head coaches, and cared for hundreds of players over his long career.

Loved by fans and respected by opponents, he earned a permanent seat on the Kentucky bench at every game. In fact, Mr. Keightley attended more than 1,400 UK basketball games, nearly 60 percent of all games ever recorded. And former UK basketball coach Orlando ''Tubby'' Smith points out that ''it has been . . . us [coaches] sitting next to him, not him sitting next to us.''

Mr. Keightley often served as a father-like figure to the players, and many recall his talks with ''his boys'' on anything from Kentucky sports to lessons of integrity and pride. ''Players, coaches, and athletic directors come and go, but Bill Keightley was constant,'' says Kenny Walker, a friend and former UK player.

John Pelphrey, member of the ''Unforgettable'' 1992 Wildcats team and now head coach at Arkansas University, says:

For 48 years, Mr. Bill looked over coaches and student-athletes with love and care that only a father could give . . . every time we had an encounter, there was a hearty hello, a hug, and a laugh, every single time, just like the first time.

In 1997, Mr. Bill's jersey was elevated into the rafters of Rupp Arena, making him one of only two people to receive this honor without having taken to the court to play the game.

In 2005, he was entered with the charter class into the UK Athletics Hall of Fame. The equipment room in Lexington's Memorial Coliseum was named in his honor, and he humbly presided over it until his unfortunate passing this past March 31.

Noted Lexington sportscaster and friend Dave Baker says of Mr. Keightley:

He knew just when to lend a hand to the young man from Appalachia who was adjusting to the big city, or a young man who had been recruited from out-of-state and was getting accustomed to a brand new life in Kentucky. Mr. Keightley lived his life as a celebration.

Perhaps the most lasting tribute to Bill began in 2002, when the University of Kentucky athletic department presented its first Bill Keightley Award to the individual ''who exemplifies the pride, respect, and positive attributes'' associated with the University of Kentucky basketball program. They still present this award annually, to honor Mr. Bill.

UK followers and basketball lovers across the Commonwealth have lost the sport's No. 1 fan. And I know I speak for all of them when I say our prayers and best wishes of support go out to his family, including his wife, Hazel; and his daughter and son-in-law, Karen and Alden Marlowe.

UK President Lee Todd, Jr., best expressed what many Kentuckians are feeling when he said that we have ''lost someone who was not only the face of Kentucky Wildcat basketball, but the University itself.'' I second his words, and add to them my own: We will not soon forget the loyalty, passion, and dedication to excellence that Bill Keightley exemplified.

I yield the floor.

RESERVATION OF LEADER TIME

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

FAA REAUTHORIZATION ACT OF 2007

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

The legislative clerk read as follows:

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

Pending:

Rockefeller amendment No. 4585 in the nature of a substitute.

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

Mr. DURBIN. Mr. President, it is my understanding under the agreement that I can proffer an amendment at this time to the bill?

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMENDMENT NO. 4587 TO AMENDMENT NO. 4585

Mr. DURBIN. I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Mrs. HUTCHISON, Mr. BROWN, Mr. INHOFE, Mr. LAUTENBERG, Mr. VOINOVICH, Mr. NELSON of Florida, Mr. CORNYN, Mr. MENENDEZ, Mr. HARKIN, and Mr. BOND, proposes amendment numbered 4587 to amendment No. 4585.

The amendment is as follows:

(Purpose: To strike the provision relating to required funding of new accruals under air carrier pension plans)

Strike section 808.

Mr. DURBIN. Mr. President, if you sat down this morning to design a system that would offer American workers the most secure retirement possible, where would you start? If you are starting from scratch, what principles would guide you?

Here are a few I think you might begin with. First, you want to encourage companies to offer secure retirement benefits. That is obvious. Second, you want to ensure that companies keep their promises to their employees and retirees. That ought to be at the top of the list. Third, don't create circumstances under which employers decide they can't afford to keep offering decent retirement benefits without becoming uncompetitive as a business or insolvent. That is pretty sensible. Fourth, treat all the companies in an industry equally so as not to pick the winners and losers. Don't tip the scales.

There are many other goals you might set out to achieve. Of course, we are not starting from scratch this morning, and this is not primarily a pensions bill, it is a reauthorization bill for the Federal Aviation Administration. But the substitute amendment we are now considering contains one pension provision that I think violates the principles I just laid out. That is why I am offering an amendment with Senator HUTCHISON of Texas, with a lengthy list of bipartisan cosponsors, to strike that provision of the bill.

The impact of our amendment will be to provide retirement security for over 180,000 American workers and at the same time maintain air service for all of our constituents in over 300 cities in our Nation and around the world.

Who supports this amendment dealing with the pensions of workers? The workers themselves. It is supported by the 135,000-strong Transport Workers Union of the AFL/CIO, and it is supported by a long list, a bipartisan list of cosponsors starting with Senator HUTCHISON, who will be speaking a little later on this amendment this morning, as well as Senator BROWN of Ohio, Senator INHOFE of Oklahoma, Senator LAUTENBERG of New Jersey, Senator VOINOVICH of Ohio, Senator BILL NELSON of Florida, Senator JOHN CORNYN of Texas, Senator BOB MENENDEZ of New Jersey, and Senator TOM HARKIN of Iowa. As you can tell from this list, this is a very diverse sponsorship—both sides of the aisle, all over the country. We have the support of the workers whose pensions are being affected, and we have the support of Senators from both sides of the aisle in a bipartisan fashion to strike this section of the bill.

It is a little complicated, but for the record we need to get into the background of why we are here today.

In 2006, we passed the Pension Protection Act, which established new rules for defining which companies were meeting their obligations to their employees and retirees and which companies were not. All the companies in America were, in effect, given 7 years to catch up on any underfunded pension plan, and rules were established regarding how the underfunding was to be estimated. That is only right and sensible because if we are going to offer a pension to an employee and the employee can count on that pension, they have to make sure the pension plan is adequately funded so when they call on that plan at the time of retirement, the benefits will be there, the benefits that have been promised over the lifetime of a worker.

It affected all the companies in America except for airlines. We recognized at the time that the airlines were facing unique circumstances. They owed huge amounts of money to hundreds of thousands of workers and retirees, and yet they were facing a very

difficult struggle to profitability after 9/11. We all recall what happened. Airlines were shut down completely across the United States and then air travel was at least compromised if not inhibited for months and years afterward.

We understood the airline industry needed special consideration, so we gave the airlines a special arrangement when it came to funding their pension plans. We said airlines had 10 years to make their pensions whole instead of 7 years, which gave them a little longer period of time. We allowed the airlines to assume a rate of return on their investments of 6 percent instead of assuming a lower rate based on the formula that other companies were forced to use—all airlines, that is, except for two, Delta and Northwest. These airlines had frozen their defined benefit retirement plans.

What does that mean to freeze the benefit plan? It meant no new workers at those airlines could participate. It meant the workers then working were covered by their defined benefit pension plans; those new workers coming onboard at these airlines did not get that benefit; and no new benefits could be provided to existing workers and retirees. The current pension benefits were frozen, excluded new employees from coverage.

So, in a way, Delta and Northwest were given special treatment. They were allowed to deal with their retirees in a different fashion than any company in America, than any airline in America. These airlines were told they could take 17 years to catch up on the payments instead of 10 years, and they could assume a rate of return of not 6 percent but 8.85 percent. It was a very generous deal.

Let me restate that another way. Some airlines, but not all of them, could assume a far higher rate of return and spread their payments over a much longer period of time. What difference does it make? It meant those airlines, Delta and Northwest, had to set aside far less cash toward their pension plans each year than the other airlines with which they were competing.

In a very competitive industry such as air travel in this country, this created a huge advantage for these two airlines, Delta and Northwest. To make matters worse, we rewarded the airlines that froze their pensions. Let's compare that result then to the principles I laid out at the beginning of the statement.

Did we encourage, with this decision, companies to offer secure retirement benefits? No. It seems to me instead we encouraged companies to freeze their benefit plans.

Second, did we ensure that companies keep their promises to their employees and retirees? I do not know about that. Does allowing companies to take 17 years to adequately fund their obligations ensure that they keep their promise? It is a fair question.

Third, did we avoid creating circumstances under which employers might decide they could not afford to keep offering decent retirement benefits without becoming uncompetitive or even insolvent? I think trying to avoid this scenario was part of the rationale for giving airlines a bit more of a cushion. So perhaps we did.

Did we treat all companies in an industry equally, so as not to pick winners and losers and create a competitive advantage for some airlines over others? We most certainly did not.

Now, fast-forward to last year. On the first day of the new Congress, Senator KAY BAILEY HUTCHISON of Texas introduced legislation to bring more balance to pension rules for the airline industry. We passed this legislation as part of the Iraq supplemental last spring, and I supported Senator HUTCHISON.

What did the language do? It gave the airlines that have not frozen their pension plans—and let me be specific which airlines: American Airlines, Continental, Hawaiian, Alaskan, and US Airways—the opportunity to assume a better rate of return on their investments. They now can assume a rate of return of 8.25 percent.

Remember, Delta and Northwest, under the law that we passed, can assume a rate of return of 8.85 percent, whether that, in fact, takes place. So even under the existing law before the bill that we have before us, those two airlines are going to benefit. They get a better break, better treatment, Delta and Northwest, than all the other airlines, and they can smooth out these payments over 17 years, not 10 years.

So did the change in the law on pensions benefit those two airlines initially? Yes. Is their benefit compromised by what we are doing with this amendment today? No. But does it bring the other airlines in the country closer to the same treatment? Yes, it does. So we still have not provided all of the industry players with parity. Delta and Northwest still do much better. The airlines that are still trying to provide their workers secure retirements through defined benefit plans that are not frozen are still getting a much worse deal than the airlines that froze their plans, but it is a bit fairer.

So what was done years ago rewarded those airlines—struggling, I will concede—with better treatment in terms of funding their pension plans from a corporate point of view than other airlines. What we are doing today is lessening that advantage slightly but not at the expense of Delta and Northwest. In fact, what we are doing is maintaining what has been the law since last year. That brings us today to this substitute amendment which we are considering.

Section 808 of the substitute amendment would place new responsibilities on only those airlines that we tried to help last year. This section would once again widen the disparity between the rules that apply to some airlines versus the rules that apply to others. That does not make any sense. This section would require only the five airlines that I mentioned to fully fund all new pension obligations this year and every year going forward, only those five airlines.

Now, you might say, in a vacuum that seems reasonable, fully funding a pension. We want companies to pay their pension plans, right? Well, it is up to a reasonable point. There are three fundamental problems that I think are very important for my colleagues to understand. First, the provision in the bill which Senator HUTCHISON and I would strike penalizes the airlines that have worked the hardest to fully fund their pensions already. Don't we want companies to work hard to fully fund their pensions? If we do, why would we want this section of the bill which penalizes them for their effort to protect their workers and be fair in their pension plans?

Take American Airlines, for example. According to the rules, American Airlines' pensions are 116 percent funded. To put it another way, the management has put more money into their pension plans than they actually need to put in to make sure they make all of the payments promised, 16 percent more. It is not as if American is underfunding their pensions; they are overfunding their requirements. The assets on hand, after assuming the investment rate of return over time, are worth more than what American Airlines has promised its workers and retirees. How can we ask for anything more than that?

So why should American Airlines have to then fully fund all of its new obligations each year so it continually maintains 116 percent funding? Is not 100 percent enough?

Second, this provision unnecessarily pushes these five airlines closer to bankruptcy. Is it really in our Nation's best interest that these five airlines pay an additional $2 billion into their pension funds over the next 5 years when they simply do not have cash laying around?

As a national policy, is it better for us to have more airlines or fewer? Do we want more competition or less? Do we want fewer bankruptcies or more? And if we really care about the retirements of these hundreds of thousands of workers who are employed at these five major airlines, why would we push their companies closer to bankruptcy?

Do you know what happens when a company goes into bankruptcy? Ask the employees of United Airlines what happened? The first casualty is their pension plan. I have been there. They are based in Illinois; they are based in Chicago. It was painful. And if you push more airlines into bankruptcy, you are not helping their workers and their retirement, you are jeopardizing it.

If that sounds dramatic, I would like to show this chart to my colleagues who are following this debate. These are the bankrupt airlines, recent bankrupt airlines: Frontier Airlines filed for

bankruptcy, 6,000 employees were affected by that decision; ATA filed for bankruptcy, 2,230 employees affected; Skybus, 450 employees terminated; Aloha, 1,900 employees; EOS airlines, 450 employees.

This is the reality of the airline industry today. By my count, over 11,000 employees were affected by these bankruptcies. So why in the world would we put a provision in this bill which would require our airlines, these five airlines, to put dramatically more cash into these pensions, beyond what is required of other airlines, beyond what is required for 100 percent funding, and jeopardize them and endanger them so that they face bankruptcy?

Let's look at the losses recently reported for the first quarter by some of the largest domestic carriers, just in case those who are critical of this amendment believe these airlines are flush with cash. Look at what happened in the first quarter of this year: Delta Airlines' first quarter losses, $274 million; American Airlines, $328 million; and United, $537 million.

If there is someone who believes—and I do not know who it might be—that the airline industry is so flush with cash, that they are so strong they can handle this new pension requirement that is put in this bill, and it will not have a negative impact, they have not noticed the reports on the first quarter. In virtually every instance every airline in America has struggled and fallen behind because of jet fuel costs.

Now comes this bill, not providing these airlines a helping hand through one of their most difficult periods in history where bankruptcies are rampant and losses are at record levels. This bill imposes new regulations on airlines struggling to survive.

At a time where crude oil is threatening to reach $120 a barrel—it did last week—and jet fuel is pushing $160 a barrel, I do not think the airlines are in a position to add another $2 billion to their pensions which are already well funded.

Remember, Delta and Northwest were given a privileged position when it came to the treatment of their pension plans under the law. They did not have to put as much money into their pension plans. They were given a longer period of time to pay out or to fund them, 17 years, and the rest of the airlines were given circumstances which were more demanding of them. They had to put in more money.

What Senator HUTCHISON and I are trying to do is protect a difference but one that we think is reasonable. What the bill does is to push these airlines at exactly the wrong moment in America's business history into a position where they are going to have to surrender cash reserves and risk bankruptcy.

Now, is that in the best interests of the workers and the pilots of those airlines? Eleven thousand workers at airlines are already bankrupt or out of work. There are over 180,000 workers in America who stand to lose nearly everything if we push these airlines into bankruptcy, and the over 300 cities that could lose air service and face higher fares? Why? Why do we want this?

Third, and finally, this provision creates an even larger disparity between the way some airlines are treated and the way other airlines are treated. In this most competitive industry, why in the world are we trying to tip the scales to the advantage of some airlines and push others near bankruptcy? It does not sound right.

Why are we demanding these five airlines to follow rules that no other company in America must follow? Why are we demanding these five airlines follow rules that two of their competitors do not have to follow?

The amendment I have with Senator HUTCHISON and others would strike this provision from the bill and leave current law unchanged. I think this is important to all Senators. It is not just an issue for those of us whose home States entertain these airlines and have them as carriers. I urge every Member who is interested in providing equitable treatment under the law to all companies in a given industry to support our amendment.

Do this for 180,000 workers who have weighed in, whose pensions are at stake and strike section 808. It is a bad idea. And let me also say this on behalf of the largest carrier affected, American Airlines. This legacy carrier is the only one left—of the larger carriers, I should say—that has not gone through bankruptcy. They have made sacrifices. They have cut back. They have tried to protect their workers and provide quality service. It has not been easy.

Now they are facing recordbreaking jet fuel costs. That is a reality. They have tried to keep their word to their unionized workforce to keep them on the job, to pay them as promised, to give them the pension they promised. Why do we want to punish good conduct? Why do we want to punish an airline that has tried its level best to keep its word to its employees and retirees? That is a question not only asked by the management of American Airlines, it is being asked by the workers of American Airlines.

They oppose section 808. They think it could be the end of their airline. What a legacy we would leave at the end of the day if we pass a bill that is supposed to pass to make air travel safer and jeopardize the existence of five major airlines in the process. That is exactly what section 808 would do.

I urge every Member who is interested in giving their constituents as many options for flight travel as possible by keeping afloat as many airlines as we can to support our amendment. I thank the 135,000 members of the transport workers unions whose pensions are at issue with this amendment. They have stood up in what I think is the best interest not only of transportation workers today but those retirees. I thank Senators HUTCHISON, BROWN, INHOFE, LAUTENBERG, VOINOVICH, NELSON, CORNYN, MENENDEZ, and HARKIN for cosponsoring the amendment. I urge my colleagues to join us. Let's strip this section from the bill and then move forward to do what we need to do to make American air travel safe and to respect the companies and workers we count on every day.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Illinois for taking the lead on this very important amendment. He and I are in complete agreement. I have never seen a time or an amendment or an issue before our Senate that has shown the companies fighting so hard to do the right thing for their employees; the employees standing with them in total solidarity, saying: This is something we should be encouraging companies to do, not discouraging companies from doing; that is, to provide the very best pension plan.

These are huge corporations. American, Continental, US Air, these are big corporations. They are trying to do the very best. They are going the extra mile for their employees. Yet they can't rely on the Congress to make a law and then keep it.

Let's go back a little bit in history. First, we settled this issue in a very hard-fought negotiation last year. We had airlines that chose to keep their defined benefit plans, doing the very best for their employees they could, making added contributions based on the law as it was. So they got ahead in their backup payments because, under the law as it was, anything in excess of their backup payments would help them offset their going-forward payments. They were in relatively good shape, as good shape as an airline could be last year. They had extra money. They poured it right into their pension plans. They overfunded their past obligations or the obligations they had for their past pension deficits. They did that, thinking that if they got into a cashflow problem, they would be able to offset those overages, which is what the law has been.

Now, in an aviation modernization bill that is to modernize our air traffic control system, that will address the safety issues we want to make sure are the very best that we can provide for consumers and passengers, a bill that will provide a passenger bill of rights—when a passenger is in an airplane and it is delayed, there are going to be new rules; there will be plans that have to be submitted for airlines to take care of them—in a bill that has so much good, that came out of the Commerce Committee, of which I am the ranking member of the Aviation Subcommittee and Senator ROCKEFELLER is the chairman, it came out with complete bipartisan support. Now we have in the

package that is going to be put forward a rehash of long negotiations that were settled last year.

I will take a moment here to say that I had a very telling conversation with the CEO of a major international corporation based in America.

I said: Why are you opening plants overseas instead of America? Why are you sending jobs overseas instead of America?

This CEO said: Well, really, basically two things. One is, the regulatory environment is better overseas. And secondly, the regulatory laws are more stable.

I said: More stable? This is America. What do you mean? There is a country overseas that has more stable regulations?

He said: Absolutely. Because we can't count on the law being the law. We see time and time again Congress or a regulator coming in, after a law has been on the books, we have done things in compliance with the law, relying that it is the law, and Congress changes something that affects something that we have done in reliance on that law.

I said: If there is one thing that the United States should be able to do, it would be leading in stability in laws and regulations. Maybe there are too many laws and regulations. Maybe there are too many taxes. But at least we should be able to be stable. We are the greatest economy on Earth.

Yet here we have a prime example of a law that was passed, contributions were made from the company to these pension systems based on the law that was passed, thinking we had come to an agreement. It was hard fought. A deal is a deal.

Let's go back and look at that law. In 2006, Congress passed the Pension Protection Act. Included in that legislation was a change in funding rules for airlines that had chosen to freeze their defined benefit pension plans. I argued strongly at the time that the playing field should be leveled for those carriers that continued to meet their obligations. There was virtually unanimous support for this view in the Senate. But in conference, the chairman of the Committee on Ways and Means of the House, who is no longer a Member of Congress, refused a provision that would level that playing field. Accordingly, we reached agreement with the leadership of the Senate at the time that we would take the first available opportunity in the next Congress to rectify this inequity. That is why on January 4, 2007, my colleague from Texas, Senator CORNYN, and I introduced S. 191. This bill was referred to the Committee on Health, Education, Labor, and Pensions. My staff also provided it to Finance Committee staff and personally briefed them on the bill on January 26, 2007.

The bill, which was subsequently enacted into law, established funding rules that, while not as generous as those given to airlines that froze their plans, were at least more equitable and created a better unlevel playing field than we had seen in the 2006 bill. It was very clear, when we introduced this bill, that we had it out there for the purpose of everyone knowing that we intended to offer it when appropriate legislation came through. That is the way things work in the Senate.

The provision adopted by the Senate and agreed to by the House is the exact language we drafted in S. 191. It should be a surprise to no one that we would offer that bill at the first available opportunity, which was the last omnibus appropriations bill. There has been something said in writing in opposition to our amendment, that this was a big surprise that was crammed into the supplemental appropriations bill. It was not a surprise. It was out there in the open. All of the relevant committees had been briefed and knew this was a bill that was pending that would be available for amending a proper vehicle. The proper vehicle was the appropriations omnibus, because there was not anything else that was going through.

None of the airlines adversely affected by the proposed change in the pension laws has missed a pension payment under current law. The greatest risk to pensions is bankruptcy. I am not saying the proposal in the bill would necessarily result in bankruptcy of these carriers, although that has been brought up as one eventuality. But at the very best case, it is going to restrict their cash reserves precisely at a time when they need it the most. Jet fuel is now being sold at $160 a barrel. At these prices, it is a race against time for airlines to preserve their cash. For Congress to intervene now, undo a law that was passed and relied on by the airlines to restrict the flexibility of a few airlines that need the maximum flexibility to meet this crisis, would be irresponsible.

It is as if maybe some of our Senators who I think have very good motives are not realizing the situation today, which is 10 times worse than it was last year when this legislation was passed. Prices of oil have gone up. Every airline is on its knees. Everyone is struggling. We are seeing the beginning of mergers, which I don't like, but it is a free world, and I don't think we have the right to intervene. But I don't want to have fewer airlines. I want our airlines to be robust, compete, and do the best for their employees they can possibly do.

It is as if we are living in another world to think that this is not a crisis time for the airlines. I don't want to hurt the other airlines either. I have nothing against Delta and Northwest. I hope they survive. I hope they do very well, because the more airlines we have doing well, the better it is for consumers and passengers. But I want to make sure that airlines that have kept their defined benefit plans, that are trying to go the extra mile for their employees and do the very most they can, as they are at the same time struggling with the higher cost of fuel, especially, I don't think we ought to penalize them. I don't think we ought to retroactively change what they relied on and made contributions to their pension plans, relying that the law was the law, and that the Senate and the Congress was a body of intelligent people who could reasonably look at the economic news in the world and know this is not a time when we would destabilize and further hurt an industry that is so important to commerce and the overall viability of our country.

Let's put it on the table. In the past 5 years, American Airlines has made $1.7 billion in contributions to its pension plans, when—I may be wrong; I am not saying that I know exactly—in the last 5 years, I might remember two quarters, maybe three, where they have actually shown a profit. Maybe it has been 1 year out of 5. But every time I pick up the papers, I am not seeing airlines with robust profits being reported at the end of a quarter. Last year alone, as oil prices were going up—and jet fuel is even more expensive than gasoline—they made a contribution of $386 million, which is more than they needed to make to keep their obligations current. Under the rules in place today, before this change would take place, they are 115 percent funded.

Continental Airlines has made a $1.3 billion contribution to its defined benefit pension plan in the previous 5 years, including $336 million last year—significantly above the minimum funding required. So if there is anything our Senate ought to be able to do, it is, No. 1, when a law is passed and relied on, that we would not retroactively change that law to penalize one company in an industry. It is not the place of the Senate to pick winners and losers. We are the model of free enterprise in the world, and we must keep that stability.

Secondly, if the parts of the bill that are being added that are extraneous to the underlying FAA modernization bill stay in, it is going to bring down a great bill, a bipartisan bill, that my colleague, Senator ROCKEFELLER, and I have worked on very hard, along with Senator INOUYE and Senator STEVENS, the chairman and vice chairman of the committee.

We have all supported the bill that came out of Commerce almost unanimously. It has been a joy to work on a bill that provides a better consumer environment, a safer environment for passengers, that would modernize our air traffic control system even further, that would address the issues that have been raised in the last few months about passengers being held hostage on airplanes that are on the ground, and giving them rights, and requiring airlines to do right by them. It is a great bill.

But if we do not strike this pension plan—which I do not think is right in any sense of the word—if we do not strike this from the bill, and if we do not take out some of the other extraneous tax provisions we will deal with

later that do not have anything to do with aviation, it is going to do great damage to the flying public and to commerce in our country.

I urge my colleagues to look at the arguments and help us remain stable—as stable as an airline can be in this very volatile environment. Let's not change the rules. Let's not give advantages to one over another. Let's try to help all of the airlines make it, be profitable, be robust, provide competition, and, especially, give the very best benefits to their hard-working employees they can possibly do. And, please, let's do not penalize those that are going the extra mile and giving their employees what is becoming more and more rare in this country today, and that is defined benefits for their pension plans.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I might consume.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. BAUCUS. Mr. President, on the surface, this is a complicated matter. Pension law is complicated. It gets into whether a company has a defined contribution plan, a defined benefit plan, issues such as: What is the assumed interest rate that applies to the pension plan? It is backwards: the higher the rate, frankly, the less of an obligation by the company to contribute to the plan. I think on the surface we would think it would be a little bit of the opposite. It gets into length of years, the time within which companies are required to contribute to their plan to fully fund their plan. It is very complicated on the surface.

It is very simple. This question we are dealing with here is very simple when you get down to what is going on around here. So I ask my colleagues to pay a lot of attention to the statistics and all the complexities at the surface, but pay more attention to what is going on here. After all the charts and all the statistics and all the stuff, what is going on here?

I think Senators and their staffs will find, when they do that, what is going on here is the question of—there are two questions here—do we want to keep the playing field level among the airlines? Airlines are going through some difficult times today, clearly. Fuel costs are high. There are other problems facing the airlines. But do we want the playing field to be level? The second question: Do we want to help provide adequate protection to the pension plans, to retirees? Those are the two basic questions.

So how did we get here? Back several years ago, after 9/11, and when the country was facing some economic difficulties, when pension plans were going belly up because companies, regrettably, were not adequately funding their pension plans—especially the defined benefit plans; to some degree, the defined contributions, but especially defined benefit plans—what did we do? We in the Congress exercised our responsibility to do something about all that. What did we do?

In 2006, we passed a pension bill. What did that provide? Well, we were kind of caught in the middle—Congress was—especially with respect to airlines because after 9/11, airlines were not doing well at all because people were not flying as much, and they were under significant stress and strain, and, at the same time, pension plans were not in good shape generally—not just airline pension plans but other companies' pension plans.

So we refined the law in 2006 to give much more protection to retirees in their pension plans because companies basically were not doing what they should have been doing back up to that time.

We had another little problem on the side, and that was airlines because they were under a lot more financial stress than other companies in the United States generally. So what did we do? We said: Well, we want to help the airlines. We do not want to hurt the airlines. We also want to protect the pension plans. So we raised the pension plan requirements that all companies must face.

But we gave a little break to the airlines. We gave a longer period of time in which they had to fully fund their plans. We said: For those that are in bankruptcy—there were a couple back then—you get a long time. You get 17 years. We will also give you a big, high interest rate. ''Big, high interest rate'' means it is computed at a greater rate of return on your assets so you do not have to contribute as much to the plan. We also gave a big break to the airlines that were not in bankruptcy. We gave them 10 years. The standard rule was 6 years for all other companies. We said: OK, you are in real stress. You get 17 years. If you are in some stress—not as much—you get 10 years. Those are companies that were not in as much stress. Those are companies that did not freeze their plans, whereas, those that had 17 years did freeze their plans. We said: OK, after 10 years and 17 years, the playing field will be back to level again.

A couple airlines with plans that were not frozen, that had the 10-year requirement—remember, the standard rule is 6 years, but they got the 10 years, not the 17 years—said: Wait a minute, you are helping those who are in bankruptcy too much at our expense. They said they were doing the right thing. So we said: OK—that is what this bill does—OK, we will give you virtually the same interest rate as the others. What does that mean? It means you do not have to contribute to your pension plan. You do not have to.

So we think that levels the playing field because now all companies will have to contribute to their plans, at least prospectively. We are saying to the other companies—the 10-year companies—you do not have to contribute to your plan up to today's date, up to 2008. You are free. You are off the hook.

So these arguments you hear on the floor that this underlying bill is putting financial stress on certain companies are not true because those companies will not have any obligation to contribute more to their pension plan for past liabilities, but they will currently.

We think that is a fair compromise. This is not a perfect world. But under our committee bill, it is clear it is basically a level playing field because all companies now will have the same computed interest rate to calculate what their assets are to indicate the degree to which they have to contribute to the plans.

Now the Durbin amendment says: No. No. We want to give a bigger break to the companies that do not freeze their plans that are not in bankruptcy. The effect of the Durbin amendment will be that those companies will not have to contribute to their pension plans. They have not, and they will not have to for a couple years in the future because the Durbin amendment gives a higher interest rate, which, in effect, means they will not have to contribute.

Well, if I am a retiree, and I work for one of these airlines, I would say: Wait a minute. I want to make sure I am protected too.

So, as I said, there are two questions here. Is the playing field level? And, are we going to protect the pension plans?

The effect of the committee bill is to level things off. It is not perfect, but it is almost perfect; where the effect of the Durbin amendment is to make it much less perfect and basically help a couple airlines that, as a consequence, will not have to contribute to their pension plans for past liabilities, and will not have to in the future either, because of the interest rate they provide for in their amendment, and other airlines will have to contribute into their plans.

I say the right answer here—airlines are squabbling among themselves over all this—the right answer is to keep it fair for everybody, have the same law essentially apply for everybody. The committee bill does that.

I might say also, we want to protect our pension plans because that was the whole purpose of the 2006 pension bill. The effect of the Durbin amendment is to say: No, these plans are not going to be protected as much under the Durbin amendment. That is not the right thing to do.

There are some who say: Gee, this is going to cause bankruptcies in the poor financial condition the country is in right now. That is a bogus argument. We are saying: Keep the playing field level. That is all we are saying in this committee bill. It is not going to affect the bottom line. Our committee bill will not affect the bottom line of these airlines because, basically, it is a cashflow issue because cash is transferrable between the plan and the

company. So it is not going to affect the bottom line of these airlines at all—the committee bill—nor will the Durbin amendment affect the bottom line. That is a bogus argument.

But the effect of the Durbin amendment is to give less protection to retirees—that is indisputable—less protection to retirees. And do not forget, under the 2006 pension bill, we were trying to give more protection to retirees.

Also, the second effect of the Durbin amendment is to unlevel the playing field. It favors certain airlines at the expense of others. I think the best policy is to protect pensioners and to protect retirees, and also to keep the playing field level. That is why I think it is better to not adopt the Durbin amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I respect the Senator who is the chairman of the Finance Committee. It is one of the toughest assignments on Capitol Hill. He has adequately described what I think is the challenge of pension plans—how to make sure companies put the money in they promised, and to keep their promise to their retirees.

What I am saying is, the approach the Senator brings to the floor, in section 808, is opposed by the retirees and workers. They do not believe it is in their best interest. They certainly do not think it is in their best interest if their airline goes into bankruptcy. They know what has happened repeatedly. When an airline goes into bankruptcy, the first losers are the retirees and the pension benefits of current workers. They are worried, and they should be. Look at how precarious this industry is, with the jet fuel costs and the record losses these airlines are facing.

Secondly, I cannot quarrel with the chairman's premise about keeping the playing field level when it comes to airlines. But if that is the case, how can he explain to us that two airlines are treated so dramatically different than others? Delta and Northwest have 17 years to make their pension liability right. We assume they are going to earn 8.85 percent each year on their investments regardless of what they actually earn.

The airlines we are talking about have 10 years to make their pension liability right, and their assumption of interest is 8.25 percent. Doesn't sound like much. It has been dismissed a little bit here. But if you are talking about hundreds of millions of dollars that are being invested in pension funds, you can understand the impact this might have.

The last point I wish to make is this: Senator HUTCHISON and I wish to keep the status quo. The section 808 amendment we want to strike changes it. Under the current status, the largest airline affected, American Airlines, has 115 percent of funding—115 percent. They are not falling behind; they are keeping their word to their employees and their retirees. That is why I hope my colleagues will support our amendment to strike section 808.

Mr. President, I ask unanimous consent before yielding the floor that Senator BOND be added as a cosponsor of our amendment.

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

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I have some responses to the Senator from Illinois when we get back because they are bogus arguments.

I yield the floor.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRIME MINISTER OF IRELAND

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will stand in recess until 12 o'clock.

Thereupon, the Senate, at 10:31 a.m., recessed until 12 noon, and the Senate, preceded by the Secretary of the Senate, Nancy Erickson, and the Deputy Sergeant at Arms, Drew Willison, proceeded to the Hall of the House of Representatives to hear the address of the Prime Minister of Ireland, Bertie Ahern.

(The address delivered by the Prime Minister of Ireland to a joint meeting of the two Houses of Congress is printed in the Proceedings of the House of Representatives in today's RECORD.)

Whereupon, at 12 noon, the Senate, having returned to its Chamber, reassembled and was called to order by the Presiding Officer (Mr. CASEY).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

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

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

THE 33RD ANNIVERSARY OF THE FALL OF SOUTH VIETNAM

Mr. WEBB. Mr. President, today is the 33rd anniversary of the fall of South Vietnam, where the North Vietnamese offensive that had begun in the aftermath of a vote in this Congress to cut off supplemental funding to the Government of South Vietnam. This was combined with a massive refurbishment of the North Vietnamese Army that allowed an invasion to kick off at a time when our South Vietnamese allies were attempting to reorganize their positions in order to adapt to the reality that they were going to get markedly less funding from the United States in their effort to grow their incipient democracy.

I think it is important for us to look back on that event and to give credit where credit is due, and also to talk a little bit about the future of relations between our country and the present Government in Vietnam.

Too often in today's school systems and in the discussions that examine the Vietnam war, we are overwhelmed by mythology. In many cases, we tend to assume this was a war between the United States and Vietnam. Nothing could be further from the truth. This was an attempt by the United States to assist a government in the south that had been formed with the idea that it would evolve into a properly functioning democracy, in the same way that we assisted South Korea when it was divided from North Korea, in the same way that we very successfully assisted West Germany when the demarcation line at the end of World War II divided Germany between the Communist east and the free society in the west. We were not successful in that endeavor in Vietnam for a number of reasons. But it would be wrong to assume that this was an action by our country against the country of Vietnam. It was an attempt to actually assist that country.

There is a lot of talk about the domino theory and the heightened and unjustified warnings about what was going on in the rest of the region with respect to different efforts that were backed by the Soviet Union and Communist China at that point. But these were actually valid concerns at the time. Indonesia had suffered an attempted coup that was sponsored by the Chinese. We had a hot war in South Korea when North Korea invaded. This was a region in a great deal of turmoil, when you look back at the European powers that had colonies throughout Southeast Asia, which had largely pulled back after World War II because of the enormous costs of that war. It had shrunk back into their own national perimeters. The Japanese had colonized a good part of Southeast Asia, and after World War II they had withdrawn their forces. There was a good deal of turbulence, and there was a great deal of strategic justification for what we attempted to do.

The bottom line is 58,000 Americans were killed in action or died of hostile causes during the Vietnam war. We should remember them with the validity that their effort deserves. Mr. President, 245,000 South Vietnamese soldiers fought alongside us and perished; 1.4 million Communist soldiers died in that endeavor.

The events following the fall of Saigon on April 30, 1975, have never really been given the proper attention in terms of how we evaluate the history of what we attempted to do. One million of the cream of South Vietnam's leaders were sent into reeducation camps, and 240,000 of them remained in those camps for 4 years or longer; 56,000 of them died in the reeducation camps. This was the cream of South Vietnam's leadership—almost as many as we lost in the entire war. Two million Vietnamese were displaced, a million of them hitting the ocean, risking their