



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156

WASHINGTON, FRIDAY, JULY 30, 2010

No. 114

Senate

The Senate met at 10 a.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

O God, who gives life to the world, who breathed Your spirit into humanity, infuse the Members of this body with the spirit of Your wisdom. May this wisdom lead them to serve others with an awareness of their accountability to You. Help them to make it their primary goal to please You, using their talents for the good of others.

Lord, be with those Senators who are experiencing ill health. Enable them to feel Your healing touch. May Your goodness and mercy follow us all the days of our lives.

We pray in Your righteous Name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 30, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

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

RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will proceed to a period of morning business. Senators will be permitted to speak for up to 10 minutes each.

There will be no rollcall votes during today's session. The next vote will occur Monday evening.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

Mr. REID. Mr. President, I note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

AIRLINE SAFETY AND FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2010

Mr. DORGAN. Mr. President, soon I am going to ask unanimous consent that the Senate proceed to the consideration of H.R. 5900. First, I want to make a couple of comments.

H.R. 5900 is a piece of legislation sent to us by the House of Representatives that will extend for 2 months the FAA reauthorization act. I regret that we have another extension. It is extension after extension after extension. It is so symbolic of the way this place works these days.

The reason there is an urgency to get the FAA reauthorization act done is that it includes so many significant issues that deal with the safety of the air traveling public, with the airport improvement funds, with substantial investments in air traffic control modernization—a wide range of issues that are very important. Despite the fact that everybody understands the urgency, the FAA reauthorization bill is stuck in the morass of difficulties that now afflict the Senate and House these days. It is very difficult to get anything done.

The question will be, Will we now—extending this for 2 more months—at the end of this year adjourn sine die once again without having approved an FAA reauthorization bill?

The Europeans are moving very aggressively on air traffic control modernization. I have met with Europeans on these issues. We should be doing the same, and yet it is held hostage by not passing an FAA reauthorization bill.

The issue of safety is another very important issue. I have held hearing after hearing on the issue of safety. The question is, Do we have one standard of safety on airplanes these days as between major carriers and regional carriers? When you step onto an airplane that is 32-passenger or 50-passenger—a regional carrier—do you have the same level of safety as is applied with respect to the crew, the training, and all the other issues as exists with the major carriers? The law requires that; FAA requires that.

Does it exist? Well, we explored in great detail the crash of Colgan Air. We saw, with respect to Colgan Air, one flight on one night—one tragic

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



Printed on recycled paper.

S6541

night—where 45 passengers got on a Bombardier Dash 8 at La Guardia to fly to Buffalo, NY. Flying through the ice that evening, they had their wings iced up and they went into a dive and crashed, killing all of the passengers on board—a flight attendant, two pilots, and one person on the ground as well.

When we dissected what happened that evening, it was unbelievable. It may be that this is one circumstance that has occurred only in that situation—I doubt it. Neither pilot had slept in a bed the night before. One traveled across the United States from Seattle, WA, to Newark, just to reach her duty station to go to work. Think of that, traveling all night because it is your commute to your job, from Seattle to Newark, and then getting in an airplane and flying. That was the copilot who flew the right seat—a person who, a report said, was paid \$20,000 or \$22,000 a year and had to have a second job to make ends meet, and who previously lived with her parents because of the low salaries paid to pilots on commuter airlines.

The pilot in the left seat had not slept the night before either. Evidence was that he was only in the crew lounge where there are no beds. He commuted from Florida, I believe—one of the Florida cities—to Newark to his work station.

It is also the case that, as we looked at the transcript of the cockpit recording, we found all kinds of very difficult circumstances that existed—a discussion by the copilot that she had very little training flying in icing. This is someone in a cockpit flying a commercial airline saying: I have had very little experience flying in icing. We took a look at the records of the pilot and discovered that the pilot had failed, on multiple occasions, some key exams, and sufficient so that had the airline known, they said: “We would not have hired that pilot had we known of those failures.” Except the pilot’s records were not transparent to the airlines. And the list goes on. It is about the training regime, stick shakers, stick pushers in the cockpit dealing with the circumstances that evening.

The question is: Was this an isolated incident or have we learned something that ought to be very concerning to all of us about safety in the skies? We included a number of recommendations in the FAA reauthorization bill dealing with safety. Some of those recommendations have been sent to us by the House of Representatives today in the 2-month extension. We will go ahead and adopt those and they will become law.

It does not represent all of the safety issues we have included in the Senate FAA reauthorization bill. It represents significant and important safety recommendations. It deals with FAA pilot records database and access to that database, the number of hours that are required for a pilot getting in a cockpit—1,500 hours as opposed to the 250 hours. The 1,500 represents what is re-

quired by the ATP, and that standard is applied in the House bill and also in the discussions we have had leading up to this point with the House negotiators.

We include issues such as the pilot training issues, safety inspectors, flight crew member mentoring, development, and leadership—a range of things that are very important.

The FAA is also involved separately on issues dealing with fatigue. They are not at this point, I believe, dealing with commuting, but I think commuting is an issue and has to be dealt with.

The point is that the FAA reauthorization bill is not now going to be passed. We will pass a 60-day extension to the end of September. The extension will include the safety provisions I have just described.

I want to mention as well the families of the victims of the Colgan air crash who, in my judgment, need to receive a lot of credit for pushing these issues and making certain that those loved ones they lost in that crash—I guess whose memory they labor in to try to make these kinds of changes and push the Congress to do what is necessary to improve safety. I believe the families have done very substantial work and very important work.

At every hearing I have held on the issue of safety, those family members have been present. They wear on their lapels and on their suit jackets photographs of their loved ones. They are doing that because they want to make sure this does not happen again. My heart goes out to them. I also say thanks to them for doing the kind of work they have done to make sure these issues do not fall by the wayside.

Let me make one final point. We have now from the period of perhaps 3 or 4 weeks in September and then a few weeks in a lameduck session to get the FAA reauthorization bill done, and if it does not get done, then we will have once again failed. I am pretty familiar with that kind of failure. I have watched time and time again.

Without being disrespectful to any of my colleagues, I know there are a number of issues that are of concern and of controversy. They deal with the issue of the perimeter rule at Washington National Airport—DC National—and also the slot provisions at DC National. There are differences of opinion in this Chamber. I believe we must resolve them. Those issues are not that significant. There has been discussion of 16 conversions that would not result in additional flights out of DC National. It is not a case of somebody saying: Let’s have more flights.

I hope that all of those who are involved in this discussion will find a way to reach a compromise. This place does not work without compromise. If we have a dozen people digging in their heels telling us the way to resolve this issue is my way and if you do not like my way, I do not intend to do anything to allow anybody else to get anything, then this place does not work.

Frankly, we are close to not working very well. In the first instance, last evening we had another cloture vote. I know the majority leader felt strongly we probably would have the opportunity to get that vote. It is symbolic, I guess, of this Chamber these days. All year long, we have had votes on motions to proceed on noncontroversial bills—cloture votes that require a cloture motion to be filed and then wait for 2 days and then have a cloture vote on a motion to proceed to a noncontroversial issue. Then in addition to being required to file a cloture motion to shut off debate on something noncontroversial, once we get cloture with an overwhelming number of votes, we have to wait 30 hours to take action. That is not legislating. That is stalling. That is obstruction. We have seen way too much of it in this Chamber.

At any rate, I feel of two minds at the moment. No. 1, I am very disappointed that we have to have another extension. It is over and over again, nothing much changes, extend, extend, extend, rather than do the kind of legislating we should do. We will do this extension to the end of September on the FAA reauthorization bill. It relates to safety in the skies. It relates to jobs. It relates to investment in airport infrastructure in America. It relates to air traffic control modernization—all of those important issues, all of them again put on hold for another couple of months.

That is a profound disappointment, as far as I am concerned. Even as disappointed as I am about that, let me say the safety provisions that we will now proceed to enact, sent to us in the bill by the House of Representatives, are a significant step forward. I am pleased we are going to be able to do at the minimum this amount of work. More will be done even on safety when the Senate bill, if the Senate bill, is ever able to be passed in the Senate and become law.

Having said that, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5900, the Airline Safety and Federal Aviation Administration Extension Act of 2010, received from the House and is now at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5900) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend airport improvement program project grant authority and to improve airline safety, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mrs. MCCASKILL. Mr. President, I rise today to speak on the extension of the Federal Aviation Administration authorization, which includes a number of critical policy reforms that will make our skies safer for millions of Americans and their families.

On the evening of February 12, 2009, Continental flight 3407, operated by Colgan Air, departed from Newark International Airport for Buffalo, NY. The 45 passengers and five crewmembers were just miles from the Buffalo airport when a series of events resulted in the death of all aboard as well as a father on the ground whose home was the unfortunate final resting place of flight 3407.

Over this last year and a half, I have gotten to know many of the families of the victims. They are a constant presence here in Washington, DC, working to improve safety conditions so that others are spared the same loss they have had to endure.

Sitting in my office last spring, as the NTSB began to release information on the crash, I discussed with the families the tremendous value of their advocacy. For decades the system has been slow to change and in the mean time innocent lives have been lost. We discussed the possibility of seizing on this very legislation as a vehicle for change—to bring accountability and transparency to the system—to strengthen the training requirements and push forward to achieving—not just “one level of safety”—but a “higher level of safety.”

As I speak to you today many of those family members are with us here in Washington. It is because of their tireless efforts—their unwavering pursuit for justice—that we are in a position today to take some of the most significant steps in improving the safety of the nation's aviation system in years.

The measures we are considering in this extension are the result of bipartisan efforts in both the Senate and the House yielding a number of provisions that I have worked to advance—and that aim to bring increased oversight and accountability to the system that force the FAA to respond to the growing concerns over crewmember fatigue and commuting—that strengthen the training requirements for our commercial pilots to ensure that those who are trusted with the lives of so many have the critical experience needed to safely operate an aircraft and respond accordingly in the event of an emergency.

I want to recognize my colleagues, Chairman DORGAN and Chairman ROCKEFELLER, who have been working around the clock on trying to bring the FAA reauthorization bill to the floor. We still have work to do, and I look forward to joining them after the summer work period to see the larger legislative package, which is long overdue, sent to President's desk.

It is my sincere hope, that these good people who have suffered such sorrow at the loss of mothers and fathers, sisters and brothers, sons and daughters, husbands, wives that they can return home, their heads held high, knowing that they turned their loss into action, and that their efforts might spare others the same pain that they themselves have endured.

I thank the families for their strength. I thank them for their steadfast advocacy. The American people owe them a debt of gratitude for the work they have done over these many months.

Mr. DORGAN. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating to the measure be printed in the RECORD, without further intervening action or debate.

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

The bill (H.R. 5900) was ordered to a third reading, was read the third time, and passed.

Mr. DORGAN. Mr. President, let me finally say that while I have mixed feelings about having done this—one regret and the other a strong feeling of accomplishment on the safety issues—I intend to come back to the floor in September, and if we have not made progress to resolve the FAA bill—I do not shout very much, but I said yesterday I have had a bellyful of this sort of thing—I am going to come to the floor and act very unlike a Lutheran Norwegian. You can count on that.

THE CALENDAR

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the following postal-naming bills en bloc: Calendar Nos. 489, 490, and 491—S. 3567, H.R. 5278, and H.R. 5395.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that the bills be read a third time and passed en bloc; that the motions to reconsider be laid upon the table en bloc, with no intervening action or debate; and that any statements relating to the bills be printed in the RECORD.

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

NAVY CORPSMAN JEFFREY L. WIENER POST OFFICE BUILDING

The bill (S. 3567) to designate the facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, as the “Navy Corpsman Jeffrey L. Wiener Post Office Building”, was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3567

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

SECTION 1. NAVY CORPSMAN JEFFREY L. WIENER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, shall be known and designated as the “Navy Corpsman Jeffrey L. Wiener Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Navy Corpsman Jeffrey L. Wiener Post Office Building”.

PRESIDENT RONALD W. REAGAN POST OFFICE BUILDING

The bill (H.R. 5278) to designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the “President Ronald W. Reagan Post Office Building,” was ordered to a third reading, read the third time, and passed.

PAULA HAWKINS POST OFFICE BUILDING

The bill (H.R. 5395) to designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the “Paula Hawkins Post Office Building,” was ordered to a third reading, read the third time, and passed.

NATIONAL INFANT MORTALITY AWARENESS MONTH

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 602, submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will read the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 602) expressing support for the goals and ideals of National Infant Mortality Awareness Month 2010.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DORGAN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 602) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 602

Whereas “infant mortality” refers to the death of a baby before the baby's first birthday;

Whereas the United States ranks 29th among industrialized countries in the rate of infant mortality;

Whereas premature birth, low birth weight, and shorter gestation periods account for more than 60 percent of infant deaths in the United States;

Whereas high rates of infant mortality are especially prevalent in communities with large minority populations, high rates of unemployment and poverty, and limited access to safe housing and medical providers;