Some people even said deficits don't matter. Some Republicans said deficits don't matter; we can handle it.

We got into a bad habit. Both parties got into that habit, and it is roaring away today with spending levels the likes of which we have never seen.

We passed a budget that I think has reality in it. I think if we hold to that budget, we might surprise ourselves how much progress we can make. These kinds of statutory caps were part of the success in the nineties.

I ask forgiveness of my colleagues for trying to pursue a vote on this amendment. I say to my colleagues, if we get the 60 votes I think it will be an indication that it would not in any way burden the FAA bill. In fact, it might be attractive to some Members of this Senate to vote for the bill if this cap was in it—Members who might not otherwise vote for it. I don't think it would damage the prospects of the bill's passage. This amendment is building up with increased votes each time. We are near to success. I think it would be a great bipartisan statement of commitment to financial responsibility, and I think it is important to go forward.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise in support of the FAA reauthorization bill that has been put forward by Senator ROCKEFELLER and Senator HUTCHISON. Both have worked hard on this legislation. I have worked on this legislation for a number of years as well.

My general aviation industry is centered in Wichita KS. It has had a lot of difficulty lately with markets and the recession and problems overall, and it needs a bit of good news. This would be a bit of good news, having FAA reauthorization. This is an industry that is roughly \$150 billion in size. It is located

primarily in the United States. It has created over 1.3 million jobs. It is key. It goes across a broad array of disciplines. It is a high-tech manufacturing business that we are very good at. This is something we need to have.

Implementation of the NextGen technology for navigation and travel across the United States is in the bill. Also in the bill is maintaining inspection procedures that are important for the safety of aircraft, increased funding for essential air service for a State such as mine that has a need for essential air service in places where it is tough to get in and out of and the population pool is not large. It needs that to move forward. It expands passenger rights and provides increased Federal support for small airports.

I think it also important that this legislation does not include language imposing disproportionate and onerous user fees on the general aviation industry. This is something Senator ROBERTS and I have been concerned about for some period of time, that the general aviation industry would get stuck with a disproportionate share of the funding for the overall FAA infrastructure. That is not in the bill. If it comes back to this body from the House with that in the bill, it is going to be something I am going to fight strongly against.

The bill is a good bipartisan bill. It has been worked out. It certainly is not perfect. No bill is. It is something that has been worked out over a period of time, over a series of years, over a lot of interests. It is the way we ought to legislate and move forward.

I say as a cautionary tale again to my colleagues that if the bill comes back with provisions from the House that are problems for this body, it is going to stop the bill and it then is not going to happen.

My urgings to my colleagues here and in the House would be, let's keep with the primary design of what this bill has and not try to load it with other things that might be special projects for individuals who are going to kill the bill. I have concerns on any side, whether it is on my side or the other side, of provisions being added that would kill this bill that has been a hard fought, long legislative process for us to move forward. It is a bipartisan piece of legislation. It will create jobs. It will spur further development in our Nation's aviation sector, a sector that needs some help and support now. This bill does that.

I can see a lot of ways this bill could get damaged and hurt along the way. I am not opposed to putting amendments in that make sense and that can continue to move the bill on through the legislative process. I am opposed to those amendments that would kill it and that would substantially harm it when this is something that has been worked on a long time through several committees to get it moving forward.

For those reasons, I support it. I support it as it is. I think we ought to

move forward with it and move forward with it with some speed to help this critical industry in our country, to support safety in flying in this country, to support this legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to say a few words about the aviation trust fund reauthorization. I support the bill, and I strongly urge my colleagues to support it as well.

In addition to discussing the bill's specifics, however, I would like to give some perspective about our current aviation system. Our current system relies on the use of radio detection and ranging—more commonly known as radar. Radar was once a tremendous leap forward; that is, it was a tremendous leap forward right before World War II. Let me take a couple moments to retrace the history of air traffic control, starting before radar.

Before radar, pilots followed prominent landmarks, such as rivers or railway lines, to navigate their routes. Naturally, bad weather and darkness made flying especially hazardous. In the 1920s, commercial night flights relied on something called the transcontinental lighted airway. That is an impressive-sounding name. What was it? It was just a series of bonfires. Local farmers maintained those bonfires across many parts of America. More developed areas could use gas-fueled beacons.

In 1922, the first civil aviation midair collision happened in France. That collision created awareness of the need for some sort of air traffic control. I use the word "control" loosely. It took more than another 10 years before this country's air traffic control center opened up in Newark, NJ, in 1935. The following year, additional centers went up in Chicago and Cleveland. Elsewhere, the system still consisted of flagmen standing on the airfield, waving flags to communicate with pilots.

But all that changed with the establishment of radar shortly before World War II. During the war, radar gave the British an extraordinarily positive tool—a defensive tool—for repelling Luftwaffe attacks. Soon, the Allied Powers were using it for offensive purposes.

Radar provided air cover at Anzio and Normandy. It enabled air raids deep into Germany, despite overcast skies, and it helped us disrupt Axis Power shipping routes and attack the Japanese Navy. We spent more during the war on radar than on the atomic bomb.

No less an authority than German Grand Admiral Doenitz, when captured at the end of the war, said this:

We fell behind technically. We were unable to build shortwave RADAR to compete with Anglo-American improved radio location equipment.

Following the war, radar was adapted for civil aviation. Ultimately, it spawned the tremendous rise of the

commercial air travel industry. Incidentally, this led Congress to properly fund aviation. In 1970, we established the airport and airways trust fund—commonly referred to as the aviation trust fund—and that is what we seek to reauthorize today.

The aviation trust fund built on the success of the highway trust fund. The idea behind the aviation trust fund was for the system's users to pay for its upkeep. Generally speaking, the aviation trust fund has managed to do that, to finance the needs of the air-traveling public.

The aviation trust fund receives about \$12 billion a year in user-based taxes. Much of this funding goes into the Airport Improvement Program. The airports in my State of Montana rely heavily on it. The Department of Transportation has estimated that every billion dollars spent in Airport Improvement Program funding creates or sustains more than 20,000 jobs throughout the U.S. economy.

But now we need to do more. Our system needs modernization. We need to improve safety and efficiency. We need to enable direct routes, rather than flying along zigzag flight corridors, as we have since the transcontinental lighted airway, and we need to keep up with air traffic growth. Look at how bogged down our New York-New Jersey airspace already is.

We need Continuous Descent Arrival to reduce the amount of fuel that aircraft burn. This reduces both cost and air emissions. During a recent test in Atlanta, Delta Airlines saved as many as 60 gallons of fuel and cut carbon emissions by up to 1,250 pounds for every flight.

The Senate bill would fund the aviation trust fund for a little more than 3 years. Importantly, the bill would provide needed funds for the establishment of NextGen. NextGen is the Federal Aviation Administration's plan to use satellite-based technology in order to modernize the Nation's air traffic system. We need to invest in it now. Our 2010 trust fund, established in the early 1970s, is still funding radar. That is a technology that predates the Second World War. Some radar beacons are still located on the same sites as those early bonfire beacons.

NextGen, however, will enable planes to use global positioning systems to continuously transmit location, speed, and altitude to other planes, pilots, and controllers within 150 miles. That will improve efficiency and safety. This is a sea change. A number of other countries have already invested in satellite tracking technology. The United States is behind the curve, and we can change that with the passage of this bill.

How do we pay for NextGen? The Finance Committee proposes the following:

First, we set the tax for general aviation jet fuel at 36 cents a gallon. That is up from the current 21.9 cents a gallon. The general aviation community agreed to this proposal.

Second, we treat fractional aircraft; that is, partially owned planes; as general aviation rather than commercial carriers. Owners of fractional aircraft believe this change will preserve their ability to fly and land in Europe.

All told, we raise nearly an additional \$180 million to get NextGen started. More will be needed, especially given the rapid state of technological change. I know that both the Finance Committee and the Commerce Committee plan to monitor NextGen's implementation.

We will have a pretty good debate this week. I look forward to it. But first I wish to thank my colleagues, especially Senator ROCKEFELLER, for his willingness to seek common ground. We have worked together on this for a long time—actually, for several years. In fact, we had an agreement a couple years ago, but due to an extraneous event, it was unable to be realized.

Senator ROCKEFELLER has written a very strong FAA reauthorization. I especially appreciate his continued support for the Essential Air Service Program, a program that matters a great deal to my constituents in eastern Montana.

So let us adopt NextGen to improve safety and improve efficiency. Let us reauthorize the aviation trust fund. It is time to bring American air travel into the 21st century.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. (Mr. FRANKEN). Without objection, it is so ordered.

AMENDMENT NO. 3456 TO AMENDMENT NO. 3452

(Purpose: To reauthorize the DC Opportunity Scholarship Program, and for other purposes)

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to call up amendment 3456.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Ms. COLLINS, Mrs. FEINSTEIN, Mr. BYRD, Mr. ENSIGN, and Mr. VOINOVICH, proposes an amendment numbered 3456 to amendment No. 3452.

Mr. LIEBERMAN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. LIEBERMAN. Mr. President, I introduced this amendment with a bipartisan group of cosponsors, Senators COLLINS of Maine, BYRD of West Virginia, FEINSTEIN of California, VOINOVICH of Ohio, and ENSIGN of Nevada.

Its purpose is to reauthorize—in fact, to save—the Opportunity Scholarship Program or OSP for students here in the District of Columbia.

We are introducing our amendment to this legislation, and I use the word "save" because without prompt action by Congress, there is a reasonable probability that the OS Program, the scholarship program, will not just be limited to the number of students who are in it now—and, in fact, there have not been any new students admitted in the last 2 years—but it will be doomed.

As I explained here on the floor of the Senate yesterday, the current administrator has advised Secretary Duncan that it will no longer—the administrator being a corporation, an entity—that it will no longer administer the program without a reauthorization.

No other entity has yet expressed a willingness to take over, given the constraints imposed by Congress. So despite President Obama's intent, stated in his budget message to continue this program, admittedly only for those 1,300-plus students currently participating in it, it appears that even that will become impossible.

I think that would be a tragic result. This program has given a lifeline for students in failing schools in the District of Columbia, a scholarship to go to private or faith-based schools where, by all accounts, they are receiving a much better education and being given the talents with which they can make something much greater of their lives.

We first offered our amendment to the American Workers, State, and Business Relief Act, which was passed earlier today. I was proud to support that measure. It is good for the economy, good for people hurting in our economy, good for businesses hurting in the economy. Unfortunately, we were not able to get a vote on this amendment on that bill. As promised, we are here today again in another attempt to get a vote in the Senate on this issue. It is time sensitive. It is urgent. The life of this program hangs in the balance and, in a very real way, the future of these 1,300-plus children in the District who are benefiting from the program.

The truth is, the FAA reauthorization bill has been referred to as a jobs initiative. I believe it is. What is more important to getting a good job than getting a good education? That is what this bill is all about.

Achievement gaps in our schools, including our schools in the District of Columbia, have a profound impact on the quality of our workforce and on the future of our economy and, in a classically, characteristically American sense, focusing on the individual children who, by twists of fate, have ended up in schools that are not adequately preparing them. I will have more to say about this, but these are schools I am not just personally judging to be failing schools but, under characteristics, standards created by the Federal Government under the No Child Left Be-

hind Act, are designated as failing schools. The OSP provides these low-income students in the District with a chance at a better education.

Dollar for dollar, this program accomplishes this goal at a very low cost. Personally, how did I get involved in this? Of course like all of us, I have an interest in education. I have an interest in overcoming the achievement gaps in American schools that are so profoundly related to income and to race. More particularly, I have followed the status of this program in the District of Columbia for several years in my capacity as a ranking member and now chair of the Homeland Security and Governmental Affairs Committee because of the committee's traditional jurisdiction in its governmental affairs aspect over and regarding the District of Columbia, our Nation's Capital.

Last year our committee held a hearing on the Opportunity Scholarship Program and heard testimony from students in the program and their parents. It was evident from their testimony that this program has served as a lifeline to many students who otherwise would have been assigned to schools in which they would not have received a good education, as designated by No Child Left Behind.

One parent whose annual income is only \$12,200 testified that she had sought an opportunity scholarship, a voucher for her 8-year-old son after her 17-year-old nephew was shot and killed at the Ballou High School. Her son since has thrived in the Opportunity Scholarship Program, loves his school and his teachers, is part of the reading and debate club, and now wants to be a doctor. His hopes have been fortified and elevated, and his achievement has been remarkably improved. This mother believes that none of this would have happened had her son been forced to stay in the school he was in in the DC Public School System.

Another young man, Ronald Holassie, started in the Opportunity Scholarship Program in sixth grade. He is now a high school student. He told the committee the DC Opportunity Scholarship Program "has changed my life."

Then he said:

No one should take away my future and dreams of becoming a successful young man. No one should take that away from me and the other 1,700 children in this program.

Now, because of the failure of Congress to support the program over the last couple of years or fill the spots opened by graduation, it is down to 1,300 children. Ronald Holassie became the deputy youth mayor for legislative affairs of the District of Columbia and is now applying to college. What he said was right. This program provides a quality education to economically disadvantaged students at half the per-pupil cost of educating students in the Public Schools.

Our committee also heard from Tiffany Dunston. She told us:

Receiving a scholarship was a blessing for my family and put me on the path to success. I grew up in a neighborhood with a lot of poverty and crime. And there were such low expectations for kids in my neighborhood schools. I would watch kids hanging out in the streets and not going to school. . . . My motivation to get the best education possible was my cousin James who was shot and killed at 17. I am always thinking of what he could have done. . . . With the help of a scholarship my dream [has been] realized.

Those are very moving testimonies, personal anecdotes, affirmations of the worth of the program. But has there been an independent professional evaluation of the program? Yes, there has.

Required by Congress, the person chosen to carry out that program is a man named Patrick Wolf, Dr. Patrick Wolf, the principal investigator of the valuation conducted by the U.S. Department of Education's Institute of Education Sciences. This is a report required by Congress, carried out by an institute under the U.S. Department of Education.

Dr. Patrick Wolf testified that the Opportunity Scholarship Program has had a statistically significant, positive effect on the test scores of students in reading in this program.

I know some of the critics of the program, some of the opponents have downplayed these results. However, the fact is, as I have learned, most education innovation programs actually fail to show any significant gains, certainly in the first few years.

Dr. Wolf has said when compared to all other similarly studied education innovations throughout our country—not talking about the the District of Columbia—"the reading impact of the DC voucher program is the largest achievement impact yet reported."

He went on, the principal independent investigator, to say:

The DC voucher program has proven to be the most effective education policy evaluated by the federal government's official research arm so far.

So why stop it? Why terminate it? Certainly not based on this independent evaluation, certainly not based on the testimony our committee and others have heard from the parents and students involved. The reasons I leave to others, but I fear it is because of the opposition of teachers groups and others who don't want this kind of competition.

In sum, Dr. Wolf's study used the gold standard of research methodology and found that the Opportunity Scholarship Program is getting very impressive results. Those who oppose OSP argue in part that vouchers take away funds from the public schools in the District. This is simply false. When it was adopted in Congress, to overcome the argument that it would take money away from the public schools, this program did exactly the opposite. We reached an agreement to get the votes to pass the program that whatever amount of money was given for the OPS, the so-called voucher pro-

gram in the District of Columbia, exactly that amount of money would be added, not subtracted, to the public school budget of the District of Columbia. They otherwise would not have received that money for the public schools.

Incidentally, a similar amount was appropriated for charter schools in Washington. Why? Because there is no one answer at this moment to the challenge to give every child endowed by our Creator, as the Declaration of Independence says, with an equal right to life, liberty, and the pursuit of happiness which, in our time, is very much equated with the right to an equal education. The fact is, previous Congresses have been prepared to support all three of these ways because they were focused not on a single method of educating our children but on benefiting each and every one of our children.

I know some say these scholarships are not the solution to the problems that beset the DC Public Schools. I agree. They are not the sole solution. But they can and should be part of the solution, certainly, while the reform efforts of the chancellor, Michelle Rhee, are going forward and until they reach a turning point, a tipping point where the schools really have been broadly improved.

I strongly support Chancellor Rhee's efforts to reform and improve the public schools in the District. I strongly support efforts across the Nation to improve our public schools. That is always where we will educate most of our children. That is always where we should put the greatest emphasis.

Chancellor Rhee, with the backing of Mayor Fenty, has moved aggressively to turn around failing schools in the District. She is getting results. She certainly has my full backing when it comes to the reforms she is working to implement. But Chancellor Rhee has said something so honest, so compassionate, so fair, so focused on the well-being of the children in Washington, DC, that, to me, it should end any argument against the amendment we are proposing.

She has said herself, Chancellor Rhee, that the reform effort in the DC Public Schools is making progress but it is not going to happen overnight. As one of the students I just quoted said before our committee, the DC Public Schools did not get to the troubles they are in overnight, and they are not going to get out of the troubles they are in overnight.

But Chancellor Rhee said this is a multiyear process. In the meantime, many District schools are failing our most economically challenged children. For this reason, Chancellor Rhee, Michelle Rhee, the head of the public schools in the District, has said the OSP should continue. I ask my colleagues, why wouldn't we want to use every means at our disposal to provide the best education possible to all children here in Washington, DC?

Chancellor Rhee has been very explicit about this. She said that it may

take 5 years to turn around many of the schools that are failing—officially failing—to give a decent education to the students in the District of Columbia. She said, in a very personal and moving way, until she could say to parents of children who are in schools now designated as failing that they were no longer failing and the parents could be confident that their children would receive a good education in those schools, she would support the Opportunity Scholarship Program 5 years. Based on that assessment, our amendment reauthorizes the OSP for 5 years.

Our amendment also continues to ask for a rigorous evaluation of the merits of the program. At the end of the 5 years, we will have better information on both the effectiveness of this scholarship voucher model and the reform effort in the DC Public Schools. I want to suggest to my colleagues, at the end of this 5-year period, we can determine whether we want to continue to provide Federal support for these opportunity scholarship, school choice programs based on conditions at that time.

Our reauthorization proposal includes a number of improvements and enhancements to the program, including many sought by my friend and colleague, Senator DURBIN, the chairman of the Appropriations subcommittee that has in previous years funded the Opportunity Scholarship Program. Specifically, we require that all schools in the program have certificates of occupancy, that core subject matter teachers have appropriate credentials and schools meet the accrediting standards of the DC Public Schools; that regular site inspections be conducted; and that participating students take the same test as students in District of Columbia Public Schools.

There are currently 1,319 students benefiting from opportunity scholarships in the District of Columbia. I repeat that no students have been allowed in for the last 2 years because of congressional inaction. At its peak, 1,930 students were enrolled in the 2007 to 2008 school year. Because no new students can enroll, enrollment declined to 1,721 last year and then 1,319 this year. Last year, 216 students who were offered a scholarship had the offer revoked by the Secretary of Education of the United States because of failure to support the program.

I want to repeat, over 85 percent of students in this program would otherwise be attending a school in need of improvement, corrective action, or restructuring—in other words, a failing school designated under the No Child Left Behind Act.

In closing, I would say this: 1,319 is the number of students benefiting from the Opportunity Scholarship Program. If we do not reauthorize it, at this point there is no one to run the program and it probably will simply die. Those are 1,319 reasons to save this program and offer hope and opportunity to these young boys and girls in this city

who want as much as any child in this country to live a life of success and self-sufficiency and deserve that right as much as any other child in the country.

So I ask my colleagues to consider what we would want for our own children. All of us have the resources to essentially exercise school choice, and that is precisely what many of us do because we want the best for our children. But there are many parents around America—in this case, particularly, who live in our Nation's Capital, the place where we work—who have much more limited resources and also want the best for their children. They want to make a choice, which the Opportunity Scholarship Program allows them to make. So I appeal to my colleagues to take up this amendment. Let's have a vote on it, and let's act favorably on it to preserve this lifeline for a gifted and hopeful group of children in our Nation's Capital.

I thank the Chair and yield the floor. The PRESIDING OFFICER (Mr. BEGICH). The Senator from West Virginia.

#### MORNING BUSINESS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Maine.

Ms. SNOWE. Mr. President, I ask unanimous consent for 10 additional minutes in morning business.

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

Ms. SNOWE. Thank you, Mr. President.

(The remarks of Ms. SNOWE pertaining to the introduction of S. 3103 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from North Dakota.

#### TAX LOOPHOLES

Mr. DORGAN. Mr. President, earlier today we passed some legislation in the Senate that is important and will create jobs in our country, and I filed an amendment that was not considered. I know that was the case with many amendments on the bill. One of the amendments I filed that was never considered, unfortunately, and I hope will be considered in the future deals with the recommendation the President made during his State of the Union Address.

In the State of the Union Address, the President spoke about jobs and said one of the things we ought to do to try to preserve and keep and create jobs in our country is to shut down or eliminate the tax loophole that rewards companies for moving jobs overseas. The President specifically asked in his

State of the Union Address for the Congress to eliminate that tax loophole. I have tried to eliminate that loophole I think on four different occasions on the floor of the Senate. We have had four votes. On each occasion, I have failed.

One might ask, well, how on Earth can you fail on an amendment such as that? Well, there are a lot of big companies and groups in this town—the Chamber of Commerce is an example—that like that loophole and want it retained, and they fight very hard to keep the loophole.

Here is what we have. We actually do have a circumstance where if you are on one side of a street corner and you have a competitor on the other side of the street making the identical product you do, earning the identical income you earn, and you decide you are going to move your plant to China, fire your workers, put a padlock on the front door of your manufacturing plant and move to China, the only difference between you and the person across the street that you used to compete with and still do is that you now have lower labor costs but you also have a tax break given to you by the Federal Government. It is astounding that exists, but regrettably it does. The President's call to eliminate the tax break is very important, and we ought to heed that call.

I filed an amendment on the last bill, the one that passed today. I did not get a vote on it. I intend to file it again on other pieces of legislation because this Congress, at a time when so many millions of people get up in the morning and put on their clothes and go out looking for work and cannot find work, this Congress has a responsibility to deal with this issue.

Think of this issue of trying to find jobs that are necessary to put 17 million people back to work as trying to fill a bathtub. We are working on a faucet to incentivize and create new jobs, but the drain is wide open, the drain of existing jobs going overseas; in fact, going overseas in search of cheap labor because this country actually rewards you if you move your jobs overseas.

This is Hershey's chocolate. Many people have eaten York Peppermint Patties. York Peppermint Patties were made in a Pennsylvania plant but no longer. It is now Mexican food.

This is a newly built plant in Monterrey, Mexico, now making York Peppermint Patties. On its Web site, Hershey's says:

That cool refreshing taste of mint, dipped in dark chocolate will take you miles away.

Apparently meaning even Mexico. So an American brand goes south. That is not terribly unusual.

Hallmark Cards: "When you care enough to send the very best." It is a privately held Kansas City company. It has been around 100 years. It was founded by a high school dropout who started the company in 1910 with a shoe box of postcards he sold while living out of a YMCA. It is an unbelievable

success story, Hallmark Cards. The company became far and away the most successful greeting card company in America, with a reputation of treating its workers fairly—a very good company.

But under current management, with annual revenues over \$4 billion, they started to move jobs from Kansas City to three plants in China. It moved thousands of jobs overseas, though it is not required to disclose the specific numbers.

What kind of a card do you send to a Hallmark worker whose job is now in China? The very best? We have a right in this country to be concerned about that.

I have talked at length about Radio Flyer, the little red wagon, gone from Illinois to China; Huffy bicycle gone from Ohio to China. I spoke about those at length. But there are new ones as well.

Whirlpool. At a time when we are losing so many jobs because of the deep recession, Whirlpool announced last year it was shutting down a 1,100-worker factory in Evansville, IN, and moving the work to a factory in Mexico. Whirlpool made this decision even though the company accepted a \$19.3 million grant by the U.S. Department of Energy as part of the Recovery Act to develop "smart appliances."

By the way, this is a picture of a Whirlpool worker walking out of his place of employment, the last walk on the last day. One can wonder what was going through his mind as he understood he was going to have to tell his family he is now out of work. His job still exists, but it exists in a foreign country.

This is Natalie. Natalie worked for Whirlpool. She is 42 years old. She worked at the Whirlpool appliance plant in Evansville for 19 years and in November of last year was told her job is moving to Mexico; \$17 an hour was too much to pay, and you can get cheaper labor elsewhere. She described that plant closing "like a punch in the gut." You can imagine what it is like.

I am told local workers and local officials did everything they could to try to keep that Whirlpool plant in Evansville, IN, but they were unsuccessful.

We do see a lot of people wearing football jerseys. This is a Reebok Peyton Manning jersey. My guess is they sell a lot of those things. There is not a better quarterback in professional football. He is quite an extraordinary football player.

Reebok makes this jersey. This jersey is made in El Salvador by a Chinese-owned company. This jersey is sold for \$80 in the United States and workers are paid 10 cents for the work they do in El Salvador to make it.

Let me say that again. The workers get 10 cents, one thin dime, and the customers pay \$80 for the Peyton Manning Reebok football jersey.

Here is a photograph that shows the conditions of a sweatshop in El Salvador owned by the Chinese. According