

an insurance exchange, I think they called it. He was waiting by the phone for this decision to come out yesterday. He was so happy because CNN and FOX announced the case had been overruled. He was so happy. But when he learned it was actually still in effect, he was very sad. Why? He said: We will not be able to pay our salaries as much as we had.

He was paying a lot for salaries for the bosses and not enough money into taking care of people.

The Affordable Care Act is already helping millions of Americans—seniors on Medicare, children with heart conditions, and students following their dreams.

In the coming months, millions more will benefit from this law. That doesn't mean the law is perfect. We all know that. We are willing to work next year, and if there are problems to work out, we are happy to work with our colleagues to do that.

But now the Supreme Court has spoken; it is time to renew our focus on the most pressing challenge facing America: the high unemployment rate we have. Too many Americans are struggling, and Congress cannot afford to waste time refighting old battles. We need to work together to put Americans back to work.

As a side note, these people who talk about repeal, it would cause the loss of 400,000 jobs. If we look at all the job statistics in the past year, some of the most significant growth is taking place in health care. I don't think we want to lose 400,000 jobs right off the bat.

Thanks to cooperation on both sides, I am glad to say the Senate will vote sometime today on the Transportation bill conference report. It is a wonderful piece of legislation that includes student loans and the problems we have had with flood insurance. These things will be completed fairly early today. The Flood Insurance Program being extended will allow millions of home closings to go forward at a time when our real estate market is beginning to rebound. Preventing interest rates from doubling on 7 million students was a major priority for all of us.

Passing the 2-year, 3 months' Transportation bill will create or save 2.8 million American jobs—many of them in the hard-hit construction industry. It will also restore millions of miles of crumbling roadways, railways, and bridges. It is very important. It streamlines the process and gets rid of a lot of the ability for entities to stall the construction of these much needed roads. I had an experience similar to this in Nevada. That is why it was important to Senators BOXER and INHOFE.

This has been a very productive week. It has been a fruitful session that we have had. We have passed a bipartisan farm bill and have taken a hard look at how we are going to make the Postal Service better. The farm bill was very difficult and took a long time to get done.

I am optimistic the Senate will remain in the spirit of cooperation dur-

ing the next work period, when we consider a number of other important job creation measures and other things we need to do.

I hope my colleagues have a constructive week at home. We have a lot of work to do, and I understand that. I hope everybody is safe and happy, and I certainly extend my recognition to the State of Colorado, which has had devastating fires, and the West is having real problems. They have about 200 fires burning as we speak. Eleven of them are major fires. We have to make sure we give the firefighting people the resources to do this. I was happy, within the past month, to be part of a program to advance the purchase of these tankers to fight these fires. We were able to do that.

When we come back to work in 10 days or so, everybody has to understand we have a lot to do to ensure this country's economic future. I look forward to taking up the challenge together.

PILOT'S BILL OF RIGHTS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of S. 1335 and the Senate now proceed to that matter.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1335) to provide rights for pilots, and for other purposes.

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

PILOT'S BILL OF RIGHTS

Mr. ROCKEFELLER. Mr. President, S. 1335, the Pilot's Bill of Rights, takes several steps to protect the rights of pilots, including modifications to the appeals process, and improvements to the Federal Aviation Administration's Notice to Airman System and medical certification process.

Most importantly, it preserves the FAA's authority to take actions to maintain the safety of the air transportation system, and we want to be clear about the Congressional intent regarding one particular section of the bill.

Three provisions of the bill eliminate language in current statute governing the National Transportation Safety Board's (NTSB) adjudication of appeals of FAA orders that deny, amend, modify, suspend, or revoke an airman's certificate. Specifically, language in 49 U.S.C §§ 44703(d)(2), 44709(d)(3), and 44710(d)(1), which expressly binds the NTSB to "all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed . . . unless the Board finds an interpretation to be arbitrary, capricious, or otherwise not according to law."

It is not the intention of the Senate to eliminate the NTSB's practice to ob-

serve the principles of judicial deference to the FAA Administrator when reviewing airmen appeals. The Senate only finds that this language is redundant of what is already provided for under the law and it is not the intent of the Senate to prevent the NTSB from applying the principles of judicial deference in adjudicating Federal Aviation Administration cases.

The purpose of these changes is simply to make the statute consistent with the laws governing all other Federal agencies. Thus, it is the intention of the Senate that the NTSB, in reviewing FAA cases, will apply principles of judicial deference to the interpretations of laws, regulations, and policies that the Administrator carries out in accordance with the Supreme Court's ruling in *Martin v. OSHRC*, 449 U.S. 114 (1991).

Mr. INHOFE. Mr. President, I concur.

Mr. REID. Mr. President, I ask unanimous consent that the Hutchison-Inhofe amendment at the desk be agreed to; that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 2489) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pilot's Bill of Rights".

SEC. 2. FEDERAL AVIATION ADMINISTRATION ENFORCEMENT PROCEEDINGS AND ELIMINATION OF DEFERENCE.

(a) IN GENERAL.—Any proceeding conducted under subpart C, D, or F of part 821 of title 49, Code of Federal Regulations, relating to denial, amendment, modification, suspension, or revocation of an airman certificate, shall be conducted, to the extent practicable, in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

(b) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Except as provided under paragraph (3), the Administrator of the Federal Aviation Administration (referred to in this section as the "Administrator") shall provide timely, written notification to an individual who is the subject of an investigation relating to the approval, denial, suspension, modification, or revocation of an airman certificate under chapter 447 of title 49, United States Code.

(2) INFORMATION REQUIRED.—The notification required under paragraph (1) shall inform the individual—

(A) of the nature of the investigation;

(B) that an oral or written response to a Letter of Investigation from the Administrator is not required;

(C) that no action or adverse inference can be taken against the individual for declining to respond to a Letter of Investigation from the Administrator;

(D) that any response to a Letter of Investigation from the Administrator or to an inquiry made by a representative of the Administrator by the individual may be used as evidence against the individual;

(E) that the releasable portions of the Administrator's investigative report will be available to the individual; and

(F) that the individual is entitled to access or otherwise obtain air traffic data described in paragraph (4).

(3) EXCEPTION.—The Administrator may delay timely notification under paragraph (1) if the Administrator determines that such notification may threaten the integrity of the investigation.

(4) ACCESS TO AIR TRAFFIC DATA.—

(A) FAA AIR TRAFFIC DATA.—The Administrator shall provide an individual described in paragraph (1) with timely access to any air traffic data in the possession of the Federal Aviation Administration that would facilitate the individual's ability to productively participate in a proceeding relating to an investigation described in such paragraph.

(B) AIR TRAFFIC DATA DEFINED.—As used in subparagraph (A), the term "air traffic data" includes—

(i) relevant air traffic communication tapes;

(ii) radar information;

(iii) air traffic controller statements;

(iv) flight data;

(v) investigative reports; and

(vi) any other air traffic or flight data in the Federal Aviation Administration's possession that would facilitate the individual's ability to productively participate in the proceeding.

(C) GOVERNMENT CONTRACTOR AIR TRAFFIC DATA.—

(i) IN GENERAL.—Any individual described in paragraph (1) is entitled to obtain any air traffic data that would facilitate the individual's ability to productively participate in a proceeding relating to an investigation described in such paragraph from a government contractor that provides operational services to the Federal Aviation Administration, including control towers and flight service stations.

(ii) REQUIRED INFORMATION FROM INDIVIDUAL.—The individual may obtain the information described in clause (i) by submitting a request to the Administrator that—

(I) describes the facility at which such information is located; and

(II) identifies the date on which such information was generated.

(iii) PROVISION OF INFORMATION TO INDIVIDUAL.—If the Administrator receives a request under this subparagraph, the Administrator shall—

(I) request the contractor to provide the requested information; and

(II) upon receiving such information, transmitting the information to the requesting individual in a timely manner.

(5) TIMING.—Except when the Administrator determines that an emergency exists under section 44709(c)(2) or 46105(c), the Administrator may not proceed against an individual that is the subject of an investigation described in paragraph (1) during the 30-day period beginning on the date on which the air traffic data required under paragraph (4) is made available to the individual.

(c) AMENDMENTS TO TITLE 49.—

(1) AIRMAN CERTIFICATES.—Section 44703(d)(2) of title 49, United States Code, is amended by striking "but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law".

(2) AMENDMENTS, MODIFICATIONS, SUSPENSIONS, AND REVOCATIONS OF CERTIFICATES.—Section 44709(d)(3) of such title is amended by striking "but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of

written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law".

(3) REVOCATION OF AIRMAN CERTIFICATES FOR CONTROLLED SUBSTANCE VIOLATIONS.—Section 44710(d)(1) of such title is amended by striking "but shall be bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law".

(d) APPEAL FROM CERTIFICATE ACTIONS.—

(1) IN GENERAL.—Upon a decision by the National Transportation Safety Board upholding an order or a final decision by the Administrator denying an airman certificate under section 44703(d) of title 49, United States Code, or imposing a punitive civil action or an emergency order of revocation under subsections (d) and (e) of section 44709 of such title, an individual substantially affected by an order of the Board may, at the individual's election, file an appeal in the United States district court in which the individual resides or in which the action in question occurred, or in the United States District Court for the District of Columbia. If the individual substantially affected by an order of the Board elects not to file an appeal in a United States district court, the individual may file an appeal in an appropriate United States court of appeals.

(2) EMERGENCY ORDER PENDING JUDICIAL REVIEW.—Subsequent to a decision by the Board to uphold an Administrator's emergency order under section 44709(e)(2) of title 49, United States Code, and absent a stay of the enforcement of that order by the Board, the emergency order of amendment, modification, suspension, or revocation of a certificate shall remain in effect, pending the exhaustion of an appeal to a Federal district court as provided in this Act.

(e) STANDARD OF REVIEW.—

(1) IN GENERAL.—In an appeal filed under subsection (d) in a United States district court, the district court shall give full independent review of a denial, suspension, or revocation ordered by the Administrator, including substantive independent and expedited review of any decision by the Administrator to make such order effective immediately.

(2) EVIDENCE.—A United States district court's review under paragraph (1) shall include in evidence any record of the proceeding before the Administrator and any record of the proceeding before the National Transportation Safety Board, including hearing testimony, transcripts, exhibits, decisions, and briefs submitted by the parties.

SEC. 3. NOTICES TO AIRMEN.

(a) IN GENERAL.—

(1) DEFINITION.—In this section, the term "NOTAM" means Notices to Airmen.

(2) IMPROVEMENTS.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall begin a Notice to Airmen Improvement Program (in this section referred to as the "NOTAM Improvement Program")—

(A) to improve the system of providing airmen with pertinent and timely information regarding the national airspace system;

(B) to archive, in a public central location, all NOTAMs, including the original content and form of the notices, the original date of publication, and any amendments to such notices with the date of each amendment; and

(C) to apply filters so that pilots can prioritize critical flight safety information from other airspace system information.

(b) GOALS OF PROGRAM.—The goals of the NOTAM Improvement Program are—

(1) to decrease the overwhelming volume of NOTAMs an airman receives when retrieving airman information prior to a flight in the national airspace system;

(2) make the NOTAMs more specific and relevant to the airman's route and in a format that is more useable to the airman;

(3) to provide a full set of NOTAM results in addition to specific information requested by airmen;

(4) to provide a document that is easily searchable; and

(5) to provide a filtering mechanism similar to that provided by the Department of Defense Notices to Airmen.

(c) ADVICE FROM PRIVATE SECTOR GROUPS.—The Administrator shall establish a NOTAM Improvement Panel, which shall be comprised of representatives of relevant nonprofit and not-for-profit general aviation pilot groups, to advise the Administrator in carrying out the goals of the NOTAM Improvement Program under this section.

(d) PHASE-IN AND COMPLETION.—The improvements required by this section shall be phased in as quickly as practicable and shall be completed not later than the date that is 1 year after the date of the enactment of this Act.

SEC. 4. MEDICAL CERTIFICATION.

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall initiate an assessment of the Federal Aviation Administration's medical certification process and the associated medical standards and forms.

(2) REPORT.—The Comptroller General shall submit a report to Congress based on the assessment required under paragraph (1) that examines—

(A) revisions to the medical application form that would provide greater clarity and guidance to applicants;

(B) the alignment of medical qualification policies with present-day qualified medical judgment and practices, as applied to an individual's medically relevant circumstances; and

(C) steps that could be taken to promote the public's understanding of the medical requirements that determine an airman's medical certificate eligibility.

(b) GOALS OF THE FEDERAL AVIATION ADMINISTRATION'S MEDICAL CERTIFICATION PROCESS.—The goals of the Federal Aviation Administration's medical certification process are—

(1) to provide questions in the medical application form that—

(A) are appropriate without being overly broad;

(B) are subject to a minimum amount of misinterpretation and mistaken responses;

(C) allow for consistent treatment and responses during the medical application process; and

(D) avoid unnecessary allegations that an individual has intentionally falsified answers on the form;

(2) to provide questions that elicit information that is relevant to making a determination of an individual's medical qualifications within the standards identified in the Administrator's regulations;

(3) to give medical standards greater meaning by ensuring the information requested aligns with present-day medical judgment and practices; and

(4) to ensure that—

(A) the application of such medical standards provides an appropriate and fair evaluation of an individual's qualifications; and

(B) the individual understands the basis for determining medical qualifications.

(C) **ADVICE FROM PRIVATE SECTOR GROUPS.**—The Administrator shall establish a panel, which shall be comprised of representatives of relevant nonprofit and not-for-profit general aviation pilot groups, aviation medical examiners, and other qualified medical experts, to advise the Administrator in carrying out the goals of the assessment required under this section.

(D) **FEDERAL AVIATION ADMINISTRATION RESPONSE.**—Not later than 1 year after the issuance of the report by the Comptroller General pursuant to subsection (a)(2), the Administrator shall take appropriate actions to respond to such report.

The bill (S. 1335), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. REID. I thank the Chair.

SMALL BUSINESS JOBS AND TAX RELIEF ACT MOTION TO PROCEED—Continued

RECOGNITION OF THE MINORITY LEADER

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

SURFACE TRANSPORTATION CONFERENCE REPORT

Mr. MCCONNELL. Mr. President, I will address two issues. I commend, in particular, the senior Senator from Oklahoma for the extraordinary work he has done to produce a transportation bill that has significant reforms in it. He has been tenacious and effective. He has tugged on our sleeves and pointed out to us repeatedly the importance of getting this job done. I congratulate him for an extraordinary accomplishment.

With regard to the bill, the highway conference report contains significant reforms to the surface transportation program. Projects will now be completed in a more timely manner because, for the first time, there are hard deadlines on agencies to complete environmental reviews.

Also, States are given maximum flexibility to use their transportation dollars the way they choose, rather than how Washington dictates. This bill is fully paid for with a package of offsets mostly included in the Senate-passed highway bill.

The conference report also contains important legislation to reform the National Flood Insurance Program and prevent the interest on college student loans from doubling.

The flood insurance bill is a model of reform: It moves this long-failing program closer to where it should be—the private sector. These reforms actually cut subsidies, save the taxpayers money, and greatly improve the program's financial position. It was negotiated and reported out of committee on a bipartisan basis.

On the student loan issue, Republicans and Democrats worked hard to find common ground. The agreement

we have reached will ensure that college students who are already facing enormous challenges in the Obama economy will not be paying higher interest rates next month.

Students can't wait for the President to get off the campaign trail and actually work with Congress to prevent student loan interest rates from rising this year. So while the President continues to ignore the bipartisan proposals sent more than 3 weeks ago, Senate Democrats dropped their demand for job-killing tax hikes and worked with Republicans to find solutions.

It is nice to finally see the Senate actually work as the Senate used to. It proves that if this body ignores the campaign attacks from the President and if our Democratic friends stop pushing job-killing tax hikes, we can actually get a lot done around here. I, once again, thank my colleagues for all their hard work on these important measures.

HEALTH CARE DECISION

Mr. MCCONNELL. Mr. President, the most important issue brought to the front page in the last 2 days is the state of the new ObamaCare law.

Two and a half years ago, President Obama teamed up with Democrats right here in Congress to pass a health care bill they knew most Americans didn't want. Americans have been very clear about what they thought of this bill. So Democrats settled on a deeply dishonest sales pitch aimed at convincing them otherwise.

Nearly every day since then, the promises that formed the very heart of that sales pitch have been exposed for the false promises they were.

Americans were promised lower health care costs. But, of course, they are going up. Americans were promised lower premiums, and they are going up. Seniors were promised Medicare would be protected; it was raided to pay for a new entitlement instead. We were promised it would create jobs; CBO predicts it will lead to 800,000 fewer jobs because of ObamaCare. People were promised they could keep the plans they liked; millions have now learned they cannot.

For 2 years, the list of broken promises has grown longer and longer and longer.

But yesterday morning, we got powerful confirmation of what may have been the biggest deception of all. For years, the President and his Democratic allies in Congress have sworn up and down—sworn up and down—that failing to comply with the individual mandate did not result in a tax on individuals or families. "It is not a tax," they said.

The reason was obvious. If Americans knew that failure to comply resulted in a tax hike, of course, the bill would never have passed. If our friends on the other side had conceded the obvious—that it was, in fact, a tax hike—we all know it never would have passed. The President would not be able to claim

his health care bill didn't raise taxes on the middle class, as he did again and again and again.

Yesterday, the Court blew the President's cover. In a narrowly upheld case on one basis only—that the penalty associated with the individual mandate is a tax—the Court spoke. It said Congress doesn't have the constitutional authority to mandate insurance coverage under the commerce clause. Congress doesn't have the authority to mandate individual insurance coverage under the commerce clause, but it obviously does have the power to tax. So they upheld the central provision of the bill on the fact that the penalty for failing to comply with it was a tax.

In the eyes of the Court, that is all the penalty tied to the individual mandate ever was: a tax imposed by a Democratic Congress—without a single Republican vote—primarily, interestingly enough, on the middle class. It is a tax on the middle class. Let's be very clear about that. The tax connected to the individual mandate is not primarily a tax on the rich but on the middle-class Americans who will bear the brunt of it.

Listen to this, colleagues. According to the CBO, at least 77 percent of the people paying this tax will meet the President's own definition of the middle class; 77 percent of the people paying this tax will meet the President's own definition of the middle class.

Those who have to pay the tax will pay an average tax of \$1,200. Even if they pay it every year, they still will not have insurance.

Yesterday's decision turns the President's campaign rhetoric on its head. Those who will end up paying the heaviest burden for not buying government-mandated insurance are not going to be the wealthiest Americans—oh, no—but the very middle-class families the President claims to defend.

That is the truth the Court unmasked yesterday.

Most Americans thought the process Democrats used to pass the health care bill was unseemly, secretive, partisan, even antidemocratic. They also thought it was unconstitutional for the government to create commerce in order to regulate it—for the government to create commerce in order to regulate it.

All of that is still true. But what many Americans may not have appreciated when this bill passed was how empty all of the promises were—how completely empty all the promises were. And at the center of them all was the claim that failing to buy health insurance did not result in a tax. That was the central claim: Failing to buy health insurance did not result in a tax.

But the Court has now spoken: It is a tax—largely on the middle class. This is just one more reason this law needs to be repealed in its entirety. With every passing day we learn something new about this terrible law. Not only does it make the problems in our