

"[W]hat we are trying to do is clarify a regulation that has not been modernized in well over 50 years. And the ambiguity in the regulation is impeding the Department's ability to enforce the law so that we cannot protect workers who need protection. So what we are trying to do is to guarantee vulnerable, low-wage workers the overtime that they deserve, and we also want to provide clarity so that business people know what they're supposed to be doing.

It seems to me that the FLSA is abundantly clear: if a worker who is covered by the act works more than 40 hours per week, he or she is entitled to time-and-a-half pay for each extra hour worked.

According to the EPI, the administration's proposed changes go far beyond simple clarifications. "It is troubling that such dramatic losses in overtime protection are being proposed as a means of bringing clarity to the regulations and reducing litigation. As [our report] has shown—the proposed rule is rife with ambiguity and new terms—that will spawn new litigation."

The Secretary's contention that the FLSA has not been updated in 50 years is just plain false. Congress has amended and revised the FLSA numerous times since its enactment in 1938, most recently just 3 years ago. I regret that this administration continues to characterize Federal labor protections as "outdated" and claims that it seeks to "update" them for the new century, when, in fact, many of its proposals would roll back protections for workers around the country.

Who are the 8 million workers who will be affected by this proposed rule change? According to EPI, 257 "white collar" occupational groups could be impacted. EPI did a detailed analysis of the effect of this rule on 78 of those occupational groups and found that 2.5 million salaried employees and 5.5 million hourly workers would lose their overtime protections under the proposed rule. And that is less than half of the occupational groups that would be covered by this rule change.

By broadening the FLSA wage and hour exemptions, the Department of Labor is seeking to deny overtime benefits to a wide range of workers, including police officers, firefighters, and other first responders, nurses and other health care workers, postmasters, preschool teachers, and social workers, just to name a few.

I am deeply troubled that the administration would propose a rule that would deny overtime benefits to the people who put their lives on the line each and every day to protect our communities and those who work in health care professions, which, of course, as we know, already are facing severe staffing shortages. I am also disappointed that the Office of Management and Budget issued a "Statement of Administration Policy" document on this bill that states that the President's advisers would recommend that he veto this important appropriations bill if the Harkin amendment is adopted. I think it is irresponsible to threat-

en to veto a bill that includes crucial funding for labor, health, and education programs because the administration, apparently, is digging in its heels about a proposal that would deny millions of Americans overtime pay. I regret that this administration is so determined to undermine labor protections for American workers that it would actually threaten to deny funding for schools, health care, job training, and other programs that it regularly claims are a priority.

I urge my colleagues to support working families by supporting the Harkin amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

#### DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, just prior to the caucus recess I had the opportunity to talk to Senator FRIST about the pending schedule. We both had indicated to each other that it was our expectation we would talk to the caucus about where we are with regard to that schedule. I had indicated it would be my expectation we could complete our work on the Labor, Education appropriations bill prior to September 11; I couldn't guarantee it, but that would be my expectation. What we really wanted was an opportunity to do what Senator HARKIN has been calling for since he offered his amendment on the overtime regulation last Friday. We have said if we can get a vote, which is, of course, the right of any Senator to expect if he offers his amendment, if we have that vote, if they cooperate, then certainly we can reciprocate. It is our desire is to reciprocate and cooperate.

However, I come to the floor this afternoon simply to reiterate how vitally important this issue is. Eight million people in this country today will be affected by the vote to be taken here. With absolutely no consultation, with no public hearings, with little public debate, last spring the adminis-

tration promulgated new rules weakening overtime protection for workers. Again, as I said, there was no consultation with us or the millions of workers affected before the most sweeping change in overtime rules was issued.

The overtime regulations have changed over the years but, as Senator HARKIN has so ably and eloquently pointed out, this is the first time the Department of Labor has used their efforts to update the salary threshold as a back door to take away overtime protection for millions of workers. This is a major constraint being created in the overtime rules.

What is remarkable is that overtime pay now accounts for 25 percent of the income of workers who work overtime—25 percent. These rules affect firefighters. It affects policemen. It affects first responders in various ways—emergency medical technicians, licensed practical nurses, pilots, dental hygienists, health technicians, electrical technicians, air traffic controllers. They are all affected, and that is not a complete list.

Senator HARKIN has noted it was just last Friday we passed S. Res. 210. I will not reread the whole thing, he did such a good job earlier today, but we cite:

... the more overworked employees feel, the more likely they are to report making mistakes, feel anger and resentment toward employers and coworkers, and look for a new job...

Whereas 46 percent of salaried workers are parents with children under the age of 18 who live with them at least half-time...

Whereas nearly one out of every four Americans—over 45 million Americans—provided or arranged care for a family member or friend in the past year...

With all those "whereas's"—again, I will not repeat them all—we concluded just last Friday, unanimously, that it is the position of the Senate that we should reduce the conflict between work and family life; that this should be a national priority; that the month of October—next month—should be designated as "National Work and Family Month"; and that the President should issue a proclamation calling upon the people of the United States to observe "National Work and Family Month" with appropriate ceremonies and activities.

If I had been on the Senate floor, I would have offered an amendment. I would have called for the passage, as well, of the Harkin amendment. How could you possibly proclaim "National Work and Family Month" and then tell millions of workers who earn overtime pay that they don't have the right to the protection that the Fair Labor Standards Act has provided them now for over 65 years?

The Republicans' actions makes a mockery of this resolution.

This is a critical vote. Whether it is today, tomorrow, or it is at some point in the future, we will have a vote on this legislation. We will vote on whether to protect American workers against

this incredibly sweeping and irresponsible attack on their right to be compensated for overtime worked in this country today.

Nothing could be more important. As far as we are concerned, nothing in this bill is any more important than this amendment.

I come to the floor again to express the hope that we can have the vote today and that we can move to complete our work on the bill this week and send the right message, along with the resolution we just passed last Friday, that we do respect the right of all workers and that we respect their right to be paid fairly for the work they do.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. DASCHLE. I would be happy to yield to the Senator from Illinois.

Mr. DURBIN. I would like to ask this question: Is it not true that since President Bush took office we have lost 3.3 million private-sector jobs in America, more jobs lost than any President since Herbert Hoover and the Great Depression, and that 75 percent of the jobs lost have been manufacturing jobs and good paying jobs across America? Despite the fact that manufacturing jobs account for less than 14 percent of our private-sector economy, 75 percent of the private-sector job loss has been in manufacturing jobs. These jobs have been lost to Third World countries—China and other nations.

Is it not also true that this proposal to cut overtime and basically defy the sacred 40-hour workweek would result in the importation of Third World wage standards into the United States? It is bad enough that we have lost millions of jobs to the Third World and overseas. Is this proposal by the Bush administration adding insult to injury by bringing those Third World work standards to America's families we honored with that resolution last Friday?

Mr. DASCHLE. I am afraid the Senator from Illinois is exactly right. This is a license to import Third World wage standards into the United States—to turn the clock back 65 years. That is exactly what we are doing. We are telling the workers that you are not only not going to get overtime, but this is just the beginning. If they get away with this, where does it end?

The Senator is right about unemployment, whether the number is 2.7 million or 3.3 million. There were 93,000 last month alone.

The situation is going from bad to worse. We are not only losing jobs, but those who have jobs are losing pay. As the Senator from Illinois said so well, we are importing Third World standards on those wages as a result of these proposed regulations.

Mrs. BOXER. Mr. President, will the Senator yield?

Mr. DASCHLE. I would be happy to yield to the Senator from California.

Mrs. BOXER. I would like to ask a question of my colleague. Here we are in the week of September 11. We are

going to memorialize the heroes of September 11. The last memory we all have of our President going down to Ground Zero and placing his arms around the shoulders of these brave people—and we just found out they were in serious danger due to what was happening in terms of the quality of the air. We have found that it was not what it was said to be. Everything that I am reading and the mail I am getting indicates that many of our firefighters, emergency workers, and nurses are workers who rely upon overtime pay in order to keep their families together. I have the most emotional letters which I have put in the RECORD on this point.

Does my friend not see the irony in the fact that we are approaching the September 11 date and honoring the heroes of that day and they are the ones who are going to be hurt by this terrible ruling of the administration unless we prevail and have a vote to overturn it?

Mr. DASCHLE. Mr. President, the Senator from California has articulated it better than I did. I would call it bitter irony as we approach September 11 in recognition of so many first responders who gave their lives—and in some cases because of the injuries inflicted gave their livelihoods—as we pass additional commemoration on September 11 resolutions of praise and gratitude to the first responders, how ironic that there would be an effort to promulgate a regulation that takes away their rights to compensation which they so richly and justly deserve. How ironic.

The Senator from California is right. If we are going to pass these commemorations again—and indeed we should—let us make them meaningful. Let us say that we also recognize the contribution you make every day—not just what you contributed on September 11, 2001, but what you are contributing on September 11, 2003, and every single day you come to work. Let us acknowledge that contribution. Let us acknowledge it with a meaningful commitment in pay by overturning this harsh regulation.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. DASCHLE. Yes.

Mr. KENNEDY. Do I understand correctly that it is the position of the Republican Party that rather than giving an opportunity for the Senate to express itself, the President has announced that if this particular provision is turned over—effectively if we vitiate what the administration is attempting to do on overtime—they are prepared to veto legislation which is vital for the education of the children, K-12, legislation which provides important help and assistance for those young students who are trying to continue along in terms of higher education, and effectively emasculate or undermine, as well, the funding that is necessary for the National Institutes of Health? This administration evidently is saying it is more important to deny

nurses, firefighters, and policemen overtime than to provide the funding which is essential to educate the children and to provide for essential health needs.

Is that the understanding of our leader as to the position of the majority on this legislation?

Mr. DASCHLE. Mr. President, I was struck by the extraordinary statement made by the administration last week in a statement of administration policy. Last week it said we know there is approximately \$21 billion in here for education and for those going to college. The NIH funding is about \$28 billion. This bill will affect every school district in America. It will affect children under title I and disabled children under IDEA. It will affect afterschool programs, preschool programs, and school lunch. It will affect virtually every aspect of education in America. And the President said he is going to veto this legislation if we overturn the regulation on overtime. What kind of message does that send to America and to those who heard this President say over the course of his time in the White House that education is important to him, and that education is a special priority to him?

Apparently, it is not as much of a priority as it is to ensure that we don't pass an amendment protecting workers from losing their earned overtime.

Mr. KENNEDY. Mr. President, if I could ask one more question of the Senator, the Senator is very familiar with the fact that our Republican friends refuse to permit the Senate to have a vote on increasing the minimum wage. If we don't increase the minimum wage, it will be the lowest in terms of purchasing power in the history of minimum wage. Republicans won't permit that. They oppose the Davis-Bacon provision which permits construction workers to be able to have a decent income. They have effectively also withdrawn—listen to this—the tuberculosis standard in OSHA which is so essential in order to protect people who have contamination in their lungs. We have seen the pensions of working families collapse over the period of the last 3 years.

What in the world has this administration got against working families? This seems to me to be symbolic of their attitude about working families: Let them eat cake. Let them eat cake. As the Senator has pointed out time and time again, it is the working families who have been the backbone of our economy historically when things have gone well and it is the working families who have taken the brunt when we have had mismanagement of the economy.

Does the Senator share my view? Is that a fairly good indicator of the kind of contemptuous attitude the administration has generally with regard to working families?

Mr. DASCHLE. Mr. President, the Senator from Massachusetts has put

his finger on the right word, "contemptuous." There was a contemptuous attitude on the part of this administration with regard to the importance of the minimum wage.

With regard to the importance of pension security, how many millions of workers have been adversely affected by the corporate governance scandals over the last couple of years? There is not one peep out of this administration when it comes to pension security.

How many millions of workers, especially those first responders, 8 million workers, will be affected by this ban on overtime pay? How many millions of workers are affected each and every day by the health and safety issues they continue to fight—ergonomics and a whole array of other issues, issues we have forced the Senate to consider over the years as we try to make the workplace a safer and healthier place for all workers?

On each and every one of these issues and many more, this administration has demonstrated a contemptuous attitude. I say it is the most antiworker administration we have seen, at least in my time in public life.

Mr. HARKIN. Will the Senator yield?

Mr. DASCHLE. I am happy to yield.

Mr. HARKIN. I thank the Senator from South Dakota for his strong support of working families not only on this issue but on every issue that comes up in the Senate. The Senator from South Dakota has always been there for working men and women and their families, as he is today. I thank the Senator from South Dakota, our Democratic leader, for his stalwart, strong support to make sure we have fairness and justice for our working families. I thank the Senator for his strong support for making sure these workers who are asked to work overtime get paid justly for that.

The Senator mentioned a number of the people to be affected, first responders and others. It has been said, and I ask the Senator to respond, that perhaps the first wave of people to be hit by the changes in rules and regulations would be women because so many women have come into the workforce in the last few years. Many of them are salaried and now they would be exempt, they would not get paid for overtime.

One of the first waves to be hit is nurses. Right now, we are facing a nursing shortage in our country. I know in South Dakota and Iowa and the Midwest we have a terrible nursing shortage. Nurses under the age of 30 represent only 10 percent of the nursing workforce. By 2010, 40 percent of the nationwide nursing workforce will be over the age of 50, nearing retirement. Right now, nurses are already forced to work mandatory overtime. Go to a hospital anywhere and you will find nurses being told to work overtime. The only good thing is they are paid time and a half now.

With these proposed changes, if they were to go into effect, I ask the Sen-

ator from South Dakota, since nurses are on salary, if they could be reclassified and they would then have to work mandatory overtime but they would not be paid for it; is that the Senator's understanding?

Mr. DASCHLE. Mr. President, the Senator's appreciation of the impact of this amendment on nurses is absolutely correct. I commend the Senator, again, for his extraordinary efforts and his leadership over the last couple of weeks. He has made me so proud. Every working person in America owes Senator HARKIN a debt of gratitude for his powerful articulation of their cause, as we have addressed this and other issues affecting employees, not just nurses.

In answer to his question, absolutely, nurses are affected because nurses often work extraordinarily long hours earning overtime. In fact, there is probably no category of workers today, at least in the health care field, more overworked than our nurses, in large part because of the shortage the Senator has addressed in his question. We have a chronic shortage of nurses in America, especially in rural areas and especially in South Dakota. Far too many nurses in South Dakota would be adversely affected by this regulation.

We have to recognize what a blow it would be to them. If 25 percent of their income is derived from overtime, we are taking away one-quarter of their purchasing power in one fell swoop by this regulation. That is why this is such a critical fight for us and why it is so important to make this case on this bill.

Mr. HARKIN. If the Senator will yield further for one more question, I thank him for his kind words on my behalf. I respond by saying I am fortunate to have good leadership, the leadership of the Senator from South Dakota and the Senator from Nevada, in carrying this fight forward. I thank both for their great leadership.

As I pursue this issue about women being affected, face it, most nurses are women. That is the way it is. They will be greatly affected.

Another figure we ought to look at—and I ask the Senator for his thoughts on this—in 1975, women who had children under the age of 3 made up only 34 percent of our workforce; today that is 60.2 percent. Over 60 percent of women with children under the age of 3 are now in the workforce.

I ask the Senator, is it true that these women—maybe not all but most of them—have to have daycare, some childcare, for their children? So now, these women who are paying a lot for childcare, if they do not have to be paid overtime under the proposed changes the Bush administration wants to make, would be forced to work overtime. Does that not mean they would have to pay even more for childcare than what they are paying now, yet they would not get one nickel more in their income to help pay for it? Is this not also what would happen to women under the proposed changes in the overtime proposal?

Mr. DASCHLE. I say to the Senator from Iowa, that is exactly the case. You do not need to be an accountant to realize the dramatic financial consequences this will have on so many working women but especially those who are faced with extraordinary childcare costs today. I am disappointed on that front.

I understand we will take up the welfare reform reauthorization tomorrow. I am told the childcare funding increase was cut from \$5.5 billion to \$1 billion in the markup before the Finance Committee. I am astounded that anyone could, with a straight face, say we want you off of welfare to work but we will cut your access to childcare under this legislation. So not only is the problem for working women reflected in this regulation but in the very legislation we could address as early as tomorrow in the Finance Committee.

This legislation cries out for fairness for working women, for those working two and three jobs just to make ends meet. There is no way we can pass the resolution we passed last Friday calling for a recognition of the American worker during the month of October and fail to recognize the importance of repealing this regulation before October even begins.

Mr. HARKIN. If the Senator will yield for one last question, last week I was talking to one of my colleagues on the Senate floor about my amendment, about this amendment, and about the impact on overtime pay. My colleague said: One of the strange things about this is that I have heard no big movement in my State. There is no uprising in my State about changing the overtime laws. I have not heard from business. I have not heard from workers. I got to thinking: You know, neither have I. I have not had any businesses in my State coming to me saying: Senator, we have to change these overtime laws. They are a terrible burden on us. We have to get rid of them. We have to change them. I have not heard them say that. Where does this come from?

I ask my fellow Senators, I ask the Senator from South Dakota, has anyone here been really lobbied hard by anyone in their States to change these overtime laws? Where is it coming from?

Mr. DASCHLE. I respond to the distinguished Senator from Iowa, Mr. President, that this resolution could have been written by a good employer because the good employers that you and I talk to in Iowa and South Dakota understand and agree with what this resolution recognizes.

Mr. HARKIN. The one we adopted last Friday.

Mr. DASCHLE. Yes, the one we adopted last Friday:

Whereas the quality of workers' jobs and the supportiveness of their workplaces are key predictors of job productivity, job satisfaction, commitment to employers, and retention.

Every good employer in South Dakota understands that. That is as clear

and as unambiguous a principle of good management as you will ever find. So is the next one:

Whereas there is a clear link between work-family policies and lower absenteeism.

So the Chamber of Commerce could write that. If we want to make sure we have low absenteeism, if we want to make sure we have high job productivity, job satisfaction, commitment to employers, and retention, what do you do? You tell those workers in more than just a resolution that their contribution matters, and that if we are going to ask them to work longer than a 40-hour workweek, we are going to compensate them for that.

We became one of the most productive nations in the world over the course of the last 70 years. Why? Because we had the most productive workers. Why did we have the most productive workers? Because there were enough businesses who understand those basic principles of good business.

That is all we are suggesting. Let's stick to those principles. Our country deserves no less.

Mr. KENNEDY. Mr. President, the Senator has been very generous with his time. I bring two matters to the attention of the Senator and ask whether he agrees; I have listened to the exchange between the Senator from Iowa and the Senator from South Dakota.

This chart I have points out that middle-income mothers are working 55 percent more hours today than 20 years ago. This chart shows 1979 up through 2000. We have seen this dramatic expansion of the number of hours that women are working in the workforce to provide for their families.

At the same time we are seeing this dramatic increase, we are finding out that there is a reduction in terms of overtime. As the Senator pointed out earlier, we are finding out that American workers—this column on the chart indicates the number of hours Americans are working in relation to other industrialized nations. So workers are working harder, they are working longer hours, they are more productive, and all they are asking is to be able to get decent pay.

But the question I ask the Senator is in relation to this particular chart. This is enormously interesting. Workers without overtime protections are more than twice as likely to work longer hours. If you take those workers who do not have overtime protection, they work more than twice as long as those who have the overtime protection.

If you take away this kind of protection, the word ought to go out to workers that they are going to have to work longer and harder for less pay because that is what is happening today. And that is what is happening for 40 hours a week. And for 50 hours a week, you work three times as long if you don't have any overtime protection than if you have it.

It is very clear that the Business Roundtable and others are correct as

they understand that by eliminating the overtime pay it is affecting the bottom line.

Earlier I heard the Senator talking about what is happening in terms of the police and the firefighters. I bring this chart to the attention of the Senator and see whether he agrees. This is from the National Association of Police Organizations. The Bush proposal would deny overtime:

Under such regulations, America's State and Local law enforcement officers, already strained by countless overtime hours ensuring community safety against terrorist threats, could lose this basic benefit accorded to them for their efforts.

This is from the International Union of Police Associations:

The alterations would also provide a strong disincentive for agencies and municipalities to hire additional first responders, as they seek ways to operate under the growing constraints of historic financial burdens.

The implementation of these rules would mark a critical step backwards for our public safety. . . .

I just wanted to reaffirm what the Senator said in his excellent comments about the impact this would have on women, the impact this would have on first responders, and the real threat and danger this poses to the hardest working men and women in industrial society. They are the American workers and they have the most to lose.

I thank the Senator.

Mr. DASCHLE. Mr. President, I thank the Senator for his contribution and for his clarity with regard to the impact this will have on the workers who he has again addressed, and women in particular.

The irony could not be more evident. As we praise the American workers' productivity, we take away their very right to fair and just compensation. We drive them into schedules that require even longer hours, away from their children, away from their families. We adopt resolutions lauding them—the American worker and the working family—for the entire month of October. Yet we can't take 15 or 20 minutes on a Tuesday afternoon in September to say that we mean what we say in October—we are going to make sure you get the overtime you deserve when you work over 40 hours. How bitter of an irony is that?

Then, perhaps the irony of ironies, as we turn our attention once again to the great tragedy of 2001, in just 2 days, we will come to the floor and we will speak with reverence for those who lost their lives. We will thank those who continue to put their lives on the line. We will express, in as heartfelt a way as I know everyone can, on Thursday, how grateful we are to the first responders, to the policemen and the firemen all across this country—in South Dakota, in Massachusetts, and every place else—and then turn right around and take away their overtime.

How, in Heaven's name, can we say to any of them, with any credibility: We care for you. We support you. We are grateful to you. But we just don't want you to pay you the overtime you have earned.

Let's not do that. The Senate, on a bipartisan basis, ought to rise above that kind of hypocrisy and say: We are not only going to support you next month, we are not only going to support you this Thursday, but we are going to support you every day—by simply supporting the law that has been on the books since 1938, the Fair Labor Standards Act. That is what this amendment is about, and that is why it is so important to many of us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before he leaves the floor, I thank the distinguished Democrat leader for his comments and others for their comments. I was going to ask him a question myself, but I think our leader has already been standing on the floor for about an hour, so I will spare him that. I commend him for his eloquence on this issue and for his passion about it.

This is an issue that is befuddling, to put it mildly, to many of us. I have several amendments pending on the education bill. I would very much like to raise them on Head Start and on special education. We can't get there apparently because we can't get a vote on this simple proposition.

Not only are we not going to be able to vote on overtime this afternoon, but we can't even vote on whether or not we ought to do more on special education. We can't do something more on Head Start, title I, Pell grants. Here we are, coming in the midst of September, the waning days of the Session, with huge issues before us, and it is now the midpart of Tuesday—this started last week some time—and it would take, I suspect—and the Senator from Iowa is here, our leader; he can correct me—maybe another 15 minutes of debate and we could have a rollcall vote on this and move on.

I will take a few minutes to express my views, which are very similar to those expressed by the distinguished minority leader, as well as Senator KENNEDY, Senator DURBIN, Senator HARKIN, Senator BOXER, and others, on this matter. But I think it is a great tragedy.

I thank the leader for taking the time to express to the American public his great concern about this issue and the wonderment he expresses about why we can't even have a vote on this proposal. I thank him and I know he has a busy afternoon.

I want to share with my colleagues my own thoughts on this issue as well. I think it is remarkable. This is yet one additional bad decision after another when it comes to the economy.

We have seen what has happened regarding tax cut policy. I note an article written by Mike Allen and Jonathan Weisman in the Washington Post appearing this past Saturday, page A6, titled "Tax Cut Claims Gain Criticism As Employers Shed More Jobs." I won't read the whole article, but let me quote from it, if I may:

Before the latest tax cut plan passed, White House economists had predicted it would add 1.4 million new jobs through the year 2004, on top of 4.1 million jobs that a growing economy would have generated anyway, a rate of 344,000 jobs created a month. By its own accounting, the Bush administration has fallen 437,000 jobs short of its own projections in August, a shortfall not lost on the President's critics.

We have seen already tremendous job losses in this country. The minority leader mentioned a job loss of 3.2 million jobs; 2.5 million of those job losses have occurred in the manufacturing sector of our economy; 93,000 jobs lost in America in the month of August, up sharply from the 43,000 jobs lost in July. For the seventh consecutive month, companies have slashed pay-rolls.

So the economy, when it comes to joblessness, is cratering. The tax cuts that the administration jammed through the Congress only a few short months ago are already demonstrating what a hardship they pose to the recovery and to putting Americans back to work.

As I mentioned, 93,000 jobs were lost in the month of August; 44,000 of those jobs in the manufacturing sector. Just over 2.5 million manufacturing jobs have been lost in the last 32 months.

African Americans and Hispanics bear the brunt of the economic downturn. The unemployment rate among African Americans is now hovering around 11 percent, almost twice the national average.

The unemployment rate among Hispanics is almost 8 percent. Long-term unemployment is on the rise. In August, almost 2 million people had been unemployed for over 6 months, triple the number at the beginning of the Bush administration.

A surge in discouraged workers masks the true impact of the economic downturn. Currently, 1.7 million people are marginally attached to the labor force. About 503,000 of these workers have stopped looking for work altogether because they believe that no work is available for them. That is an increase of 125,000 over the past year.

A new study suggests that job losses since 2001 are gone for good. A study by the Federal Reserve Bank of New York has concluded that the vast majority of job losses since the beginning of the 2001 recession were the result of permanent changes in the U.S. economy and are not coming back. This means the labor market will not regain strength until new positions are created in new economic sectors. Manufacturing is the area that is suffering the largest brunt of this decision.

An additional 1.3 million people are in poverty nationwide. The number of Americans living below the poverty line has increased by more than 1.3 million in the last year, even though the economy technically edged out of a recession during the same period. The number of families living in poverty went up by more than 300,000 in 2002, and the number of children in poverty

rose by more than 600,000 in the same period.

We are heading in the wrong direction. On top of all that, we now have a decision being made by the administration to eliminate overtime pay. People in more than 250 white-collar occupations will lose their right to overtime. I won't list them all, but they include the critical areas of nursing, firefighting, police forces, emergency medical services, health technicians, clerical workers, surveyors, chefs, TV technicians, and reporters. Overtime pay will be eliminated.

I don't understand—in light of the news we are getting about the unemployment picture in this country and the hardships being faced, the rising level of poverty, the more difficult time families are having to make ends meet—why the administration persists in pursuing a policy of denying overtime pay. There was a very close vote in the House of Representatives. At least they voted. I am told the vote was 210 to 213 against blocking the President's proposed rule, so it was narrowly defeated by the Republican majority in the House of Representatives.

I want to know whether or not this body wants to confirm what the House and the President said they want to do. And should not the American public have the right to know what the answer of this body would be?

In 250 occupations, they want to know whether or not they are going to be able to get overtime pay. Overtime pay makes a huge difference for them economically. It can amount to as much as 25 percent of a worker's annual income. Denying 25 percent of someone's income at a time of already economic uncertainty is wrongheaded. It is dangerous for us to be pursuing that path.

I regret deeply that we will not have a chance to vote this afternoon on the administration's overtime proposal. We are faced with one more bad economic idea after another. We have the largest annual deficits in the Nation's history, one of the largest percentages of the gross domestic product, because they include, obviously, Social Security moneys in their calculations. We have lost more than 3 million jobs in the last 32 months.

Instead of working towards creating new jobs and helping working families and individuals, the administration has proposed a regulation to deny overtime protection to millions of people. These workers would have their jobs reclassified as professional, administrative or executive, even if their job duties do not change, thus losing the benefit of overtime pay. As I mentioned, more than 250 white-collar occupations could be impacted. Employees could be forced to work longer hours without the benefit of overtime pay.

I was speaking with a group of nurses in Connecticut. They were saying to me: We don't have the choice of not working additional hours in hospitals.

If an emergency occurs, or there are problems with patients, you are always asked to stay on a few more hours and help out.

And they do it. The idea that we would be asking these people to continue to provide the valuable services they do to sick individuals in our Nation's hospitals and not provide them compensation for doing so is truly outrageous. The same goes for our firefighters and police officers.

Senator BOXER had it right when she said earlier: You can well imagine in the next 48 hours or so the kinds of images we are going to have, a replay of the tremendous outpouring of gratitude being expressed to the police officers and firefighters in New York and Connecticut, New Jersey, and others who gathered to fight for the lives at the World Trade Center almost 2 years ago. Yet what expression of gratitude do we provide them 2 years later? We tell them: Sorry, but your overtime pay no longer exists. What kind of a message is that to these people?

Asking employees to work longer hours and not providing overtime pay is significant because overtime pay can provide as much as 25 percent of a person's annual income. This is not the type of balance between work and family that the distinguished Democratic leader pointed out when we adopted unanimously a resolution offered last week. I was pleased to cosponsor S. Res. 210, a bipartisan resolution supporting striking a balance between work and personal lives as being in the best interest of worker productivity.

I find it terribly disheartening that at a time when this body is asking the President to designate October as National Work and Family Month, the administration is working to finalize a regulation to strip overtime pay for millions of people.

The 1938 Fair Labor Standards Act has been the backbone of worker protection. Never in its 65-year history have such sweeping overtime changes been proposed.

Hard-working individuals are deeply concerned about these changes and many of us here stand shoulder to shoulder with them in expressing our outrage. It is unfortunate that we are not going to be able to have a vote today in this body on whether or not we can overturn that decision.

I also find it ironic that the President suggested he would veto the underlying appropriations bill on education and health services if this amendment is accepted. In fact, an August poll of nearly 900 adults found that 74 percent—cutting across all regional and political lines—oppose the Bush administration's proposal to eliminate overtime protection. Almost 75 percent of those polled said don't do it.

Further, in 2001, the Department of Labor commissioned its own study that concluded that the current narrow overtime exemptions under the Fair Labor Standards Act are still relevant today.

Why then did the Bush administration unveil these proposals last March? One can only conclude that whatever the reasons, they do not include supporting the ability of working people to earn a decent pay for a day's work.

Mr. GREGG. Mr. President, will the Senator yield for a question?

Mr. DODD. I will be happy to yield.

Mr. GREGG. The Senator made two points. First, on the issue of police officers, fire individuals, and first responders, I believe the administration and the Department have made it very clear that those officers would not be impacted by this decision in any way and, in fact, to quote the President of the Fraternal Order of Police, the largest police union in the country representing 310,000 people, Chuck Canterbury, said:

Thanks to the leadership of Secretary Chao, we have no doubt that the overtime pay will continue to be available to those officers currently receiving it. And if the new rules are approved, even more of our national police officers and firefighters and EMTs will be eligible for overtime. This development was possible because this is an administration that listens to the concerns of the Fraternal Order of Police and because of their commitment to the Nation's first responders.

The Senator from Connecticut represented a couple of times how police officers are going to be denied overtime pay. This is the president of the largest representative group of police officers in the country saying just the opposite. The Department has said just the opposite. The administration has said just the opposite. I am wondering what factual basis the Senator concludes that the head of the police, the National Fraternal Order of Police, is wrong; the Secretary of Labor is wrong; and the administration is wrong on this point?

Mr. DODD. Mr. President, very simply, as my colleague pointed out, I would be delighted if the administration was going to change its policy. I wish they would do it across the board, just back this up all together.

The fact is, if you do a simple recategorization of what these people do as either being professional, administrative, or executive, then you are covered under this rule. I don't know what the various heads of these organizations are saying, but that is what the regulation that has been proposed by the administration says. Within the 250 employment categories, police and firefighters are included, if they are recategorized. If you do not recategorize them, they are going to be fine. But you leave that up to the whim of whether you want to move them to those different levels of pay. That is how they get covered.

Mr. GREGG. Will the Senator yield for a further question?

Mr. DODD. I will be happy to yield.

Mr. GREGG. Mr. President, I tend to side with the head of the National Fraternal Order of Police in his assessment of this situation and the commitment made by Secretary Chao that the police officers, fire individuals, and

EMTs will not be impacted. It has been made very clear the regulation has no impact on them, and I think it is just not correct to make that statement, although I can understand the Senator can read the regulations and has concluded that, but nobody else has.

Mr. DODD. Mr. President, let me respond to my friend. The National Association of Police Officers and the International Union of Police Associations oppose the regulations. We have correspondence from them. There is obviously some disagreement.

Mr. GREGG. Opposition is not the issue. The issue is whether police officers, fire, and EMT will be affected. I believe the administration made it clear they won't be affected, and I believe the assessment, as reflected in this quote from Mr. Canterbury, is accurate.

My second question is on the issue of nurses because the Senator also said all nurses would be affected. I am sure, as the Senator knows, nurses are already exempt from the FLSA, and to the extent nurses are affected by overtime, it is because of a contractual agreement in their union contracts. As a practical matter, therefore, the vast majority of nurses who are subject to union contracts will have no impact on their overtime, and there is no adjustment here in any way to the nurses of this country, as again has been made clear by the administration and again reflects the fact that the present law is in place and that nurse overtime is tied to contractual agreements, not to FLSA regulations.

To throw the nurses in—and I can go down, actually, the whole list. I could go down to cooks, reporters, clerical workers, teachers, physical therapists, lab technicians, social workers—all these individuals who have been put on the Senator's list actually are not on the list. They actually are not on the list.

Mr. DODD. Mr. President, let me regain my time and respond. I appreciate my colleague raising these questions. I ask unanimous consent that letters from the International Union of Police Associations and the National Association of Police Organizations, expressing their opposition to the regulation, be printed in the RECORD.

INTERNATIONAL UNION OF  
POLICE ASSOCIATIONS, AFL-CIO  
Alexandria, VA July 25, 2003.

U.S. SENATE,  
Washington, DC.

DEAR SENATOR: In the very near future, either an amendment, or a stand-alone bill, will be brought forward in the Senate which will seek to restrict the Department of Labor (DOL) from implementing any regulatory rules changes in the Fair Labor Standards Act that would remove workers' overtime rights. It would not interfere with the Secretary's ability to expand overtime protections for low income workers. On behalf of the International Union of Police Associations (IUPA), representing more than 100,000 active duty, rank and file law enforcement officers from across the country, I urge you to support this effort.

On March 31, 2003, the DOL's proposed rule changes were first published under the guise

of expanding overtime rights to lower paid employees. These rule changes, if implemented, would dramatically alter the classification of workers who could be exempted from the provisions of the FLSA and the 40-hour work week. These changes would reduce the compensation for our nation's police officers and EMS personnel, just as we are routinely calling on them to do more and more in the interest of national security. The alterations would also provide a strong disincentive for agencies and municipalities to hire additional first responders, as they seek ways to operate under the growing constraints of historic financial burdens. The implementation of these rules would mark a critical step backwards for our public safety officers, just when we need to be moving ahead.

IUPA has been closely following the events surrounding these changes. We consider this legislation to be the most important single issue we face. Its critical impact on rank-and-file law enforcement officers throughout the country makes it a true litmus test, when it is time for us to decide who truly supports the men and women who form the thin blue line. We intend to carefully note and announce to our membership those who are willing to stand with our nation's police and firefighters with their votes. Whatever form this struggle takes, I hope we can count on your support. If you or your staff desires any additional information from IUPA, I hope you will feel free to call upon us.

Very Respectfully,

DENNIS SLOCUMB,  
International Executive Vice President.

NATIONAL ASSOCIATION OF  
POLICE ORGANIZATIONS, INC.,  
Washington, DC, July 14, 2003.

DEAR SENATOR: The full Senate will soon consider the Labor HHS Appropriations Bill, S. 1356. On behalf of the National Association of Police Organizations (NAPO), representing 230,000 rank-and-file police officers from across the United States, I would like to request your support for an amendment to S. 1356, which will be offered by Senator Tom Harkin (D-IA) and will safeguard the ability of millions of Americans, and America's law enforcement officers, to continue to earn overtime pay for their professional efforts.

On March 31, 2003, the Department of Labor issued a proposal which called for significant alterations concerning the ability of law enforcement officers to receive hard earned overtime pay. Under the Fair Labor Standards Act of 1938, most workers, including law enforcement officers, are entitled to overtime pay for excessive time worked. The Department's proposal dramatically lowers the bar for employers to classify employees as "executive, administrative or professional," thus exempting them from paid overtime status.

If allowed to go into effect, these proposed regulations will have a tremendous impact on workers who depend on overtime pay, not as an added frill, but as a necessity to ensure the promotion and well being of their families. Under such regulations, America's State and Local law enforcement officers, already strained by countless overtime hours ensuring community safety against terrorist threats, could lose this basic benefit accorded to them for their efforts. These proposed regulations have seen no hearing nor achieved any legislative approval.

The Harkin Amendment will protect these benefits and only blocks the expanding of exemptions for those who are currently eligible for overtime, while not blocking efforts to expand overtime eligibility for more workers. I hope you will support the amendment and ensure these hard earned benefits. If you

have any questions, please feel free to contact me, or NAO's Legislative Assistant, Lucian H. Deaton, at (202) 842-4420.

Sincerely,

WILLIAM J. JOHNSON,  
*Executive Director.*

Mr. DODD. Mr. President, I will address both points my colleague has raised. If my colleagues on the other side are so concerned about first responders, why not just oppose the regulation altogether because this is the major group about which we are talking. For example, let me point out what I am suggesting.

Police sergeants and lower-level police supervisors are likely to lose their overtime through the executive exemption. Let me explain why.

The fact that a sergeant performs nonmanual work such as walking the beat during 90 percent of his work hours does not matter if he also has a primary duty of supervising two officers or performing nonexempt administrative work.

Highly compensated police officers will not even have to have a primary duty of performing exempt work. If they perform any "office or nonmanual work" and perform any one exempt duty of an executive, administrative, or professional duty—no matter how little of their time is spent doing it—they lose the right to overtime.

How much imagination does it take to move people into those categories to be exempt from overtime compensation?

Police departments have been prevented from exempting police officers who teach in police academies because the instructors did not exercise sufficient independent judgment and discretion in how they taught their courses. The proposed rule eliminates the requirement for independent judgment and discretion.

Under the current law, an exempt executive is an employee "who customarily and regularly exercises discretionary powers; and who does not devote more than 20 percent . . . of his hours of work in the workweek to activities which are not directly and closely related to the performance of [exempt] work. . . ."

Under the proposal by the President, those current law requirements are eliminated.

Let me address the nurse issue. Nurses, skilled health technicians, and technologists could lose their overtime protection under the proposed regulations because of the changes to the educational requirement.

Registered nurses who do not hold a bachelor's degree are currently eligible for overtime protections, unless they hold administrative or managerial positions.

Under the Bush proposal, these RNs would lose their overtime protection if they have a few years of work experience.

Nonmanagerial licensed practical nurses—LPNs—have a right to overtime protection under current law.

Under the administration's proposal, LPNs with a few years of work experience would also lose their right to overtime compensation.

Let me read current law and then read the regulation proposed by President Bush.

The current law:

Employees are exempt if they do "work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes."

Under the President's proposal:

Employees qualify for exemption as a learned professional if they have a primary duty of performing office or nonmanual work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of intellectual instruction, but which may also be acquired by an equivalent combination of intellectual instruction and work experience.

That is very broad, very general language. Obviously, one can drive a Mack truck through it. That is why the nurses of this country, the RNs and LPNs, are vehemently opposed to this proposed regulation, because they know exactly what is going to happen, just as police officers do. That is why so many of us feel so strongly about this and why we would like to vote on it.

If a majority wants to uphold the President and vote for this stuff, then so be it; the Administration can go forward and it will become the law of the land. But I would like to know where 100 Senators stand. America would, too. As I mentioned, nearly seventy-five percent of the people polled in a recent survey said they are opposed to the administration's proposed rule. Let's find out where this body is. I think the proposed rule to eliminate overtime pay is wrong and I support the Harkin amendment. I hope that we will have a vote soon and I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I always enjoy the eloquence of the Senator from Connecticut. I am a great admirer of him as a legislator and as a colleague in this body, but I must disagree with his analysis of what this proposed regulation does.

Let's begin with the fact that this is a proposed regulation. That means it is not final. It means the Department is still in the process of adjusting it, of building it, of designing it. They have received 80,000 comments.

The approach of the other side of the aisle is to say we do not care what the 80,000 comments were; we do not care what the process is for regulatory review. We are going to step in, and we are going to unilaterally decide that a law that has not been adjusted in over 30 years is a good law, shall be law, and

shall never be changed. It makes very little sense.

When this regulation was initiated, America was an entirely different country. It had a different employment structure, different individual types of responsibilities within the employment structure. We had jobbers. We had people who were working on the line as the primary responsibility of our manufacturing structure. Today we are a much more mobile society. We are a much more dynamic and flexible workplace. We are a workplace which reflects massive change in the way we compete and are successful as an economy.

Yet a law passed 30 years ago does not keep up with those changes. It has not adjusted to the change in the workplace that has occurred as a result of the information age coming to fruition. It does not reflect the fact that so many people who work in the workplace today earn a heck of a lot more than what they were paid under this law when it was originally passed.

On the face of it, the administration has done a job of trying to address low-income individuals. They have said under the present law that if someone earns \$8,000 or less, they can get overtime by law. Well, that is ridiculous. That is a ridiculously low number.

What this administration has said is if a person earns \$21,000 or less, they will have the right by law to get overtime. It does not matter how their job is classified; they have the right to overtime. That is a very reasonable approach. Basically, it empowers an additional 1.3 million people in this country who will automatically be qualified for overtime who are not qualified for it today because of this absurdly low threshold which was placed in law over 30 years ago. That is the type of reason we need to revisit this type of regulation.

It is also important to recognize that there is a huge debate over who is and who is not covered in this law. A think tank—and we have a lot of them in this city and they are all very aggressive—which is essentially funded by the national Washington labor movement came up with this number of 8 million. So I have kept asking my staff: Well, how did they get to 8 million?

The Department, which used outside counsel, outside consultants, and a bevy of outside experts in this law, and economists, came to the conclusion that this will give 1.3 million people overtime and it may affect somewhere between 600,000 and 700,000 who might lose their overtime under this law. They decided that that trade-off was worth it, first because on the plus side more people would be getting overtime than not, but secondly because the law has become so convoluted, so complex, and has such a large gray area—as one moves into the higher income brackets, people up around \$65,000—that we basically created a lawsuit mentality in the area of the workplace relative to overtime pay questions.



In fact, this is the fastest growing area of lawsuits for trial lawyers. This is sort of the new oil field they have struck. You know how sometimes we strike oil fields in Kansas or in Saudi Arabia or in the North Slope. Well, this is the new oil field that the trial lawyers have struck, which is the inconsistency, the confusion, of the overtime law. It has become the new gusher for one element of the bar.

The Labor Department said: Let's try to straighten these regulations, get some order to them, make sense of them. Did they do a perfect job? No, they did not. That is why 80,000 comments came in. I do not subscribe to this regulation as it is presently structured. I think it can be improved and I think the 80,000 comments are probably going to significantly impact the way the Department of Labor addresses this regulation, but I do not think we should short-circuit the process and suddenly say no, it does not work.

If it is such a bad regulation when it finally comes out, we have the ability in this Congress, as we are now proceeding to do under the proposal of the Senator from North Dakota in the area of FCC ownership, to bring to the floor an amendment on a privileged resolution within a very short period of time that only requires 36 signatures. We have to bring it to the floor, we have to debate it for 10 hours, we have to vote on it, and then we can repeal this. We ought to at least give the process the ability to move forward to see if we can straighten out some of the fundamental flaws of this law which have over the years evolved to a point where we basically have created a new gusher for trial lawyers but very little constructive, efficient, market-oriented events for the productive side of our community, which is the workers.

To get back to the question of how many people are impacted, as I said, the Department of Labor came up with their numbers which were independently evaluated, independently reached, and which were certified essentially by people who understand and who are expert in this area. Where did this 8 million number come from, that we have heard bandied about as if it had been sacrosanct, delivered to us from the mountain on high, by some tablet that said 8 million workers are going to be impacted?

This number came, as I mentioned, from some think tank in Washington, which think tank is funded by an interest group which has a very significant role in this debate, which is the major labor union leadership in Washington. It was put together not by a group of economists, not by a group of experts in this law. It was put together by two individuals whose expertise in this law is new, to be kind. I think one has a social worker's degree and the other has some sort of other degree, but they are not recognized national leaders in this area.

They did not support their findings with anything that was substantive.

They just sort of picked a number, 8 million. They picked that number, it appears, without, one, understanding the regulation as it was proposed, two, maybe stretching it as it has been proposed, or, three, just simply fabricating the number in the sense that the number has no relationship to anything the regulation actually says.

Let's begin with the biggest fabrication in their proposal of 8 million, which is that they have included part-time employees. Now, how they can include part-time employees, which is probably about 6 to 7 million of the people they added to the 8 million—I do not know the number because they did not attach a number to it, but part-time employees is a big number in our society—is beyond me when we are dealing with a law that requires someone to work 40 hours a week before they can get the overtime. By definition, a part-time employee is not kicked into overtime except in that rare case where they decide to become a full-time employee, and then they should not be counted as a part-time employee under this proposal.

So right off the bat, that 8 million is extraordinarily suspect as to the vast majority of the numbers in that 8 million.

Then we go down to the other folks they added to their list, and we begin with the firefighters. Independent of what my learned friend on the other side of the aisle says, the fact is it has been made very clear by this administration, by the Secretary, and by the people who are involved in the drafting of this regulation that firefighters—firemen and first responders, such as EMTs—will not be impacted by this language. That is why, I presume, the national chairman of the organization, the Fraternal Order of Police, has essentially signed off and said that is the case.

I submit, since we are submitting materials, a release from the FOP, which is entitled "F.O.P. Confident of Satisfactory Resolution on DOL Overtime Regulations," and ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

F.O.P. CONFIDENT OF SATISFACTORY  
RESOLUTION ON DOL OVERTIME REGULATIONS

Today, National Fraternal Order of Police President Chuck Canterbury announced his full confidence in the success of the F.O.P.'s efforts to protect the right to overtime pay for more than a million public safety officers across the nation. Following a productive dialogue with U.S. Department of Labor (DOL) officials regarding the proposed changes to the rules governing overtime compensation, Canterbury asserted that the issue would be resolved to the benefit of our nation's public safety officers.

"Thanks to the leadership of Secretary Chao, we have no doubt that overtime pay will continue to be available to those officers currently receiving it and, if the new rules are approved, even more of our nation's police officers, fire fighters and EMTs will be eligible for overtime," Canterbury said. "This development was possible because this

is an Administration that listens to the concerns of the F.O.P., and because of their commitment to our nation's first responders."

On 31 March, the Department of Labor published a Notice of Proposed Rulemaking in the Federal Register to revise and update the exemptions from overtime under the FLSA for executive, administrative, and professional employees. The F.O.P. was the first union to weigh in on behalf of America's law enforcement community regarding the proposed change and recommended the exclusion of all public safety personnel from the Part 541 or "white collar" exemptions from overtime—including those employees who are classified as exempt under the existing regulations. The organization argued that the exclusion of these employees was necessary because of the increased burdens placed on public safety officers following the terrorist attacks of 11 September 2001.

"Since the beginning, it's been clear from our dialogue with Secretary Chao and Department officials that it was never their intention to cut overtime for public safety employees," Canterbury said. "So we decided early on that the interests of our members could best be served by working cooperatively with the Department. While others saw an opportunity to demonize this Administration, we chose cooperation over conflict, partnership over partisanship."

Canterbury also noted that it was this spirit of cooperation that led DOL to agree that public safety officers should not be classified as exempt under the proposed regulations. "To the F.O.P., this was never a partisan political issue," Canterbury said. "Instead, it was a chance to make things better for police officers and their families."

"Thanks to the dialogue between the F.O.P. and the Department, we are confident that when the final regulations are issued, that overtime pay will be available to even more public safety officers in the country than under current regulations," Canterbury said. "What we have accomplished by working together will be arguably the most significant victory for public safety officers in decades."

In a recent speech at the organization's 56th Biennial National Conference in Providence, Rhode Island, Labor Secretary Elaine L. Chao praised the F.O.P.'s work on the issue. "The bottom line is that Chuck Canterbury and the F.O.P. are known for bringing facts and constructive solutions to the table," Chao said. "That's why you are respected, that's why you get results, and that's why police officers trust the F.O.P. to look out for their interests."

On 1 September, Canterbury also traveled with President George W. Bush to a Labor Day event at the Ohio Operating Engineer's Richfield Training Center in Richfield, Ohio, where the President spoke on jobs and the economy. Traveling with key Administrative officials afforded President Canterbury the opportunity to continue the dialogue on this important issue.

Canterbury concluded by clarifying what the new rules, if adopted, will mean to rank and file officers across the country: "Basically, if you get overtime pay now, you're going to keep it. If you're currently exempt from overtime pay, you may be getting it very soon."

The Fraternal Order of Police is the largest law enforcement labor organization in the United States, with more than 310,000 members.

Mr. GREGG. That is a big chunk, but how many police officers and firefighters and EMT workers they included in that number, I don't know. I would not be surprised if, of the million



or million and a half or maybe 2 million who were not part time who were included, it is probably close to about half that. I don't know because this report did not have the integrity to put the numbers on their people.

They also included nurses. As we just had this little exchange, nurses are already exempt from FLSA. The reason for that is they are deemed to be essentially professional as a result of their training experience. The present law is fairly clear in this area. I believe I have it somewhere here. Basically it makes it very clear that nurses are not covered by FLSA. The reason nurses get overtime is because the vast majority of nurses reach a contractual agreement in their union negotiations which gives them overtime. Those are not going to be changed, obviously. As a practical matter, nurses should not be included. So there you have another, who knows, 200,000-plus people who were added to this 8 million number, which is bogus.

Then you have cooks. There is a difference here on cooks. There are chefs, professional chefs—yes, they would probably lose overtime, or be suspect, or have that as part of the compensation, depending on whether they have a union contract. The 4-year culinary school graduate who is a professional chef who manages a kitchen, that person is probably going to have to negotiate their overtime independent of these rules. But there are not any other cooks who are going to be covered. The fellow working down at the local diner or the persons working in a restaurant are not going to be covered by this law because they are clearly not exempt individuals. The vast majority—who knows, probably 90 or 95 percent—are not going to be exempted and will continue to get overtime.

So you have a number, however, that was included, which I believe is all the cooks. At least that is the implication of the language. Probably another 200,000 people are in that category of work.

Reporters—this is another one listed by my colleagues across the aisle. All reporters are going to lose their overtime. That is a fight reporters have been having for a long time. That is a fairly public fight, whether reporters are professionals or not professionals. I guess every reporter has to get up in the morning and look in the mirror and decide whether they are professional. But those who decide they are not professional who want overtime are going to have to negotiate their union contracts for that, probably, because as a practical matter that reporter issue is being settled in the court system.

How it breaks down is very much an issue. But it certainly is not going to be affected by these regulations. It is already decided in large part by court decisions and will continue to be so. So to throw reporters in here is again a very bogus figure.

Clerical workers clearly are not going to be covered. The vast majority

are not going to be covered, vast majority are not going to be covered by this regulation nor will it have any impact on their overtime.

Teachers are entirely exempt by law already from FLSA. To put teachers on the list is again misleading. It either reflects a lack of knowledge of how the law works or an intent to try to inflate the number. Teachers clearly get overtime, but it is a function of their contract negotiations, not a function of FLSA.

The same goes for physical therapists, lab technicians, and social workers. In all these categories the vast majority of people who fall in the last three categories are not going to be impacted in any way by this proposal—by exemption, but will continue to get coverage for overtime activities or will pick it up through their union contracts, many of them being unionized, especially social workers, for example.

As a practical matter, what we have here is a grossly inflated number which has no economic or statistical support behind it, which has virtually no law support behind it, especially in the biggest categories—part time, police, fire, first responders, nurses, and teachers. And as a result, this number of 8 million which we keep hearing thrown out on the floor is a bogus number. It is a completely bogus number.

The real number is probably closer to what the Department had assessed by outside counsel, by outside review, and which shows a plus. In other words, it shows more people are going to get overtime out of this regulation change than have the potential of losing overtime under this regulation change.

Does that mean it is perfect? Of course not. There are ways to improve it, as I mentioned when I started, with 80,000 people commenting on it. But this issue is clearly not ripe for this Senate to be acting on it. Let's wait and give the Department a chance to review the options, review what it hears from the various people including, I think, some very cogent and thoughtful comment that came in from some of the major labor unions that are concerned about this. Although if you are in a labor union, by definition you are probably not going to be impacted by this law. But as a practical matter—you may be. As a practical matter, there was cogent, thoughtful comment put forward. There were 80,000 comments. Not all of them, I assume, were cogent and thoughtful, but a great deal made some thematic sense. Let's allow the Department to sift through this and update a law or regulation that has been on the books for 30 years and really does need updating. We are a different society. We have a different work structure now. We have a much more flexible and educated workforce, a highly technical workforce, a value-added workforce. We need to have an overtime law which reflects and answers the needs of that workforce, not the needs of a workforce in 1950 or 1960.

I simply say it is premature to be going forward with this proposal at this time. Let's wait until the final regulation is passed. It is extremely inappropriate for us to be going forward on the basis of a number which is being used as the bludgeon for pushing through this amendment, this 8 million figure, which is totally inflated and, in my opinion, clearly bogus and inaccurate, especially if you compare it with the hard figures which were brought forward by the administration on this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, before my friend leaves the floor, and I don't want to keep him waiting while I make my statement, I think he made some interesting points. As he knows, I generally have great respect for him. But some of these things sort of don't pass the smell test. I ask the rhetorical question: Does anybody in here believe this administration is changing work rules in order to be able to pay more people overtime?

Let me say that again. Does anybody believe the Secretary of Labor, and this President of the United States, backed by the Chamber of Commerce and many other decent, honorable business people as their core supporters, is trying to change the law to give more people access to overtime?

Mr. GREGG. If that is a question which the Senator has presented, which I think was rhetorical in its nature?

Mr. BIDEN. I would be happy to have you answer it.

Mr. GREGG. By definition, this administration has shown it intends to give more people overtime. It has said people now earning up to \$21,000 will be guaranteed overtime. Under the present law, if you are earning up to \$8,000 you are guaranteed overtime, but between \$8,000 and \$21,000 you can be doing a number of jobs in the country which deny you overtime, where your employer can say, I am sorry, we are not going to pay you overtime because you happen to be an exempt employee. Under this proposal from this administration, over 1.3 million people will be getting overtime they would not get under the present law because the threshold goes up to \$21,000.

I appreciate the Senator's question.

Mr. BIDEN. I am delighted to hear that. I am glad to see the President has had an epiphany. I find it absolutely fascinating. I come from a corporate State. I come from a State where business is a great citizen and they are very active. I have never had one small businessman, I have never had one large businessman, I have never had one come and say: You know what the problem is here, Biden? You Democrats are denying people overtime. We want to expand that contract made in the thirties between labor and management to make sure our workers who are not getting it get overtime.

As they say in the neighborhood I come from, give me a break. Give me a break.

I am going to go to my formal statement in a moment. My friend from New Hampshire made a couple of very important points that are accurate, but draw exactly the wrong conclusion. He said that, in effect—my words—the social contract we entered into 30, 40, 50, 60 years ago with American workers said if you engage in manual labor, you will be rewarded for your efforts. We the American people, we the American Government value manual labor. We value what you have done to build this country. We are going to make sure that you get treated fairly. One of the things they said that related to being treated fairly was that nobody should have to work more than 40 hours. That was a judgment made. In Germany, or in France—I don't know which one it is—they say you only have to work 35 hours, and there is a debate about whether it should be 40 or 50 hours.

We made a deal as a nation. We said: Look, if you work more than 40 hours—those of you who do manual labor—you ought to be compensated time and a half for doing it—just like you work on Sunday. They say that is a day of rest. Most contractors say if you have to work Sunday, we will pay double time. That was the deal we made.

As my friend points out, there are not many manual labor jobs left in America. We have exported them overseas—or the bulk of them overseas. We made it easier for business to take all those manual labor jobs and send them overseas. This is a different world. We have now become a service economy. We have a lot less people doing manual labor. What was the underlying rationale as to why we were going to pay people overtime? We were going to pay overtime not to those who did manual labor. That is what it happened to turn out to be. We said we are going to give people overtime if in fact they are in the workplace and they don't have control over their destiny. They do not get to determine the work rules. They don't get to decide how much longer they will keep the lathes going. They don't decide whether or not they work on Saturday or Sunday. It is about control.

The underlying rationale was we said workers who by and large were manual laborers and do not have a say in their work conditions, do not have a say in how they function, do not have a say in whether they start at 8 or 10 in the morning or 4 in the morning, do not have a say in when the shifts run, and do not have a say in whether or not they get a window outside their work space, we are going to pay those guys something when we ask them to work more than 40 hours.

But for those folks who have a say, and those folks who have some control—theoretically white-collar workers, people who get a room with a view, people who have some say on whether or not the boss starts the shift or opens

the door at 8 in the morning or 4 in the morning or 10 in the morning, and those folks who are more like management—they have a say and we are not going to compensate them. Their compensation is in effect because they have a say.

As a former Governor of California used to say, there is psyche remuneration for being white collar.

Just like around here, I get to pick my office. I get to decide whether I have a room with a view. I get to decide to have a more commodious work space. The person who works for me who happens to be answering the mail doesn't get that decision. If I put the mail room in a place where there is no window, as long as it meets OSHA's requirements, they work. Guess what. Hang on everybody. For those of you who ain't management, you ain't going to get overtime anymore when the boss says: By the way, show up. I have an election. You get overtime now. You all get overtime. Get ready.

At any rate, the point is this: It is about control.

My friend said the world has changed. It is a different economy than it was in the 1950s and 1960s. That is right. But if it is based upon the premise of control, which is the underlying rationale for the Fair Labor Standards Act, I would argue my friend from New Hampshire is right. The world has changed. But guess what. White-collar workers don't have control now. As we move to a service economy and white-collar workers, we don't have people digging ditches. We don't have people lifting lumber. We don't have people moving heavy equipment. They are still there, but we have white-collar workers who wear blue collars and who are in high-tech industries and industries that are the service economy—who work in restaurants and work at all these other places—who, in fact, still have no control.

Let me ask you a rhetorical question. Am I missing something here? Every single survey I have read during the last decade asking about satisfaction that American workers derive from their jobs—am I wrong or have all those surveys come back and said there is less satisfaction?

We are not allowed to talk to the galleries. So I am not going to.

But I wonder whether people watching this or sitting in the galleries as I ask a rhetorical question will ask themselves this: Am I satisfied in the workplace? Do I feel my job is rewarding? Do I have any element of control over my job?

The funny thing I have found is whether they are a DuPont engineer or a chemist or an analyst at a brokerage house, they are all afraid they are going to show up one day and find that the company has been sold and they don't have a job. They don't have any control. Guess what. They don't have much.

I agree with my friend. The world has changed. But the values haven't

changed. The value we are operating on is that people who do not get much say in how and when and where and under what conditions they work when you ask them to work more than 40 hours should get paid overtime. The fact that there are fewer people wearing sweatshirts and sweating as they perform their jobs is not the issue. How many of those folks in the new service economy have any more control over their jobs than those folks who did manual labor 40 years ago?

That is the first point I want to make.

The second point I want to make to my friend from New Hampshire, who is a very bright guy—I am not being solicitous; he really is.

The second point I make, I agree. He says there is more flexibility in the workforce. I will make a bet. I will make the staffers and my Republican colleagues a bet. I bet if they go out tonight, as they stop in the grocery store or stop to pick up the bottle of milk, or if they are single, stop at the local watering hole to commiserate with their colleagues, ask the following question to whomever they encounter: What does flexibility in the workplace mean to you? Although I have never done this, I make a bet the answer everyone gets is the following: It means my boss can fire me when he wants. It means I have to work part time. It means I am flexible, but they do not have to pay health care. It means I do not have to get benefits I used to get when it was not so flexible.

Flexibility does not translate into control. It does not translate into you being able to determine, in effect, compensation for being asked to stay longer, the environment in which you work or the circumstances in which you work. Flexibility translates to most American workers as flexibility for the boss to tell me I am part time.

My friend did point out part time. I am not going to get into a debate whether it is 8 million or 1.3 million. That is focusing on the trees and not the forests. What is the big picture, folks? The big picture is my Republican colleagues have a very different set of values than I have. They are good people. They are decent people. I am not impugning their motive, but they have a different value set. I think the basic principle is if, in fact, you work in a circumstance where you do not have much control over your environment, and I ask you to work longer than 40 hours, you should have to be paid overtime. That is a basic fundamental value. To me it is simple.

What has this President done? He is a decent, honorable man. What has he done? He has a very different view of American labor and the rights of American labor. Look at his tax structure. All our existence in this last century and the beginning of this century, what was our tax structure designed to do? It was designed to treat the guy and woman who make their living using their hands the same way as the guy who makes his living using his head.

We did not make a distinction in this country based upon whether you pay taxes—until now. What has this administration said now? It depends whether you have—and it is a fancy term—earned income or unearned income. All those listening to me know the difference. Earned income means when you receive a salary, basically. Unearned income is when you have a return on an investment.

What have we done in trying not to tax dividends? We have said, if you sit in your living room, in your home library, in your corner office on the 67th floor, wherever you sit, and you manage your investments, you do your work with your brain alone trying to figure out how to best place the money you have to get a return, if you make money, if you make that week \$1,000, then we are not going to tax you. But if you run a piece of heavy equipment, digging out the World Trade Center, and you make \$1,000 because of your hourly wage and your overtime, we are going to tax you. Ain't that sweet?

This is the administration—my friend from New Hampshire wants me to believe—that is changing these rules in order that more people will get overtime. That does not pass the laugh test. Look, even the stenographer knows I am telling the truth. It does not pass the laugh test. Let's get real here, OK.

There is a sound philosophic argument for the position of the Republicans based on a different value set than I have, but it is sound. They argue the reason why you shouldn't tax the guy who doesn't break a sweat is because he will provide the liquidity, the pooling of money out there from which people can borrow money, make investments, cap investments, to put guys like my dad to work when he was alive. God love them being so concerned about my dad. But that is a legitimate argument. And what they say is, we value that effort, because it is a more societal consequence, than we value the guy sitting behind a crane or a heavy piece of equipment because we will tax him, but we will not tax the guy who creates something of greater value. He does not break a sweat. He does not put his body at risk. He puts his money at risk.

Now we are creeping into a two-tiered notion of what is the most valuable thing to be compensated in this country. It is a legitimate argument with which I fundamentally disagree. Make no mistake about where those guys are coming from. Don't try to tell me they are trying to help my brother, the laborer. Don't try to convince me they are trying to help the average middle-class guy. Don't try to tell me they are trying to create wealth among those who are raising their kids in split-level homes and trying to pay for tuition. Don't try to tell me that. They are trying to do that indirectly because if you let the big guy have more money, he will take a greater risk and he will invest it and maybe employ

that man or woman in the \$100,000 split-level home with three bedrooms and four kids. But for God's sake don't tell me that is their major concern.

This is about values. It is obvious this administration does not have the same value set, at least speaking for myself, that I have, or that we have had, or value the social contract in effect that we fought over all during the teens, 1920s, and 1930s, and began to put into place in the 1940s, 1950s, and 1960s.

The nature of the economy has changed, but the nature of those who have control and do not have control has not changed. That has not changed. Those numbers and proportions have not changed. This is not fair. But it is consistent. It goes back to the trickle-down, bubble-up disagreements, a very simplistic way to show the differences between our parties. We think average folks can actually make decisions for themselves. We think they can actually and should be rewarded for what they do. That will generate economic growth. They think, no, let the wealthiest among us make those judgments and that will trickle down and benefit my noncollege-educated father and mother. It is a legitimate argument. But it is different value set. It is a different way of looking at the world.

For Lord's sake, do not try to convince me this administration is seeking to change the overtime work rules so more people get overtime. In the last 3 years, more than 3 million private sector jobs have disappeared. And for each of those 3 million jobs lost, there is a story of a child without health care, a family in crisis without dignity or hope, their dreams lost or at least deferred. A job loss is not just another statistic, it is a real human tragedy.

Paraphrasing President Truman, and I didn't know what he was doing at the time, my grandfather Finnegan from Scranton used to say, Joey, when the guy up in Throop loses his job, it is an economic slowdown; when my brother-in-law loses his job, it is a recession; when I lose my job, it is a depression.

There is a lot of depression for a lot of folks out there. For 3 years now, this administration has told us that tax cuts are the only thing we need to do to get this economy rolling. They said tax cuts were all we needed to create new jobs. You know the talk about creating new jobs. But here we stand today, trillions of dollars in tax cuts later, and we have not added a single—hear me now—a single, not one net new job to the economy in the United States of America—not one. And I will bet the President anything he wishes to bet that at the end of his term—defeated or reelected—on election day 2004, this will be the first administration since Herbert Hoover not to create one single solitary net new job. As they used to say on "Saturday Night Live," "Ain't that special?"—not one new job.

Not only have we failed to create new jobs, we are losing the ones we have. Tax cuts were the only policy we had,

but it is painfully clear they haven't worked, at least in relation to jobs. And now it is clear that tax cuts and deficits are credited for crippling our ability to meet our responsibilities here at home in homeland defense and to shoulder the burdens we face around the world, at exactly the time the President has rightfully called on us to come up with another \$87 billion for Iraq.

I think it is time to ask the question: If we are not going to create any new jobs—and the President's Council of Economic Advisers argued, by the way, that last year's tax cuts would produce 5.5 million jobs between now and the end of 2004. With the loss of 93,000 jobs last month, that puts them 437,000 jobs behind their promise already. I challenge them to create one new job during this administration.

The latest official numbers look slightly improved on paper, but that is because nearly 2 million men and women who have been out of work for over half a year know that good jobs are just not there so they have completely given up looking for work.

I know my friend from West Virginia has been through a lot. He could, not figuratively but literally, write a book on this. He has witnessed what has happened to his coal miners. He has witnessed what has happened to the folks in his State. He has been through a depression. He was part of those who worked us out of that. He knows what not having a job means to somebody.

So most of us here—all of us, Democrat and Republican, know that the key to our dignity as human beings is being able to provide for ourselves, and it is also the key to a healthy economy.

A jobless recovery, which we have right now, means nothing to the millions still out of work. And this so-called jobless recovery is in danger of causing the recovery as a whole to sputter out because its foundation is not very solid.

There is little hope for sustained, healthy economic growth without solid, good-paying jobs. Consumer confidence and consumer spending—the keys to our economy—ultimately depend on Americans' confidence that they are going to have a secure job, a job that pays a fair wage for a fair day's labor.

For over half a century, American workers have known what that meant: a 40-hour workweek and time and a half for overtime. You could count on that extra pay in exchange for the extra burden of working more than 40 hours a week.

So I would just ask, what has changed in America that says when you work more than 40 hours a week, you should not get compensated more for it? What is it that has changed that says the premise of overtime pay is no longer sound? What is it? What is it that has changed, that is different from the agreement we made—business and management and labor—that if you

don't control your work environment, you should be compensated monetarily when you are asked to work in that environment beyond 40 hours? What has changed?

What is happening? Have we taken on a new set of basic values or is there something in the marketplace that has changed that demands this?

I will conclude with this. The irony of all of this is that at the very time when people are feeling less secure physically, the very time when people are feeling less secure about their jobs, at the very time when we have lost millions of jobs, and no reasonable prospect of seeing them regained in the near term, why is it they have to pile on now—pile on now—and begin to change that basic contract?

You would think they would at least have the good grace and the courtesy to wait until things have improved a little bit. It just seems to me to be really bad form, just bad form, because you know a lot of those guys and women who are making overtime are helping pay their mother's prescription bill, are making sure that their brother, who lost his job, is able to keep his kids in school.

A lot of that money for overtime is family overtime. And now we want to change that. I think it is getting a little bit greedy. I think it is just a little bit greedy. I think it is bad form. And I sincerely hope I turn out to be wrong. I sincerely hope the economic conservatives in this administration really are attempting to provide a change in the rules to make sure that more people get overtime. I will come to the floor and say: I'm sorry, I misjudged you. I thank you for your concern for working-class people. I thank you for your concern that not enough of them were getting paid overtime, and I appreciate the fact you are now willing to pay more people more overtime. I don't think I will have to make that speech. I hope I am wrong.

Mr. President, last month 93,000 Americans lost their jobs. Over the last 3 years, more than 3 million private sector jobs have disappeared. And for each one of those 3 million lost jobs, there is a story of a child without health care, a family in crisis without dignity or hope, their dreams lost or deferred.

A job loss is not just another statistic, it is a real human tragedy.

For 3 years now this administration told us that tax cuts are the only thing we need to get the economy rolling again. They said tax cuts are all we need to create new jobs. But here we stand today, trillions of dollars in tax cuts later, and we have not added a single new job to this economy.

Not only have we failed to create new jobs, we are losing the ones we used to have. Tax cuts were the only policy they had, but it is painfully clear that they have not worked. And now it is clear that the tax cuts and the deficits they created are crippling our ability to meet our responsibilities here at

home and to shoulder the burdens we face around the world—at exactly the time the President has rightfully called on us for \$87 billion for Iraq.

It is time to ask the question: Can this administration create just one new private-sector job, one more job than existed when they took office?

The President's Council of Economic Advisors claimed that the last tax cut would produce 5.5 million new jobs between now and the end of 2004. With the loss of 93,000 jobs last month, that puts them 437,000 jobs behind their promises already.

I challenge them to create just one new job during this administration, one new job before the next election.

The latest official unemployment number looks slightly improved on paper, but that is because the nearly 2 million men and women who have been out of work for over half a year know that god jobs are just not there and they have completely given up looking for work.

Jobs are the key to our dignity as human beings. And they are the key to a healthy economy.

A jobless recovery like we have right now means nothing to the millions still out of work. And this so-called jobless recovery is in danger of sputtering out because it lacks a strong foundation.

There is little hope for sustained, healthy economic growth without solid good-paying jobs.

Consumer confidence and consumer spending—the keys to our economy—ultimately depend on Americans' confidence that they have a secure job, a job that pays a fair wage for fair days' work.

For over half a century American workers have known what that meant, a 40-hour work week, and time and a half if you worked overtime. You could count on that extra pay in exchange for the extra burden of working more than 40 hours a week.

Many workers often have no choice about working overtime, it is up to their boss. But they have to work those extra hours, their employer is required to pay them time and a half.

This has been a cornerstone of the social contract between labor and management, between workers and employers.

For other workers, higher overtime pay is often absolutely essential to making ends meet. For those struggling along on the minimum wage or a little more, overtime pay can make all the difference when you are trying to make ends meet.

We know that many workers simply schedule themselves as much overtime as they can physically bear so that they can stay above water financially. But despite the key role of the 40-hour work week, despite the wide-spread reliance on time and half pay for work past those 40 hours, this administration has proposed crippling changes in the regulations governing overtime pay.

That is why I am here as a cosponsor to the Harkin-Kennedy amendment to

prohibit funding for those new overtime regulations.

Senator HARKIN deserves our thanks, and the thanks of millions of workers, for his leadership on this issue.

On its face, the issue could not be clearer. The administration wants to take away the rights of millions of workers to overtime pay. They want to make it easier for employers to reclassify as many as 8 million hourly workers—who now get overtime pay—to make them ineligible for overtime pay.

Right now, for most workers, if you are not "white collar" working in management, your boss has to pay you time and a half for all the work you do over 40 hours a week. The idea is that more highly educated workers, who participate in management, who have significant authority over the workplace, are more properly classified as salaried, not hourly, workers. They get a fixed amount of pay, no matter how many hours they may put in a week.

Hourly workers, on the other hand, who do not manage the conditions under which they work, who have less to say about the work week is organized, must be compensated if they work more than the basic 40 hours.

That has been the definition of a fair day's work for a fair day's pay for more than half a century, and its basic fairness still makes sense today.

America has changed, but not our values. But the administration's new regulations would make it easier—would actually create an incentive for employers to classify workers who have little advanced education and little or no authority—to classify those workers as white collar workers.

Those regulations would lower the amount of education currently required to classify someone as white collar or professional. And they would also loosen the definition of management activities to make it easier to claim that a lot of the basic paperwork many hourly workers currently do actually makes them administrators or executives.

Overnight, with the stroke of a computer key, millions of workers could lose the right to overtime pay. These rules are designed not only to make it easier to reclassify workers, but to make it pay for employers who do so.

Employers will save money, since they will no longer be required to pay workers time and a half for work that they are now guaranteed. There would be no change in the number of hours they could be required to do, no change in their education, no change in their responsibilities, just one change in the regulations in Washington—and they are out overtime pay and out of luck.

Today, when the biggest problem facing our economy is the loss of job, when a well-paying job is so hard to come by, these regulations are the worst thing we could do.

This administration has the worst record of job loss since Herbert Hoover—3.2 million jobs lost. Faced with the obvious fact that his economic

policies have failed to create a single new job, faced with the fact that years into a so-called recovery, we are still losing jobs, the President recently announced a warmed over package of his failed policies and labeled it a job creation plan. I suppose it is a good thing that he finally realizes that he is presiding over the worst job creation of any modern President.

Unfortunately, there is nothing new in his announcement, and absolutely nothing that would create one new well-paying job. If he truly wants to do something for the working men and women of America, I respectfully suggest that the President simply rescind these proposed regulations. That alone would protect the overtime pay on which so many men and women and their families depend today.

Now is not the time for this administration to use its regulatory power to cut the pay of millions of American workers. But if we will not stop this pay cut for millions of Americans, we can do that today here in the Senate. We can vote to prohibit any funds from going to enforce this unfair and wrong-headed change in our basic social contract, in the deal we have struck between millions of workers and their employers.

I urge my colleagues to join me in voting for this amendment.

Mr. President, I thank my colleagues and yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from West Virginia.

Mr. BYRD. Mr. President, are we operating under any time constraints?

The PRESIDING OFFICER. No, we are not.

Mr. BYRD. I thank the Chair.

AMENDMENT NO. 1543

Mr. President, when President Bush signed the No Child Left Behind Act, he promised to give schools the funding they needed to help every young person in this country succeed in the classroom.

That promise has not been kept. And there is no better example of that broken promise than the education funding levels in this appropriations bill. The most glaring example is the title I program. Title I helps the students who need help the most—the millions who are being left behind. It is also the program that, under the No Child Left Behind Act, will hold schools accountable for improving student performance.

We did not have this program in my day and schools did not have to be held accountable, either, for improving student performance. It was a given that students went to school to learn and that they were expected to study hard. That is why we had our schools. We were there to get an education.

That is why, when Congress wrote the No Child Left Behind Act, it authorized specific funding levels for title I for every year through fiscal year 2012. The authorized amount for fiscal year 2004 is \$18.5 billion. That is enough

to fully serve 6.2 million needy children, according to the Congressional Research Service.

How much does this bill provide? This bill provides just \$12.4 billion. That is enough to fully serve only 4.1 million children.

The amendment I am offering would increase title I funding by \$6.1 billion, for a total of \$18.5 billion, the fiscal year 2004 authorized level, and it would extend the full educational benefits of title I to 2.1 million children who otherwise would be left behind. This would allow us to keep the promise we made in the No Child Left Behind Act.

I have to my left a chart. This chart shows what this amendment will mean for schools in all 50 States. I know that their listing here creates a chart on which it is difficult to read from any distance virtually. But here they are, 50 States. Let's take a few examples.

Take for example New Hampshire. Under my amendment, New Hampshire schools will receive \$19.5 million more than they would receive under the Senate bill. That is a 66-percent increase over the fiscal year 2004 level.

Let's take a look at Pennsylvania. Pennsylvania schools will receive \$223.4 million more under my amendment. That represents a 51-percent increase over the fiscal year 2003 level.

In Maine, schools will receive an additional \$24 million for a 50-percent increase. In my State of West Virginia, schools will receive \$47 million, \$46.8 million more under my amendment than they would receive under the Senate bill, also for a 50-percent increase over the fiscal year 2003 level.

There are other schools. All of the States on this chart—and there are 50 of them—under my amendment every State receives an increase over the Senate bill.

Massachusetts will receive \$129.3 million more under my amendment than it would receive under the bill. Alaska would receive \$18.4 million more. New York would receive \$682.2 million more. California would receive \$899.5 million more than it would receive under the Senate bill. That is the way it goes all the way down the line. The District of Columbia would receive \$27.8 million more. The State of Ohio would receive \$203.8 million more. So every State would gain under the Byrd amendment.

This amendment is fully offset for fiscal year 2004. It achieves this by rescinding fiscal year 2004 advance appropriations in the fiscal year 2003 Labor-HHS appropriations bill and reappropriating those moneys in fiscal year 2003. That is the exact same mechanism that Chairman STEVENS and Chairman SPECTER are using to add \$2.2 billion to the base bill—the same mechanism. My amendment simply builds upon their mechanism and adds \$6.1 billion more for title I.

Unfortunately, there has been some confusion over this point. I was disappointed last week to hear a Senator from the other side of the aisle refer to my amendment as a gimmick. Yes, re-

ferred to my amendment as a gimmick. Think of that. That Senator on the other side of the aisle said my amendment was a gimmick. The exact words were "a gimmick of classic proportions."

Well, I would like to call the Senate's attention to page 76 of the base bill. Lines 1 and 2 add \$2.2 billion in fiscal year 2003 spending. Now read exactly what is in the bill, lines 1 and 2, "by striking \$4,651,199,000 and inserting \$6,895,199,000." So you see, lines 1 and 2 add \$2.2 billion in fiscal year 2003 spending.

Now just drop two lines; just go down the page two lines and read lines 3 and 4; 3 and 4 offset that increase by rescinding \$2.2 billion in fiscal year 2004 advance appropriations in the fiscal year 2003 Labor-HHS appropriations bill. So my amendment uses the same funding mechanism as has been used in this bill.

Mr. SPECTER, chairman of the subcommittee, can verify that. Mr. STEVENS, chairman of the full committee, one of the finest chairmen there have been since that committee was created in 1867, will verify that. He will verify that I am reading this accurately and that that is what is being done.

So my amendment uses the same funding those two illustrious gentlemen used in writing the bill. And if my amendment is a gimmick—hear me—if my amendment is a gimmick, what does that say about the base bill? Is it also a gimmick? I ask, is the base bill also a gimmick?

Opponents of my amendment have also argued that the Congress is under no obligation to fund title I at the authorized level because authorizations are just guidelines.

Well, title I is not your average authorization program. Most education authorizations don't put mandates on States. The title I program in the No Child Left Behind Act puts more Federal mandates on our Nation's schools than any law in 35 years.

This law requires every State to develop a plan for helping all students reach a proficient or advanced level of achievement within 12 years. That is all students—all students, not just those in the wealthy suburbs but poor students, students from Appalachia to Alaska, children with disabilities, students of all races and ethnicities.

Schools must leave no child behind, and if schools that receive title I funds fall short of this goal, they face serious consequences. Schools that fail to make adequate yearly progress in raising student performance for 2 consecutive years have to give the students the opportunity of transferring to another public school. That means the school has to take money it would have spent for instruction and use that money instead for transportation. The penalties get more severe as time goes on. Ultimately, if a title I school fails to make adequate progress for 5 years in a row, it can be taken over by the State or the entire staff can be fired and replaced.

These are serious penalties, Mr. President, and I support them. I believe it is high time we held schools accountable for their performance, but I also believe if we are going to threaten schools with penalties—and these are severe penalties—we have a responsibility to provide those schools with the resources they need to improve.

Senator KENNEDY and President Bush agreed on what those resources would be when they negotiated the No Child Left Behind Act. Senator KENNEDY and President Bush agreed that title I should be funded at \$18.5 billion in fiscal year 2004 and Congress voted overwhelmingly to endorse that figure when it passed the law.

When President Bush signed that law a few weeks later, he said:

We are going to spend more money, more resources, but they will be directed at methods that work.

But this appropriations bill which mirrors the President's budget request falls more than \$6 billion short.

Let me take just a moment to explain what schools could do with that \$6 billion. The amendment I am offering would provide enough funding to hire more than 100,000 highly qualified teachers for the students who are most at risk of being left behind. That means over 2 million disadvantaged students would be taught in smaller classes, and they would receive the full range of instructional services called for under the No Child Left Behind Act.

It is no wonder students and teachers across the country are clamoring for this funding. In West Virginia, the Department of Education announced this summer that 326 of the State's 728 schools failed to make adequate yearly progress under the No Child Left Behind Act. That is 45 percent of all the schools in the State.

In many other States, more than half of all the schools failed to make adequate progress. So I ask my fellow Senators: Where is the money going to come from to help these schools improve? State governments are facing a fiscal crisis. So State governments are not in a position to respond to the needs. Where will the schools turn? State governments are in no position to make up a funding shortfall from the Federal Government. Yet this appropriations bill underfunds title I by more than \$6 billion.

This bill is a betrayal of the No Child Left Behind Act. It is unfair to all the people in this country who are working so hard to implement it. Parents and teachers want their schools to be held accountable. They want every child to succeed. They are holding up their end of the bargain.

Where is the President? What happened to his commitment to education? I will tell you what happened. Once the President signed the No Child Left Behind Act and the cameras stopped rolling and the sound bites faded away, the President walked away from the job of funding education.

Sadly, we have seen this picture before. This January in his State of the

Union Address, President Bush announced a 5-year, \$15 billion global AIDS initiative. Later he signed a law promising to fund that initiative at \$3 billion a year. Then this summer, he went to Africa and promised to do all in his power to make sure Congress fully financed that law. But when it came time to put the money behind that promise, where was the President? The President fell short. And he is doing the same thing with education.

The Congress is being asked to provide billions of dollars for the reconstruction of Iraq—the Appropriations Committee, I hope, will conduct hearings on that request—for what we are told is Saddam Hussein's willful neglect of all major infrastructure needs, including schools. So the President wants money for Iraq. He wants to make up for Saddam Hussein's willful neglect of all major infrastructure needs, including schools.

Mr. President, if the United States Government is to address infrastructure needs in Iraq, why can we not find the money to support our own domestic education system in the form of funding the No Child Left Behind Act? Where are our priorities? I voted for the No Child Left Behind Act. I support the reforms in that law, but schools need more funding if we are truly going to leave no child behind.

I urge my fellow Senators to approve this amendment. We gave our word to the people when we passed the No Child Left Behind Act. So let us, Mr. President, keep our word.

Mr. KENNEDY. Will the Senator from West Virginia be kind enough to yield for a question?

Mr. BYRD. I will be happy to yield for a question.

Mr. KENNEDY. The Senator from West Virginia was here at the time we had the debate on the No Child Left Behind Act and remembers it very clearly. I remember one of the finest education talks I have heard in the Senate was where the good Senator from West Virginia reviewed for the Members of the Senate his personal experience—it was shared by a few others—in terms of the value of education as a young person when he was growing up in the State of West Virginia. As he remembers the debate on the No Child Left Behind Act and the debate we had the year before when we were looking at the reauthorization of the Elementary and Secondary Education Act, there was a general recognition in this body that just providing resources without reform was not meeting our responsibility to the children of this country. But if we were going to have reform, we were going to have to have resources.

As I remember the discussions we had with the President of the United States on this point, this was a simple concept, but a rather basic concept, one which gathered broad bipartisan support and was the keystone of the whole No Child Left Behind Act. I am wondering if the Senator remembers at

least that general debate and discussion in which this body said, OK, we have not been able to use the resources we have used in looking at title I and elementary and secondary as effectively as we would like to, but we are strongly committed toward reforming our educational system because education is so important to the future of our country, and that was a debate that took place, that resulted in No Child Left Behind, and it is to that issue that the Senator from West Virginia is addressing the Senate, as I hear him this afternoon; that we have put in place the reforms but what is not there are the resources to give life to the reforms. This is what is at the heart of the Senator's amendment, as I understand it and as I interpret it. Am I correct?

Mr. BYRD. Yes. The distinguished Senator from Massachusetts, who has been a leader in this field, and who is a leader in this field, remembers very clearly and accurately the purposes and the debate on the No Child Left Behind Act.

I have never wanted to just throw money at anything. I never felt that just throwing money at education was going to educate our students, but I have been in favor of the reforms that are in this act. I believe we ought to do everything we possibly can to utilize those reforms, to put them into effect, enforce them, and at the same time have the money available to these schools so the reforms can be made, will be made, and will be enforced. They are pretty tough reforms.

As I indicated in my remarks, we have an obligation to provide the monies to those schools. When I was going to school, I started out in a little two-room schoolhouse in Algonquin, WV, in the southern part of West Virginia. I entered school long about 1923. Of course, we did not have Federal aid to education then. We had good teachers, although they were not paid a lot. During the Depression, many of them had to take a reduction on their paychecks to get those checks cashed, but we had teachers who cared. I had foster parents who cared. Our schools were not much, but we studied hard and we tried to make a better life for ourselves and our parents. So I know something about the disadvantaged children and disadvantaged schools. I came through that Depression. I am proud to say I was alive in that Great Depression. I am proud to say I lived through it because it taught me a lot of lessons. It taught me the worth of an education.

Benjamin Disraeli, who was Prime Minister of Great Britain, said in the House of Commons in 1874—the reason I remember the date easily is it was the year before my foster father, Titus Dalton Byrd, was born. So it was 1874. Benjamin Disraeli said: Upon the education of the people of this country the fate of this country depends.

I think the Senator will join me in saying we ascribe to that; that upon the education of the people of our



country the fate of this country depends. So this is a vote to improve the education of disadvantaged children. It is a vote to keep our word that we gave when we passed the No Child Left Behind Act.

I congratulate the Senator from Massachusetts. I said he has been a leader. I said he is a leader and he was a leader on this bill. He spoke with President Bush and he worked this approach out with President Bush. I congratulate him for it, but we have to do what we can to live up to it, and that is what we are doing here.

Mr. KENNEDY. I appreciate what the good Senator has said in his comments. These figures might get complex for people who are watching this debate. Basically, the No Child Left Behind Act said, No. 1, we are going to let the States develop their own curriculums.

No. 2, we are going to have well-trained teachers who are going to learn that curriculum and be able to teach the students.

No. 3, we are going to have smaller class sizes so a well-trained teacher in the classroom is going to be able to interact with the students in those classrooms.

No. 4, we are going to find out how much those children learn over the course of the year by giving them not just robot tests and situations where teachers teach to the test but really inquire about what these children are learning in the classroom.

No. 5, we are going to have supplementary services to help those children if they fall behind so they will be able to keep up. That is effectively what we were looking at in the No Child Left Behind proposal.

We demanded accountability, as the Senator remembers. We demanded accountability from parents because we gave parents the report cards not only about how the children were doing but how their school was doing. We gave accountability to the teachers that they were going to have to upgrade their skills in the courses they were going to have to teach. We gave accountability to the school systems that unless the school systems were going to perform, if they were going to effectively abandon their children or not perform for their children, that they would effectively be taken over by the State. And we were going to insist on a good quality education.

Does the Senator, in his comments today, agree with me that we are getting accountability with the students who are working in America and the teachers who are trying hard and those in local communities who are trying to get the small classes, but we do not have the accountability by the President of the United States and the administration providing the resources to let them do it and that the amendment of the Senator from West Virginia would meet our accountability and our commitment when we voted on behalf of that bill?

Would the Senator agree that is effectively what we are trying to do?

That is the way I read the Senator's amendment.

Mr. BYRD. The Senator reads it as I intended it to be read and as other Senators who are cosponsoring this amendment intended likewise.

There is no question about the fact that we were trying to give our children smaller classrooms. The Senator might know—of course he would not know how many students were in my graduating class. I was valedictorian of that class in 1934. If there had been one more student in that class, I might not have been valedictorian. There were 28 graduates. What a large class. But it was not by virtue of the kind of legislation that we have been supporting. That was the number of students in those southern Virginia coalfields.

We had good teachers. They were not paid a good deal, but we knew the worth of a good teacher. They were dedicated. What we are trying to do today is give our children smaller class sizes so they will get from the teachers the kind of attention they need. We are trying to give them good teachers. We are holding the teachers to high standards, also.

Yes, I am somewhat amazed and offended by the fact that our President is wanting \$87 billion now for Iraq. That is \$87 billion for Iraq. That is not counting the \$69 billion the Congress has already appropriated, no questions asked, by the way, for Iraq, making a total of \$166 billion for Iraq. So we are going to be asked to consider a supplemental for Iraq.

I am going to consider that. But why not consider more moneys for our own students, for our own teachers, for our own schools? That is what we are trying to do here. We are trying to live up to the word the President and Senator KENNEDY and I and others in Congress gave to the American people, to the students of our country, and to the parents, and to the teachers.

Mr. KENNEDY. I want to just bring to the attention of the Senator from West Virginia the results of the scores that are taken in my own State of Massachusetts, which really began this effort, which is very similar to what I have just outlined here, 5 years ago.

Let me just read the front page on September 4, 2003 of the Boston Globe: Scores show broad gains on MCAS test.

That is the statewide standard test, which is basically equivalent to what we call the NAEP test. Let me read this.

More Massachusetts high school students passed the MCAS graduation test on their first attempt this year, as scores climbed in nearly every grade, every subject, and every racial group, statewide results released yesterday show.

About 75 percent of the class of 2005, or about 52,000 students passed both the English and math portions of their 10th-grade test on their first try this spring. That is significantly better than 69 percent of students in the class of 2004 and 68 percent of students in the class of 2003 who passed the first time they took it.

Jubilant state officials hailed the scores at a State House news conference yesterday as

"extremely impressive" proof that the Massachusetts 10-year effort to improve public schools is bearing fruit.

Curriculum reform, better teachers, smaller class size, afterschool programs—this is just what has happened in one State, I say to Senator BYRD. These were the same things we were committed to for every State in the country, to see this kind of progress.

We have not solved all the problems. We still have many others. I will not take the time of the Senate to review all of the different categories, the ethnicity, the student status, all the different categories. I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SCORES SHOW BROAD GAINS ON MCAS

(By Anand Vaishnav)

More Massachusetts high school students passed the MCAS graduation test on their first attempt this year, as scores climbed in nearly every grade, every subject, and every racial group, statewide results released yesterday show.

About 75 percent of the class of 2005, or about 52,000 students, passed both the English and math portions of the 10th-grade test on their first try this spring. That is significantly better than the 69 percent of students in the class of 2004 and the 68 percent of students in the class of 2003 who passed the first time they took it.

Jubilant state officials hailed the scores at a State House news conference yesterday as "extremely impressive" proof that Massachusetts' 10-year effort to improve public schools is bearing fruit. But they acknowledged that a racial achievement gap persists, with more than half of Latino students and almost half of African-American students failing one or both of the 10th-grade tests.

"There have not been wholesale brain transplants. There has not been an increase in the IQ of the citizenry of Massachusetts," Governor Mitt Romney said. "Instead, our education system is doing a better job with our kids."

About 527,000 students in grades 3, 4, 5, 6, 7, 8, and 10 took one or more sections of the MCAS in April and May, in English, math, or science.

The results were particularly encouraging for 10th-graders, members of the class of 2005, who were in first grade when the 1993 Education Reform Act, which introduced the tests, became law. About 80 percent passed the math test on their first attempt, and 89 percent passed English.

Scores also improved for students with disabilities and those with limited English skills—two groups that have struggled with the exam since it became a graduation requirement with the class of 2003. About 46 percent of disabled students passed the 10th-grade test after just one round, up from 32 percent of limited-English students passed, double the 17 percent who passed a year ago. The jump came despite new federal and state laws allowing few students with a native language other than English to skip the test.

To some observers, the signs were clear that 10 years of efforts on education, from billions of dollars in new funding to the first statewide curriculum standards, were paying off. Massachusetts has recorded parallel gains on national tests such as the SAT and the National Assessment of Educational Progress.

"All signs are that education reform is taking root, and this is part of the harvest,"

said Andrew Effrat, dean of the School of Education at the University of Massachusetts at Amherst.

Still, Effrat said, the battle is not over, calling the failure rates for minority students significant.

For example, 84 percent of white 10th-graders passed MCAS on their first try, compared with 44 percent of Latinos and 52 percent of blacks.

Last year, a group of student in the class of 2003 sued the state, saying the Board of Education had exceeded its authority in enacting a graduation requirement and that schools had not prepared them for it.

Students in 10th grade can take the test five times before graduation, but they must pass MCAS and all of their classes to earn a diploma. Individual school and district scores will be released in about two weeks along with retest scores from the class of 2003 and 2004 that will show how many students still must pass before earning their diploma.

MCAS opponents yesterday questioned how the gains could last as schools facing significant budget cuts this year have laid off teachers, boosted class sizes, and slashed supplies. In addition, the Legislature sliced the \$53 million in state money for MCAS tutoring to \$10 million this year, and a Romney spokeswoman said she could not say whether the governor will include more money for MCAS help in his forthcoming supplemental budget.

Some MCAS critics attributed the gains to a relentless focus on test preparation in schools and the practice of holding back ninth-graders who are not prepared for the exam, and who may later drop out.

"Clearly, test preparation makes test scores go up, and other things contribute, like attrition, which has been a consistent theme and not so much paid attention to" by the Department of Education, said Lisa Guisbond, a statewide coordinator for the Massachusetts Coalition for Authentic Reform in Education, which opposes the MCAS graduation requirement. "These are things that continue to be troubling."

However, Massachusetts commissioner of education, David P. Driscoll, and the state Board of Education chairman, James A. Peyser, pointed to higher scores for black and Latino teens as evidence of a "dramatic breakthrough" in the achievement gap. In 2001, 77 percent of white 10th graders passed MCAS on their first try, compared with 29 percent of Latinos and 37 percent of blacks.

Left unanswered yesterday were questions about a steep drop in the number of black test-takers. State education officials said they will need to study why only 3,530 black 10th-graders took the test this spring, down from 4,587 last year. The number of white test-takers also dropped, from 49,866 to 44,131. One possible explanation is that fewer students specified their race this year, state officials said.

It could also stem from an increase in the number of students dropping out, leaving Massachusetts, or repeating ninth grade.

First administered in 1998, the MCAS test has sparked rallies, protests, and a campaign for a statewide ballot question to get rid of the graduation requirement.

Guisbond also questioned whether changes in scoring could have inflated results. This year, 10th-graders needed 19 out of 60 points on the math test to pass, down from 20 out of 60 last year, state officials said. On the English test, they needed 38 out of 72 points to pass, down from 41 out of 72.

Jeff Nellhaus, associate commissioner for students assessment, said the Department of Education lowered the number of points needed to pass because a statistical analysis of the exam showed that it had harder questions than the year before.

School districts received their students' scores last month and are just now analyzing the results. Tyshawanna Richardson, a junior at the Codman Academy Charter School in Dorchester, passed English but not math. Twenty-five sophomores at the school took the exam—all passed English, and about two-thirds passed the math section.

"I plan on going over whatever I didn't get, to understand it so this time I can pass," said Richardson, 16, of Mattapan. "It wasn't that hard."

Mr. KENNEDY. But I want to ask the Senator this last question. In the Budget Act, the budget for fiscal year 2002, the conference report—this is what bothers me. We have seen the increase in the education budget going from 1997 to 2001 up to 13 percent, to 2002, to 16 percent. That is when Democrats and Republicans worked with the President to try to begin the downpayment on this effort. This is when we had the bipartisan agreement.

Then the next year, as the Senator has pointed out, after the television lights had faded and the crowd had disappeared, we have in the budget, with the Republicans in charge:

For the years beyond 2002, this report assumes the 2000 discretionary function level grows by inflation.

It grows by inflation. Therefore, under the Republicans, it was going to be zero, zero, zero, zero, zero. That is what was in the Republican budget. After we passed the bill and we saw the bill increase, this is what they were saying.

Many of us were saying that might have been, but we will hope for the next year from the President of the United States, who specifically negotiated those increases—we thought: That's a mistake—we will find something different. But instead what we have effectively found, as this chart here indicates, under the Bush budget, it leaves millions of children behind. We are going to be leaving 6.2 million children behind; 5.89 in 2005; 5.8 million in 2006; 2007, more than 5 million; 5 million; 5 million. Effectively, under the Byrd proposal, if we continued that progress we achieve what the No Child Left Behind committed us to, and that was we were going to have, at the end of 12 years, proficiency in the public schools for the disadvantaged children of this country. That is what the Byrd amendment puts us on a pathway to. That is why it is so important, so essential.

If the Senator would permit me one more moment? We attended the Armed Services Committee meeting earlier today. Does the Senator not agree with me the investment in education is essential if we are going to have the best fighting men and women in the world; that investing in education is essential if we are going to have the strongest economy in the world; and that investing in education is absolutely necessary if we are going to be able to preserve democratic institutions in the greatest country of the world? That this is the core value?

Parents understand that. You and I understand it. Senator HARKIN and

Senator MURRAY understand that. That is what the amendment of the Senator from West Virginia commits us to here, at a time when we are being requested \$87 billion, to say we can have a downpayment of \$6 billion for the children of this country.

Mr. BYRD. Mr. President, there is no question about it. I want to thank the distinguished Senator for his work in this field. I want to thank him for his work on the Armed Services Committee. And I want to thank him for his leadership in making laws that will better prepare our young people for the future, for what lies ahead of them. Of course, we need better educated people in our Armed Forces. Of course, we have to have better educated people if we are going to keep this country as the superpower of the world.

I want to thank him for what he has done in this respect. I know he must feel very proud of the record that has been established by his schools up there, to which he referred a little while ago. Those performances were in English and math. They are not easy subjects, as I recall—not the easiest. But there is no subject matter that is more important than that of English, grammar, mathematics. He must feel justly proud of the performance those schools have made, that has been made possible, to a considerable extent, by his work on this legislation. So I thank him for his contribution here to our debate today also.

Mr. KENNEDY. I thank the Senator very much.

Mr. BYRD.

I took a piece of plastic clay  
And idly fashioned it one day,  
And as my fingers pressed it still,  
It moved and yielded to my will.  
I came again when days were past—  
The bit of clay was hard at last;  
The form I gave it, it still bore,  
But I could change that form no more.

I took a piece of living clay  
And gently formed it day by day,  
And moulded with my power and art  
A young child's soft and yielding heart.  
I came again when years were gone—  
It was a man I looked upon;  
He still that early impress wore,  
And I could change him nevermore.

That is what we are talking about.  
That little piece of clay. That little piece of clay.

Just a closing thought about our teachers:

A builder builded a temple,  
He wrought it with grace and skill;  
Pillars and groins and arches  
All fashioned to work his will.  
Men said, as they saw its beauty,  
"It shall never know decay;  
Great is thy skill, O Builder!  
Thy fame shall endure for aye."

A teacher builded a temple  
With loving and infinite care,  
Planning each arch with patience,  
Laying each stone with prayer.  
None praised her unceasing efforts,  
None knew of her wondrous plan,  
For the temple the teacher builded  
Was unseen by the eyes of man.  
Gone is the Builder's temple,

Crumpled into the dust;  
Low lies each stately pillar,  
Food for consuming rust.

But the temple the teacher builded  
Will last while the ages roll,  
For that beautiful unseen temple  
Was a child's immortal soul.

Mr. President, I ask unanimous consent the following Senators be added as cosponsors to the amendment I have offered: Senators HARKIN, DODD, DORGAN, KOHL, BINGAMAN, LIEBERMAN, DAYTON, PRYOR, CORZINE, MIKULSKI, SCHUMER, KENNEDY, JOHNSON, EDWARDS, MURRAY, ROCKEFELLER, LAUTENBERG, LINCOLN—the first name of the Senator who graces the chair and presides over this August body at this moment, with a degree of dignity and skill that is so rare as a day in June—LEAHY, GRAHAM, KERRY, LEVIN, CLINTON, JEFFORDS, REED, SARBANES, CANTWELL, LANDRIEU, STABENOW, and DURBIN.

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

The Senator from Washington.

Mrs. MURRAY. Mr. President, I came to the floor this afternoon to speak about the amendment offered by Senator HARKIN, and I will do so in just a minute. But first I want to congratulate Senator BYRD for his tremendous work on education and thank him for his extremely strong voice in this area.

I know many students are starting school this week. Many young people are just starting out in kindergarten across the country this year. They will be grateful for Senator BYRD and his strong support of education. But so will the many students who have traveled to school while he has been here in the Senate advocating for them. I thank him for his work on their behalf over the many years. For all the young people out there who benefited from his wisdom and support but also, very importantly, for the teachers who will benefit as well, I thank my colleague from West Virginia.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from Washington, Mrs. MURRAY.

AMENDMENT NO. 1580

Mrs. MURRAY. Mr. President, I came to the floor today to speak in strong support not only of Senator BYRD's amendment but also of the amendment offered by Senator HARKIN. The amendment Senator HARKIN has offered is extremely critical in today's world. It is offered in order to protect hard-working Americans such as our police, firefighters, and our nurses who rely today on overtime pay.

It is unbelievable to me that today as families struggle in this extremely difficult economy, the Bush administration wants to cut overtime pay for millions of Americans who depend on it just to make ends meet at home.

My colleagues have been in the Chamber discussing the Bush administration's proposed changes to the Fair Labor Standards Act which sets the rules regarding overtime pay in this country. According to the Economic

Policy Institute, those changes are going to mean a pay cut for up to 10 million working families. These proposed changes will mean a pay cut for up to 10 million working Americans. These families are working really hard today. They are playing by the rules. They are trying to make ends meet. And this administration is squeezing them once again. To me that is unacceptable. That is why the Harkin amendment is so important today.

The question I have is this: Haven't American workers been punished enough by this President's economic policies? Not only have we seen millions of Americans lose their pensions but we have seen massive tax cuts for the few while everyone else struggles just to get by.

In my home State of Washington alone, we have lost more than 73,000 good-paying jobs since this administration came into office. My State unemployment rate is now the third highest in the Nation at 7.5 percent. In fact, just recently one of our business columnists suggested that the actual unemployment rate for Western States could be as high as 11.8 percent, if you count all of our unemployed workers.

Here we are with so many people out of work and so many people struggling to keep their jobs. Now this administration wants to force a pay cut on those people who are working overtime for their employers and are just trying to make ends meet. I don't think we should forget that these workers are now often the only breadwinners in their family. This change will hurt up to 10 million hard-working Americans. I come to the floor today to talk about some of the real people who are going to be squeezed by this amendment.

Right now, our firefighters, our policemen, and our EMTs are working very hard on the front lines on homeland security. They have gone above and beyond the call of duty, often with inadequate training and often with inadequate equipment. But they are doing it to protect us in this dangerous age. Today, many of them are working overtime in order to do that.

Now the Bush administration is telling our firefighters, our policemen, and our EMTs that they don't deserve overtime pay for the extra work they do. I find that very insulting. We know it will hurt their ability to provide for their families who every day watch these men and women go off to work and hope they return safely at the end of the day. Even worse, it really violates the great trust we place in this country on our first responders.

The International Union of Police Associations has estimated that 200,000 midlevel police officers will lose \$150 million in overtime pay if these new regulations are implemented. I believe our firefighters, our policemen, and our EMTs deserve overtime pay for their overtime work. The Bush administration is trying to squeeze them, and that is wrong.

Let me give you another example of whom this change will hurt. In commu-

nities across the country we have a shortage of nurses. I hear it from everyone who comes into our office. It is really causing hardship everywhere. These nurses are working really hard. They are providing care under extremely difficult conditions. Now the Bush administration is going to prevent more than 230,000 licensed practical nurses from getting overtime pay. They work hard for it. Frankly, in my view, they deserve every penny they get.

When I first heard about this disturbing proposal, I joined with my colleagues to tell the Bush administration they are on the wrong track. As the ranking Democrat on the Subcommittee on Employment, Safety, and Training, I was proud to join with Senator KENNEDY and 40 other Senators in sending a letter to Secretary of Labor Chao. We asked her not to implement the proposed regulation that would deny overtime pay to hard-working Americans.

In our letter, we asked the Secretary to consider millions of workers who depend on overtime pay to make ends meet and to pay for things such as food, childcare, housing, health care, and sending their kids to college—what every family wants today. We know overtime pay also makes up to 20 to 25 percent of an eligible worker's wages. But it seems this administration would rather provide tax cuts for the rich—that is where their priorities are—while cutting the pay of working Americans who most often live paycheck to paycheck.

During this debate, we heard some dubious arguments from the other side. We heard that we need to update the Fair Labor Standards Act because it was passed back in 1938. But what they haven't told us is that Congress has updated that act in fact eight times.

In 1985, Congress reviewed the law and extended it to State and local governments, leaving in place the current overtime exemptions.

Furthermore, the Bush administration is taking some unprecedented steps. Never before has the legislative branch authorized changes in the overtime rule. Never before has Congress directed the Department of Labor to take overtime pay away from millions of American workers.

You have to wonder, why the urgent need now to gut these time-tested worker protections? Could it be that the Bush administration and its business allies want to reduce the amount they pay in wages? Maybe it is because employers know in this very tough economy employees will just go along and accept the loss of overtime because they are so afraid they will be laid off. I will leave it to others to answer those questions.

The Senate should not support this coercive antiworker proposal. It will drain the wallets of millions of Americans who are working hard today to put food on the table. This proposal from the White House, in my opinion,

is just another slap to working Americans. We need to stop it in the Senate.

I commend the Senator from Iowa for offering this critical amendment. Senator HARKIN has always been a great friend to working Americans, and today those Americans need this Harkin amendment to protect them from this administration's designs.

I urge my colleagues to stand up for our firefighters, stand up for our police, stand up for our EMTs, stand up for our nurses who work every day for Americans. Stop this proposed pay cut for American workers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I congratulate my colleague, Senator MURRAY, for speaking on the overtime amendment offered by Senator HARKIN, and Senator ROBERT BYRD for speaking on his amendment involving funding the President's mandate, the No Child Left Behind legislation. I address both of those issues for a moment.

First, I say to the Senator from Washington, what she has outlined in her State can be repeated in virtually every State across America. For the last several years, we have seen a loss of jobs in America virtually unprecedented in recent history. In fact, you have to go back so far as President Herbert Hoover in the Great Depression to find a time when America has lost as many jobs as we have lost since President Bush took office. Remember, in the preceding 8 years we created 22 million new jobs in America, but since President George W. Bush has taken office we have lost almost 3 million jobs. This is a modern record, a sad record felt in every State, my own included.

I have also been told that some 90 percent of the jobs we have lost have been manufacturing jobs, jobs which have been lost to Third World countries, countries such as China, that have taken away the manufacturing jobs that used to be the bread and butter for the communities of America. They are leaving in droves. Since President Bush took office we have lost 120,000 manufacturing jobs in Illinois. In the last 5 years, we have lost one out of every five manufacturing jobs, and there is no end in sight.

I held a press bipartisan conference today with some of my colleagues who decried the current situation in China where they are sucking away all of our jobs because of currency manipulation. The point is that will be addressed in another bill.

In this bill, we have to be concerned not with the exodus of American jobs to Third World countries but the immigration of Third World labor standards into the United States. The Bush administration, through the Department of Labor, is establishing a standard which says that some 8 to 10 million workers in America will no longer qualify for overtime pay. Those included in that group, as we have heard from my colleagues on the floor, are

firefighters, nurses, many who have important jobs in communities related to health and safety. The Bush administration has said they will not be entitled to overtime in the future.

Those with a sense of history can remember from our history courses and our readings how many lives were lost in America in the establishment of the labor movement to fight for one particular thing: the 40-hour workweek. This was, frankly, one of the most contentious issues. We finally said, as a matter of law in America, businesses could only work their employees 40 hours a week or they would have to pay time and a half for the extra time. That was a bitter battle that went on for decades with a lot of bloodshed and lives lost because of social upheaval as workers across America spoke out for their rights. But eventually it was established. The 40-hour workweek in America became a sacred precept, not just in collective bargaining contracts but as well in legislation, to apply to everyone. The understanding was that beyond 40 hours you would have to pay extra.

What is the basis for it? Certainly so the workers' rights would be respected. It would lessen exploitation. It would say to the employer, if you are going to work someone beyond 40 hours, that certainly is a physical impediment, one that could be a hardship, as well as a family hardship, and you should pay more for it.

Now comes the Bush administration saying it is family friendly and eliminating the right to overtime pay for 8 to 10 million Americans. It could not come at a worse time. It could not be a worse idea.

Senator HARKIN of Iowa offers an amendment which my friends on the other side of the aisle are afraid we will call for a vote on, an amendment that says we will not allow the Department of Labor to go forward with this bad idea.

I totally support the Harkin amendment. We need to protect the rights of workers in America today, rights that have been fought for decades, over a century of effort by men and women to bring dignity to the workplaces under assault because of this proposal from the Bush administration.

Let me say a word about the Byrd amendment before the Senate. Senator ROBERT C. BYRD of West Virginia has offered an amendment which basically says to the President: Keep your word. Keep your word.

When this President came to office as the education president, he said: I am going to bring Democrats and Republicans together. He turned to my friend and colleague behind me, Senator KENNEDY, and said: Join me in passing the No Child Left Behind legislation. Let's do it right. Let's do it in a bipartisan fashion.

Senator KENNEDY joined him, as did Congressman GEORGE MILLER of California, in a bipartisan effort, supported by many, including myself. No Child

Left Behind demanded accountability in schools but said if the children are having a tough time passing the test, we want to provide extra resources to school districts across America so the test scores will improve.

Resources for title I is a program where school districts directly help students and their families, students who are falling behind. The amount that was to be authorized for this was spelled out in law, written down and approved by the President, signed into law, and No Child Left Behind went into effect.

Across America, public schools are bound by the requirements and mandates of No Child Left Behind. But, unfortunately, when it came to President Bush's budget, he failed to appropriate the funds necessary to pay for this mandate. So the mandate goes unfunded at the local level.

I don't know about the States of my colleagues but I can speak about Illinois. We are in a terrible fiscal crisis. We had to cut \$5 billion in State funds this year—a very difficult thing to do—and our schools have suffered in the process. For us now to say that this Federal mandate of No Child Left Behind is not going to be funded as President Bush promised means that the President is not keeping his word to the schoolchildren and families of America.

Senator BYRD's amendment says to the President: Keep your word. Find the \$6 billion you promised to send to these school districts.

I happen to think Senator BYRD is right. I am happy to be a cosponsor of his amendment. We cannot at this point in time establish new mandates and new responsibilities on school districts across America struggling to survive and not provide the resources.

In my home State of Illinois, almost half of the school districts are now in desperate financial straits. In the city of Elgin, IL, a growth area in my State, they appropriated funds 2 years ago to build four new schools that were to be open this fall when school opened. Sadly, the Elgin School District does not have the resources to open the schools. They cannot afford the teachers. They cannot afford the overhead costs. The four brandnew school buildings sit vacant, an indication of how difficult it is to fund education at the local level in the midst of a recession, in the midst of a situation when State budgets are struggling to find balance.

That is a compelling argument for us to keep our word, to make certain that school districts across America have the money to help the kids improve their test scores, improve their education, become better readers, understand math and science, and improve as students. Unless and until we do that, we have no business mandating on these school districts that they have to start transporting students across school district lines and all of the other penalties associated with No Child Left Behind.

Let's pass the Byrd amendment. Let's keep our word to the schoolchildren across America, even if the Bush budget does not.

The last point I make is an amendment which I plan to offer at the first opportunity. Again, it relates to a promise made by President Bush. I was at the State of the Union Message, as most Members of the Senate attended, just a few months back. I listened carefully as the President made a pledge on behalf of the people of the United States. It was historic in terms of its commitment. The President said: We in the United States would lead the world in battling the global AIDS epidemic. President Bush said to standing, thunderous ovation from both sides of the aisle that he was pledging \$15 billion a year over the next 5 years to fight the scourge of HIV and AIDS around the world. It was the right thing to do. The President was showing the leadership, which we expect of him, and leadership which makes all of us proud as Americans. Frankly, most of us believed at that point the deal was cut, that from that point forward no questions would be asked.

Now look at the bill before us and what do you find? Do you find that the \$15 billion over 5 years results in \$3 billion in spending in the next year, as one might expect? No. Scarcely \$2 billion will be available—\$2 billion to meet a \$3 billion commitment.

There have been many serious casualties in Iraq. We have lost many lives. Many of our service men and women have been injured. But now we are dealing with the other Iraqi casualties—funding for our schools, funding for the global AIDS epidemic.

The President again must be held to the standard that he set, the standard of American leadership around the world in dealing with the global AIDS epidemic. I certainly hope my colleagues, many of whom voted for the resolution offered by JEFF BINGAMAN, the Senator from New Mexico, a few weeks ago—I think there were over 80 votes in favor of it, and we said we should put \$3 billion in the budget this year for the global AIDS epidemic. I hope they will support my amendment which I hope I can offer later today or the first thing tomorrow, because in that amendment we will be able to keep our word.

Recently, in the Chicago Tribune, there was an editorial. This editorial suggested that this is a key floor vote on whether we are going to implement President Bush's bold \$15 billion 5-year plan to fight AIDS in Africa and the Caribbean. The Tribune went on to say:

The vote will go a long way toward determining if the U.S. will keep its promise to lead the world in the fight against AIDS.

That noble pledge seems to be wilting under the heat of other budget pressures. Bush has lobbied Congress for no more than \$2 billion for the first year. The Global Fund to Fight AIDS, Tuberculosis and Malaria would be particularly hard-hit by the reduced commitment.

They go on to say, my colleague from Illinois, Representative Henry Hyde, in the House:

... secured approval for legislation specifying that \$2 billion, plus an additional \$1 billion for the Global Fund, would be disbursed each year, rather than "backloading" the money into later years.

Make no mistake, the AIDS epidemic is upon us. Every year we delay, every dollar we delay will increase the number of deaths and hardships and orphans created by this terrible disease. We have an opportunity to do something significant in terms of the global AIDS epidemic, in terms of our Nation's commitment, in terms of what President Bush has said he would do as our leader in this country. But we need to follow through. Let's not look for excuses. Let's, instead, look for the opportunity to lead, which is before us today.

I encourage my colleagues to join on these three amendments by supporting TOM HARKIN to stop the overtime pay change, which the Bush administration is pushing; secondly, to support Senator ROBERT BYRD, who has said the President must keep his word to fund the mandate which he has sent to public schools across America; and again, in my amendment, to offer the \$3 billion to a world desperately in need of our help to deal with the global AIDS epidemic.

We can do this. We can keep our word. We can show the leadership that the President has promised.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 1566

Mr. KENNEDY. Mr. President, I will speak briefly about my higher education amendment, which I offer with my friend and colleague, Senator COLLINS, from the State of Maine.

It is our hope that we might be able to vote on the Byrd amendment and the amendment of the Senator from Connecticut and this amendment later this evening. I do want to take a few moments, once again, to review the importance of adding the \$2.2 billion to make sure the Pell Grant Program will continue to be alive and well.

Very quickly, the issue of availability of college for young people on the basis of their talent and educational achievement goes back to the 1960 campaign. That was a prime issue in that campaign: whether we, as a matter of national policy, were going to say to any young person in America, that if they had the ability to get admitted to any of our fine universities across this country, the size of their pocketbook or wallet would not limit them in terms of attending any of the great public or private universities, that they would be able to put through a package which would include grant programs, some loan programs, perhaps some work-study programs, perhaps a summer job program, and whatever else they might bring to the table, but at least it was going to be available.

There was going to be help and support for any young person in America. And any young person who was to take advantage of it was not going to have to mortgage their future in terms of borrowing from banks or from loan agencies. That was enormously important.

As a result of that, we have seen the opportunity for higher education available to millions of Americans. It was not really much of a surprise because we had seen the GI bill and then the cold war GI bill that was made available to veterans who took advantage of it.

The GI bill, after World War II, opened up enormous opportunities for new generations. Any careful review and study of that GI bill would find that paid back into the Treasury \$9 for every \$1 that was invested in students. It more than paid for itself just in terms of the bottom line economics of it, let alone the opportunity it gave to millions of young people. And then we had the cold war GI bill.

So this issue has been discussed and debated in this country as a matter of national policy. But what we are seeing, in the very recent times, is the sliding away from that fundamental commitment that says young people, if they are able to meet the academic standards, would be able to go to college.

In fact, I can remember a Secretary of Education, under a Republican administration, testifying before the Education Committee and saying: That is not what this Republican administration is really all about. Any young person will go where they can afford to go. And it should not be the Federal Government that is going to provide them with any of the help and the assistance.

That was an absolute retreat on what I thought for a time was a matter of a national kind of policy and priority. But, nonetheless, we have had to have that battle every several years. We have to have that battle on this Appropriations Committee because any careful reading of this appropriations bill would reflect that this Republican bill does effectively nothing to help families afford college. This has a zero increase in individual Pell grants. It has a zero increase in campus-based aid. It has a zero increase in the college work study. These are programs to provide job opportunities in the schools, as well as the Pell Grant Program.

If we look at the difference, the contrast between grants and loans, we can look back over the recent history. This goes back to 1980, 1981, where you will see that 55 percent of the education assistance was actually in grants, and then about 42 or 43 percent were actually in loans.

If you look at where we are now, in 2001, 2002, you will find 58 percent are loans and 41 percent are grants. This is a dramatic shift.

What this has meant is that great numbers of young people—estimates

are anywhere from 35 to 45 percent—who are attending higher education are working 25 hours a week or more.

If you visit any of the campuses, you will find that the young people, at the time there is a break in the instruction, are talking about their jobs rather than talking about the books or their poems or the ideas which they are taking from their classes.

What we have seen is enormous indebtedness that the young people have experienced over this period of time, and this is for the average student who is going to any of the schools. About 68 percent of any of the young people who are attending schools or colleges get some financial aid.

Four years ago, when they were graduating from any of the public and private institutions across the country, the average was \$27,000, \$28,000 a year in terms of debt. Now that has doubled effectively because of the increase in the amounts the young people have to borrow. That has increased dramatically with a number of the young people who are going to graduate schools. And it is not infrequent that those who are graduating from the graduate schools end up with debts of \$100,000 or \$120,000.

This chart shows the shrinking buying power of the Pell grant. Going back to the late 1970s, if you got a Pell grant, it was about 84 percent of the cost of your education, if you went to a public 4-year institution. If you went to a private institution, it was still about 40 percent. Now we find it is 39 percent instead of 84 percent, if you are going to a public 4-year institution. If you are going to a private 4-year institution, it is down to 15 percent.

One of the most dramatic factors is the median income for the Pell grant recipients. It has gone from a little over \$11,000 for family income in 1989 to 1990, to the year 2000 where it is now \$15,000. This is the average income, 15,200 for 4.8 million young people who get the Pell grant who go to college today. But these are individuals who have the academic know-how and who have worked hard, come from humble backgrounds, and have been able to excel academically and gain entrance into some of our finest schools and colleges in the country. They are demonstrating an extraordinary perseverance.

What we are saying with this amendment is that we are going to make sure the Pell grant is going to continue its value in terms of young people who are qualified for it. Under this particular amendment, it will add \$450 to the value of the Pell grant, which will mean 200,000 more children will be able to take advantage of the Pell grant in this \$15,000 range. These are young people of talent, commitment, and conviction, who are hard working. This gives them the opportunity. That is what this is about. If this amendment is not successful, there will be over 100,000 Pell grant recipients, it is estimated, receiving the Pell grant today who will

lose it as a result of the increase in the tuition that we have seen escalate over the past year.

I will not take the time to go over the increases, but every Member of the Senate understands what has happened in terms of increases in their States.

Finally, I draw the Senate's attention to the administration's policy itself, talking about Pell grants. The bill provides \$12.7 billion for Pell grants, \$538 billion less than the President's request for the high priority program. We are asking for \$2.2 billion in order to provide for the Pell grant but also the TRIO programs, which are the indispensable link for children who come from disadvantaged educational circumstances but are gifted and talented, so they are able to gain entrance into the schools, as well as the GEAR UP Program which has been such a success.

We believe this is one of the most important amendments. If you care about education, you will stand with BOB BYRD, with his increase in No Child Left Behind. If you care about providing opportunities for the sons and daughters of low- and middle-income families who have ability, who have creativity, who have demonstrated their willingness for hard work, you will vote for this amendment. This amendment makes sense. It is an expression of a nation's priorities. I hope we will have a strong vote.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, we will engage in a colloquy now to explain a little bit about what has been going on today and yesterday and outline what the plans will be for tonight and tomorrow. It will be myself and Senator DASCHLE and the managers of the bill, to clarify our general understanding.

First of all, last week tremendous progress was made on the bill. The managers have done a superb job in taking what we all know is a large, very important bill, a complicated bill, and systematically addressing the amendments that Senators have brought to the floor. A particular amendment, the Harkin amendment, has been the amendment talked about today and over the last 3 days. And it is an amendment that people feel very strongly about on both sides of the aisle.

In addition, both sides have looked at a whole range of amendments. And the managers have been made aware of those amendments.

As is always the case, the list is very long. But after discussion with the managers, it is clear that we have a manageable number of amendments that can be addressed if we started right now, tonight, in which case we would have to go very late tonight, tomorrow, and tomorrow night and complete action on the bill.

What it would mean is going back, in essence, to regular order in the sense of going back and voting shortly on four

amendments, starting in a few minutes, after which the general understanding is that we would debate about six amendments tonight. Again, these are amendments which have been presented. They have been talked about and discussed. They would be debated tonight with the expectation that tomorrow morning we would vote on those amendments that require a vote and that we would vote on the Harkin amendment in the morning.

All of this is with the understanding that we would complete the bill tomorrow night and that we would stay and complete the appropriations bill as long as it takes tomorrow night, understanding that it is going to be challenging, that we are going to have to stay right on the bill and the amendments under discussion and stay focused in order to complete that bill tomorrow night.

If that could be done—and it will be done, based on the agreement—then it would be possible for us not to have rollcall votes on Thursday or Friday. We have September 11 on Thursday. We will have services here at the Capitol, and most of us will be participating in services either in our districts or here. So it is a challenging day. But I also think it is important for us to continue the normal business of the Senate on September 11 around those services. We would have a legislative day on Friday. In fact, we would be able to move to other business on Thursday and on Friday. But when we finish the bill tomorrow night, it would be with the understanding that we would address the amendments that I mentioned tonight, the specifics of which we will talk about shortly, and that we would finish the bill tomorrow night; that we would not leave until we finish the bill.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I concur with what the majority leader has just described as the current understanding. It is not our intention to ask for unanimous consent. That is not necessary. We have a number of amendments under regular order that can now be called up. It is our hope that we could get at least through four of them, perhaps more. It is also our expectation that we will have additional amendments offered tonight with an understanding that those votes will occur in a stacked sequence tomorrow morning, following the vote on the overtime amendment.

I believe it is possible for us to finish our work tomorrow if we put in a full day. We have lost a lot of time, unfortunately. But I think we can make up for that lost time tomorrow, with the understanding that Senators have to travel to their States, in many cases. We know of at least eight Senators, those most affected by 9/11, who will want to be in their States on Thursday.

I think it is important that we accommodate their understandable need to be in the States they represent. To do that, we really, out of necessity,



will have to try to finish tomorrow night. I think we can do that.

The managers on both sides have done a very good job of working through the list of amendments we have, and we are prepared to vote on a substantial number of amendments already. If we do that tomorrow, with the assurances given by the majority leader—and there is also one other assurance. It is my understanding from previous conversations that we would be going to another appropriations bill as the next order of business whenever we complete this one. I know there is the outstanding question of when the so-called legislative veto of the FCC rule will occur, but except for that, it is the understanding, I think, on both sides, that we will stay on appropriations bills for the foreseeable future.

Mr. President, it would be my hope that we could begin voting soon to accommodate that schedule. I would like to work with the majority leader to complete our work on time tomorrow night.

I yield the floor.

Mr. REID. Mr. President, while the two leaders are on the floor, I have spoken with Senator BYRD. His amendment has been pending for a long time. He indicated he is ready for a vote now. I wonder when the two leaders wish to begin that first vote. It is on amendment No. 1543, Senator BYRD's amendment. Can we do that?

Mr. DASCHLE. Mr. President, if I understand the regular order, that would be the first amendment. With his cooperation, I see no reason why, at least on our side, we couldn't begin the vote almost immediately.

Mr. FRIST. Mr. President, before we call for the regular order, again, a lot of what we are going over today, tonight, and tomorrow is on good faith that we are going to finish this bill tomorrow night and do everything within our power.

A lot of people say: Why don't you put it in writing; get a unanimous consent agreement. We are not doing that because of this determination and good-faith effort as we go forward.

Before going to the regular order, I ask the managers to make a statement that they understand what the two leaders have said in terms of completion of the bill; that we will start voting here shortly, offering other amendments tonight, stacking votes in the morning, having a full and productive day, and staying here as long tomorrow afternoon or tomorrow night as it takes to complete the bill.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the majority leader and the Democratic leader for their statements. I am prepared to move ahead with the vote on the Byrd amendment. We have Senator DURBIN waiting to offer an amendment.

Mr. REID. Will the Senator yield?

Mr. SPECTER. I do.

Mr. REID. To give people a little bit of notice, Senator DURBIN is going to be one of the four votes tonight. He is going to take 10, 15 minutes to offer his amendment, which is one of the four amendments tonight. As soon as he does that, maybe we can start voting. He needs 15 minutes and the Senator from Pennsylvania needs time to speak in opposition to the amendment.

Mr. SPECTER. Mr. President, that arrangement is satisfactory. I want to be sure we do not go to the vote on Senator BYRD's amendment before we give Senator DURBIN a chance to offer his amendment with a brief reply, if necessary, on this side.

I reiterate, perhaps supplement, what has been said that we are going to be looking for at least six more amendments to debate tonight. We will be discussing with the Members during the votes their intentions, with an effort on all sides to pare down the list to the maximum extent possible.

I yield the floor.

Mr. HARKIN. Will the leader yield?

Mr. FRIST. I am happy to yield to the Senator from Iowa.

Mr. HARKIN. I thank the leader for yielding. I wish to express my thanks to the majority leader, the Democratic leader, Senator REID, Senator MCCONNELL, and, of course, my appropriations leader, Senator SPECTER, for helping to work this out. In good faith, we are going to move ahead on this bill.

I concur with everything our majority leader has said. I believe we can move ahead. I believe we can get these votes in tonight. We can have debate on a number of amendments, and we can stack them for votes in the morning. I see no reason why we cannot finish this bill tomorrow night. I will make every effort to make sure that is accomplished.

Again, I want to make it clear, that after Senator DURBIN offers his amendment and makes his speech, we could then move to four amendments we can vote on quite rapidly. That will be Senator BYRD's amendment on title I, Senator KENNEDY's amendment on Pell grants, Senator DODD's amendment on Head Start, and Senator DURBIN's amendment on global AIDS.

For those Senators who may be watching in their offices right now and their staffs, we are going to move ahead very aggressively on this bill. We have a number of amendments people have contacted me about, stating they want to offer them and on which they want a vote. If Senators want to offer an amendment and get a vote on it, be here this evening and offer that amendment and debate it. We will stack it in the morning because after tomorrow morning, things are going to move pretty rapidly. We know how things go.

I am saying: A word to the wise. If any Senator has an amendment and wants to offer it and wants an up-or-down vote, I respectfully suggest and hope they will come over this evening and offer that amendment so we can vote on it in the morning.

Mr. DORGAN. Mr. President, may I ask the majority and minority leaders, who are in the Chamber, a question about another scheduling item? I understand there is no unanimous consent request pending with respect to this bill, and I understand the desire to finish this appropriations bill. I am a member of the committee and know we have a lot to do, so I am fully supportive of moving ahead and finishing this bill.

As the leaders know, there is a privileged resolution on the calendar dealing with the Federal Communications Commission rules and the resolution of disapproval. I filed that with a discharge petition with 35 signatures. It is bipartisan. We will need time to have a Senate vote on that. This is attendant to a 10-hour period for debate and then a vote on the resolution of disapproval on the rules that the FCC has now developed dealing with broadcast ownership.

These are very controversial. This is a very important issue. I have spoken with both the majority and minority leaders previously about this. I ask the majority and minority leaders if we can expect at some point in the next day or so to set a time so the Senate will know when we will vote on the resolution of disapproval.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, this is, in part, related to the Democratic leader's request about order of business. The Dorgan issue will be brought up at a mutually agreed time, and I think we will have an opportunity to do that this week. Depending on how things go tonight and tomorrow night, that means we have Thursday and Friday which, when we complete the bill tomorrow night, the agreement is we will not be voting Thursday or Friday. I think what we might well consider is doing the Dorgan bill Thursday or Friday. Again, I am a little hesitant because Thursday there is so much going on in terms of ceremonies, although I know we will be in session Thursday afternoon—we will be in session all day—but Thursday afternoon there is a block of time, or Thursday night or Friday. I would like to move to another appropriations bill on either Thursday or Friday. I think we can work that out. We would probably vote Monday night, if that is a reasonable time. We will have other votes Monday night because if we go to an appropriations bill, likely we will have several votes Monday evening.

Mr. DORGAN. Mr. President, it is my intention to be cooperative, and I want to finish the appropriations bill as well. I think we can work in a way that gives the Senate an opportunity to know when the vote will occur. We can find a way to do the debate and give us an opportunity to weigh in on this issue.

Incidentally, it is the Dorgan-Lott proposal. It is bipartisan, with many Members of the Senate from both sides

of the political aisle. What I hear correctly is we probably could get some final arrangements for a vote next Monday evening. That makes great sense to me. Then we can have the debate between now and that period. I am only interested in nailing this down so Senators understand exactly what will happen.

I thank the majority leader for his response.

Mr. FRIST. Mr. President, I believe we are ready to proceed. Thus, I ask unanimous consent that the vote in relation to the Byrd amendment No. 1543 occur at 5:50 this evening, with 15 minutes for Senator DURBIN and 5 minutes for Senator SPECTER, and that there be no amendment in order to the amendment prior to the vote.

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

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1591 TO AMENDMENT NO. 1542

Mr. DURBIN. At the conclusion of my remarks, I will offer an amendment which I understand will be fourth in order for voting tonight.

I rise today to offer an amendment to fulfill our pledge to the millions of people around the world, in Africa in particular, who suffer from HIV/AIDS.

AIDS is fast becoming the worst plague the world has ever endured. Already, 25 million people have been killed by the disease. These charts have been provided to us by the United Nations World Health Organization. If we will look at these startling numbers, they indicate the number of adults and children newly infected with HIV during the year 2002: 3.5 million in sub-Saharan Africa; 700,000 in South and Southeast Asia; 270,000 in East Asia; 150,000 in Latin America; 250,000 in Eastern Europe and Central Asia. The numbers of newly infected people last year are truly startling.

Take a look at those who are living with HIV/AIDS at the end of the year 2002: 29.4 million in sub-Saharan Africa; 1.2 million in East Asia; 6 million in South and Southeast Asia; 1.2 million in Eastern Europe and Central Asia; almost a million in North America. The numbers are startling.

Then, of course, the mortality tables really tell an equally sad story. The estimated adult and child deaths from HIV/AIDS during the year 2002: 2.4 million in Africa. I know what happens when these numbers are read. Eyes glaze over, minds turn numb, and one thinks, I cannot calculate all of these numbers.

If you had been there, as I and so many of my colleagues have been, to meet with the families who are infected, who understand that they have a death sentence from HIV/AIDS, families who show extraordinary courage every single day getting up and doing their work, realizing they will never be able to afford the medicine necessary to prolong their life, families trying to keep it together with their children for that last moment, realizing their time

will soon come, you would never ever forget it.

The statistics, as I said, may be something that numbs our mind but, frankly, for those who seen it firsthand, as I have, they will never forget it. As parents are dying, 14 million AIDS orphans have been left without the care and support they need. Unless we act soon, there will be 25 million AIDS orphans. Each year, the world loses a population greater than the city of Chicago because of AIDS.

We know how to stop the deaths. In his State of the Union Address, President Bush made a 5-year pledge of \$15 billion to help millions of AIDS sufferers in Africa and around the world in fighting the AIDS epidemic. Listen to what he said:

We can turn our eyes away in resignation and despair, or we can take decisive, historic action to turn the tide against this disease and give hope of life to millions who need our help.

Unfortunately, the President's solid and courageous rhetoric was not backed up by his own budget request. His budget this year falls nearly \$1 billion short of the \$3 billion for the coming year that is needed to meet the 5-year \$15 billion pledge.

Sadly, the President's shortchanging on AIDS will cost lives. The additional \$1 billion we seek to restore today will put 1 million people on treatment and prevent 2.5 million new infections.

In July of this year, Senator JEFF BINGAMAN of New Mexico, a real leader on this issue, asked us to enact a sense-of-the-Senate resolution to tell the world, listening carefully to what we have to say on this issue, what we believe. Senator BINGAMAN offered a very courageous resolution, as follows:

It is the sense of Congress that Congress, when considering appropriations Acts for fiscal year 2004, should fully appropriate all the amounts authorized for appropriation in the Act, even to the extent that appropriating such amounts will require Congress to appropriate amounts over and above the funding levels in the Concurrent Resolution on the Budget. . . .

Senator BINGAMAN said we should put \$3 billion into this fight on AIDS as we promised, and he said we should do it even if it violates the budget resolution.

What happened to Senator BINGAMAN's resolution? It passed with 78 Members voting in favor of the resolution.

The Members who stood up and said they are prepared to vote for \$3 billion to fight the global AIDS epidemic include the chairman of the subcommittee on appropriations which brings this bill to the floor, Senator SPECTER of Pennsylvania; the Republican majority leader, Senator FRIST, his assistant leader, Senator MCCONNELL of Kentucky; as well as the Presiding Officer from Georgia. All of these Senators and many more voted in favor of this resolution, saying they were prepared to stand up and vote for \$3 billion to fight for AIDS. In just a few minutes, they are going to have

that chance. They will be able to demonstrate to the world that what they voted for in the Bingaman amendment was more than just posing for holy pictures, that they were in fact prepared to cast the vote even if it broke the budget resolution because the AIDS epidemic was that powerful and that overwhelming.

With those 78 votes, this Durbin amendment should pass easily. Maybe I do not even need to complete my speech, but on the off chance that some of my colleagues might be thinking of changing their minds—having voted for the Bingaman resolution and now given a chance to actually vote for the money, decide they want to vote the other way—let me tell them why they should not. Remember what the President himself said:

We care more about results than words. We're interested in lives saved.

Now is our opportunity to go beyond words and fulfill the pledge the President made in his State of the Union Address and the pledge we made in the Senate this last July. Keeping our promise and fighting against AIDS is in America's interest. AIDS is not just a humanitarian crisis, it is a security crisis. Living up to President Bush's promise on AIDS is important for showing the world we will keep our commitments.

As the CIA Director recently said when asked is AIDS a security issue, Director Tenet said: You bet it is. With more than 40 million people infected right now, a figure that by 2010 may reach 100 million, AIDS is building dangerous momentum in regions beyond Africa. As this disease spreads, it unravels social structures, decimates populations, and destabilizes nations around the world.

The National Intelligence Council found that in five of the world's most populous nations, the number of HIV-infected people will grow to an estimated 50 million to 75 million by the year 2010.

AIDS is particularly devastating to national armies around the world that ensure the stability of their nations. In South Africa, according to the Rand Institute, some military units have infection rates as high as 90 percent. Keeping our promise on AIDS to the world is not only the compassionate thing to do, it is the smart thing to do in terms of national security as well.

Today, we have a chance to change the course of the AIDS pandemic by providing \$3 billion, as promised, in the next fiscal year. The amendment I am putting forward would close the gap between the rhetoric of our promise in the State of the Union Address and our 78 votes on the Senate floor and the real needs of AIDS sufferers by fully funding the \$3 billion. The amendment provides \$939.7 million to close the gap and fully fund this \$3 billion pledge.

The stakes could not be higher. Let me quote Majority Leader FRIST who said recently:

History will judge whether a world led by America stood by and let transpire one of

the greatest destructions of human life in recorded history or performed one of its most heroic rescues.

Senator FRIST is right. In just a few moments, with the Durbin amendment, on a bipartisan basis, we can say to the world we will not stand idly by and make budgetary excuses about an epidemic that threatens our world; we will come to the rescue as we promised.

Instead of fulfilling this pledge, unfortunately, the White House is claiming that the full amount cannot be spent in the next year. All the leading development organizations and medical authorities have rejected this White House claim. This week in Roll Call, a newspaper on Capitol Hill, all—and I underline “all”—of the leading relief and development organizations in the United States placed an ad endorsing the fact that the full \$3 billion could be well spent. Don't fall for the argument: That \$3 billion, they won't know what to do with it.

The fact is, there are ample opportunities to stop the spread of AIDS right now. There are not enough funds available, and \$2 billion does not meet the global need. By putting in the full \$3 billion we promised, we will save lives. By not appropriating that money, lives will be lost, more people affected, and more AIDS orphans to populate this troubled world.

The White House is also ignoring the capacity of the Global Fund to fight AIDS, TB, and malaria, the most effective tool we have to beat AIDS. The Global Fund that is chaired by the Secretary of Health and Human Services, a member of President Bush's Cabinet, Secretary Tommy Thompson, is scaling up successful programs on the ground in Africa and is working to stop the wave of the pandemic in India. It needs hundreds of millions of dollars this fall to fund the grant applications which they know will work to slow down the spread of AIDS.

The White House should not forget the extraordinary needs of AIDS orphans. According to a soon-to-be-released report by the Earth Institute at Columbia University, orphans and vulnerable children need \$15 billion each year for basic health, education, and community services. The Global HIV Prevention Group found that AIDS prevention spending falls \$3.8 billion short of what is needed by 2005. Although we can spare the lives of babies with AIDS for the price of a Sunday newspaper in the United States, only 5 percent of the women at risk have access to medication to prevent mother-to-child transmission.

I say to my 78 colleagues who voted for the Bingaman amendment just a few weeks ago, understanding that to meet the \$3 billion funding request might cause us to go beyond the allowed amounts in the budget resolution, you, including my friend from Pennsylvania, who is the chairman of this subcommittee, voted in the affirmative and said you understood the seriousness of this challenge. You were

prepared to take an extraordinary step on the floor of the Senate for an extraordinary challenge which faces the world.

Have they forgotten? Will the rollcall reflect political amnesia on the part of my colleagues or will they stand strong and stand tall for the position that they took not that long ago when we voted on this Bingaman amendment just a few weeks back?

I hope they will join me and commit to fully funding the \$3 billion to fight AIDS. We have a unique chance to change the future and save lives. It is in our hands.

Today, a 15-year-old boy in Botswana faces an 80-percent chance of dying of AIDS. I have been to Botswana. This wonderful country unfortunately has a clouded future because of the specter of AIDS which hangs over it today. If we act now, we can change the future for these children before it is too late. I beg my colleagues in the Senate, please look beyond the sterility of this budget resolution. Look in your heart and realize, as Senator FRIST has said, we cannot stand idly by. We cannot make procedural arguments. We cannot find any comfort or refuge in some procedural element that suggests maybe we can't afford it. We know better.

We voted with Senator BINGAMAN. I hope my colleagues will join me in voting for this amendment.

I ask unanimous consent Senator MURRAY be added as a cosponsor to this amendment.

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

Mr. DURBIN. I don't know if it is appropriate now to ask that the amendment be read by the clerk?

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. DASCHLE, Mr. LEAHY, Mr. BINGAMAN, and Mrs. MURRAY, proposes an amendment numbered 1591.

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

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

The amendment is as follows:

(Purpose: To provide funding for the prevention, treatment, and control of, and research on global HIV/AIDS)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 for the prevention, treatment, and control of, and research on HIV/AIDS, in addition to funds appropriated in this Act and under the heading “Global AIDS Initiative” in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, \$939,700,000, to remain available until expended: *Provided*, That funds appropriated under this section that are made available for the Global Fund to Fight AIDS, Tuberculosis, and Malaria shall be made available in accordance with sections 202(d)(1) and 202(d)(4) of the United States Leadership Against HIV/AIDS, Tuber-

culosis, and Malaria Act of 2003 (Public Law 108-25): *Provided further*, That if the President certifies to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives that the funds provided under this section can not be effectively used to implement HIV/AIDS prevention or treatment programs or programs that improve health care infrastructure to more effectively deal with the HIV/AIDS pandemic, then the funds provided by this section shall be returned to the Treasury: *Provided further*, That the amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,834,899,000: *Provided further*, That the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$5,843,601,000: *Provided further*, That of the funds appropriated in this Act for the National Institutes of Health, \$330,000,000 shall not be available for obligation until September 30, 2004.

Mr. DASCHLE. Mr. President, I rise in strong support of the Durbin amendment regarding the global AIDS fight. I commend Senator DURBIN for his brave leadership on this issue.

Less than 4 months ago, the President signed into law a bill authorizing his administration to spend \$3 billion for the next 5 years on a comprehensive program to combat AIDS. Congress passed this legislation in response to the President's call for action in his State of the Union address. Legislators on both sides of the aisle commended the President for his leadership and vision in recognizing the need to launch a major offensive against the spread of a disease that has already killed 25 million people worldwide, and infected 42 million more.

Unfortunately, President Bush's call to action proved to be nothing more than empty rhetoric. Despite Congress's commitment to combating AIDS, President Bush's own budget request has fallen far short of his promises, seeking under \$2 billion, more than \$1 billion less than what he is authorized to spend.

President Bush argues that the full \$3 billion amount cannot be invested effectively in the fight against HIV/AIDS, citing the lack of administrative infrastructure in Africa and other regions plagued by the disease. He says that he does not believe Africa and Asia can absorb so much in the way of resources for the fight against AIDS.

I wholeheartedly disagree. I traveled to Africa last summer and visited with health care workers and their patients at Africa clinics in South Africa, Botswana, Nigeria, and Kenya. I saw the overwhelming positive impact of voluntary counseling and testing programs on women in Soweto and Nairobi and Kasane. Those who test positive are taught to prevent the virus's spread, and those who test negative are taught to stay virus-free. I saw how Nevirapine can save a child's life when it prevents mother-to-child transmission of the virus. I saw what we in the United States now consider a standard course of anti-retroviral drugs rescue an AIDS-ridden man from the virtual throes of death.

My trip to Africa showed me clearly that what Africa needs to fight AIDS is

not fewer resources, but more. I believe that the \$3 billion Congress has authorized not only can be spent, but is desperately needed.

First, the Global Fund to fight AIDS, TB and malaria assures us it can put millions of dollars of additional resources to critical use immediately. Moreover, as the President argued in France earlier this spring, additional investments in the Fund from the United States will pressure our friends in Europe and Asia to contribute their fair share to this fight.

Second, additional resources can dramatically expand the remarkable training programs the United States runs through the CDC, NIH, and USAID, particularly in those countries not included in the President's Emergency Plan for AIDS Relief covered, so that we can jumpstart our efforts to improve health infrastructure in those countries already struggling with HIV/AIDS—and those, like India, we know soon will be.

Third, we ought to vastly expand education programs in schools and universities throughout Africa, Asia, and Eastern Europe, increase the voluntary counseling and testing centers that have already helped thousands of AIDS-positive men and women, and expand the work of those centers to provide treatment for those who need it. As the Washington Post reported recently about local women overturning that country's tradition of the sexual healer, women armed with information and options will halt the transmissions of this deadly disease.

It's easy to become overwhelmed by the sheer magnitude of the problem. Misinformation and misguided traditions exacerbate this crisis and absolutely must be addressed. But there are thousand of public health experts and community leaders across Africa and Asia who understand the problem and are ready to take these concrete steps to save millions of lives—if they only had the resources. We cannot hide from the fact—nor should we want to—that if we make an investment now, we have the opportunity to avoid a tragedy of far greater proportions. For example, since the President's historic announcement in January, new studies have found what we feared may be the case—the epidemic is moving with a vengeance into huge population centers like India, where U.S. HIV/AIDS assistance remains inadequate—and we remain unprepared.

Senator DURBIN's amendment will restore AIDS funding to the full level authorized in this chamber earlier this year. It says, very simply, that we will fulfill our promise. I commend the Senator for his commitment to seeing the U.S. lead the world in this essential fight, and I encourage my colleagues to cast their votes for saving lives.

Mr. LAUTENBERG. Mr. President, I rise to offer my overwhelming support for Senator DURBIN's amendment on AIDS funding, of which I am a co-sponsor. I urge my colleagues to vote on

this matter based on principle rather than politics. This amendment does nothing more than fulfill President Bush's promises to the international community that he made this year in his State of the Union Address.

In January, President Bush called on Congress to increase U.S. funding for global anti-AIDS work to \$15 billion. In the spring, he signed a bill authorizing \$15 billion over the next 5 years. And he spoke often of this comment during his recent trip to Africa, the continent hardest hit by the AIDS plague.

But while the President signed a bill to authorize this important and critical cause, he failed to appropriate adequate funding for it. While signaling his intent to help deal with the global AIDS crisis, he did not back his intentions with actions.

Senator DURBIN's amendment holds the administration's feet to the fire. It will fully fund the \$3 billion authorized to combat HIV/AIDS in Fiscal Year 2004. This should be an easy vote for my colleagues, who seemed to support the AIDS authorization bill in May.

Some of my colleagues have registered concern that we cannot fully appropriate funding this year to the authorized level because the necessary humanitarian and non-governmental organizations would not know how to handle so much money so soon. With all due respect, this is just not accurate.

The Global Fund to Fight AIDS, Tuberculosis, and Malaria, which was established with support by this administration, is inundated with applications for international AIDS/HIV treatment, vaccination, and public education projects that cannot even be read because of the scarcity of funds.

AIDS killed 2.5 million Africans in 2002. Current infection rates in Africa, Asia, Central Europe and elsewhere are staggering. I urge my colleagues to recognize the awesome responsibility they hold to save lives and to support this amendment.

Mr. LEAHY. Mr. President, I strongly support this amendment, of which I am a cosponsor, and I commend my friend from Illinois who has been so passionate, and so relentless, in seeking additional funding to combat AIDS.

Senator DURBIN has been carrying on this fight for several years. He has offered amendment after amendment. He has urged the White House to declare AIDS an emergency, which we all know that it is. And time and again he has been opposed, by the White House and some in the Congress. I hope that does not happen again today.

This debate is not about whether AIDS is a catastrophe of historic proportions. It is not about whether it is the worst public health crisis in history. There is no dispute that 15,000 people are becoming infected with this deadly disease each day, that over 42 million people are already infected, and that over 25 million people have already died.

Nor is this debate about what needs to be done. We know what types of pre-

vention programs work, and that it depends on the culture and practices in each country. We know that only a tiny fraction of people infected are receiving treatment, and that care often amounts to nothing more than a hospital bed, if that.

We know that in many countries, where the infection rate is increasing and where there are already millions of AIDS orphans, faith-based and other private voluntary organizations are working around the clock, with nowhere near the staff or resources they need.

There are countless examples of grandmothers struggling to care for a dozen orphaned grandchildren, or children as young as 9 years old caring for their younger siblings.

We know that no country is immune, and that the number of people infected is increasing exponentially, especially in Asia.

We also know that people infected with HIV often succumb to tuberculosis, which is rampant in many countries, including drug resistant TB. And we know that malaria kills 1 million people each year, mostly African children. Many of these deaths could be prevented. An estimated 500 million people get sick from malaria each year.

Again, this debate is not about any of that. Rather, it is about whether the United States should spend \$2 billion in 2004 to combat AIDS, tuberculosis and malaria, or \$3 billion.

Earlier this year, at the U.S. Coast Guard Academy, the President spent a good deal of time talking about the global AIDS crisis. I commend him for that, and for going to Africa, where he highlighted the suffering caused by AIDS there.

President Bush has shown real leadership on AIDS, although Senator DURBIN and I and others have been pushing for stronger action on AIDS for years.

A short time after the President's Coast Guard Academy speech, we passed the United States Leadership Against AIDS, TB and Malaria Act, which authorized \$15 billion over 5 years. That was consistent with what the President proposed in his State of the Union address back in January. It was an important step. It showed that we are beginning to take AIDS seriously.

But that was an authorization bill. It did not appropriate any money. For all intents and purposes, it was like writing a check without enough money in the bank.

The President's budget for 2004 contains only \$2 billion of the \$3 billion we authorized for AIDS.

The United States Leadership Against AIDS, TB and Malaria Act also called for up to \$1 billion for the Global Fund to fight AIDS and TB and Malaria. Again, a promise. For 2004, the President only budgeted \$200 million for the Global Fund, which is one-fifth of the amount authorized. It is also a cut of \$150 million from what was appropriated last year.

There is another problem. While the President's 2004 budget for Foreign Operations includes approximately \$1.3 billion to combat AIDS, TB and malaria, it robs Peter to pay Paul to pay for increases in these programs. The President's budget would cut other essential global health programs.

Child survival and maternal health programs would be cut by 12 percent. These are the programs that provide lifesaving child immunizations. They help to prevent the 600,000 pregnancy-related deaths each year that could be avoided. The President's budget cuts these programs by 12 percent.

It would cut programs to combat other infectious diseases like measles, SARS, or ebola, by 32 percent. Measles kills 1 million children not 100,000 or 200,000 but 1 million children a year. Again, this disease is easily preventable.

These are not my numbers; these are the administration's numbers. These numbers are in the President's budget.

Anyone who knows anything about public health knows that building the health infrastructure in developing countries is essential if you are going to fight AIDS. It is the same with child nutrition. It is the same with maternal health. You don't fight AIDS in a vacuum. It isn't an either/or proposition. People who are malnourished, who are in poor health, who have weak immune systems, who are at risk of other infections, are far more vulnerable to AIDS. It is common sense.

Senator MCCONNELL and I were able to restore the funds for these other global health programs. In fact we increase funding to combat other infectious diseases, and to support child and maternal health. But because of that, we did not have additional funds to fight AIDS. That is why we need this amendment.

Senator DURBIN's amendment builds on an amendment in July by Senator BINGAMAN to the State Department Authorization bill. That amendment, which passed 78-18, called for full funding—\$3 billion—for the first year of the President's \$15 billion AIDS initiative, even if it means exceeding the budget ceilings.

His amendment would provide an additional \$984 million that we already authorized. That is what we said we would do when we passed the AIDS authorization bill, and again when we passed the Bingaman amendment. Senator DURBIN's amendment would do it.

If we are going to lead, and especially if we are going to ask others to do more, we are going to have to stop playing shell games with the foreign aid budget. We are going to have to start doing what we say.

We are spending over \$4 billion each month in Iraq. This amendment would provide an additional \$1 billion for the year to combat the worst health crisis in world history. Americans are threatened with AIDS not just in this country, but every time they travel abroad.

I have traveled to Africa, to Haiti, to Vietnam and China, to Central Europe

and the former Soviet Union. I have seen how AIDS is ravaging those countries.

In all my travels, and in all my conversations with the leaders of those countries and with public health experts—from the Gates Foundation, to USAID, to the World Health Organization, to the directors of America's public health institutions, to the private voluntary and faith based organizations doing the work in those countries, I have never met anyone, no one, who believes that the additional funds provided by this amendment could not be well spent.

No one who works in the field or AIDS prevention and treatment, or TB or malaria, who I have spoken to, believes that we do not need these additional funds. We need them now, not a year from now.

The White House argues that \$3 billion could not be spent effectively in combating AIDS in the 14 countries where it plans to focus. They may be right, but that is not what the United States Leadership Against AIDS, TB and Malaria Act says. Why limit our efforts to 14 countries, when 5 times that many countries are being ravaged by these diseases? Why ignore the other two dozen countries in Africa, or Russia, or China or India where AIDS is spreading out of control? It makes absolutely no sense. It is a false argument.

Fighting AIDS is not about 14 countries. There are dozens of countries that need help, and if there are not enough trained people or infrastructure, we should help build that capacity. We should train more people and provide the vehicles, the testing equipment, the drugs, to carry out effective prevention and treatment programs. Ask anyone working in public health in those countries, and they will tell you what needs to be done.

I really cannot understand the White House's argument. It is not based on fact. It is not based on reality. It is not based on public health.

Is it because they don't want to spend the money? We are paying far more today to fight AIDS than if we had faced up to this disease back when it was just beginning. We wasted two decades, and 25 million people died, in part because we and others failed to act. We will spend far more tomorrow if we do not do what is needed today.

That is what this amendment does. I commend the Senator from Illinois. I urge the White House not to oppose this amendment. I urge the majority leader to support it. He recently traveled to Africa and saw the same tragic consequences of AIDS that many of us have seen there. We need to work together. Let's not make the same mistake again.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN. It is my understanding I have control of the time until 15 minutes before 6, and I yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator has 2 minutes remaining. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I support the Senator and his amendment. There are certain things in life, if we apply our efforts, our research, our development, our technology, we can ultimately lick. One of them that, of course, we are working real hard on is cancer. One of them, another big killer, is heart disease. And clearly the plague of AIDS is one of them.

I support the Senator and thank him for bringing this amendment to the floor.

At the appropriate time I would like to address another amendment with the manager.

I yield the floor.

Mr. DURBIN. Mr. President, in the remaining few seconds I have under the unanimous consent agreement, I urge my colleagues on both sides of the aisle to help us. We heard from the President the other night. We need to rally as a nation to put up our resources where we made our commitment in Iraq. We made a commitment, as well, through the President and through the Senate, to deal with the global AIDS crisis.

Frankly, I think it would be difficult for us to explain how we can find \$87 billion in Iraq and not find the \$3 billion that the President promised to the world, and we in the Senate stood behind him by a vote of 78 in favor to support. This will be our chance to do it.

When we do it, we will be able to look back at this moment as not only doing the right thing, but doing something very important for generations to come.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON of Florida. Mr. President, I request of the manager of the bill I be given some opportunity to speak on another amendment, but at his pleasure. I will speak whenever he would prefer.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, if I may respond to the Senator from Florida, we are now moving ahead to the 5 minutes on my time, in response to the Senator from Illinois. We are then going to proceed to four votes. But we will be here following those votes. We are looking for amendments, and we will put the Senator from Florida first on the list following the votes.

Mr. NELSON of Florida. I thank the Senator.

Mr. SPECTER. Mr. President, I ask unanimous consent that immediately following the vote in relation to the Byrd amendment, the Senate proceed to a vote in relation to the Kennedy amendment, No. 1556, to be followed by a vote in relation to the Durbin amendment, No. 1591; further, that no amendments be in order to the mentioned

amendments prior to the votes. I also ask unanimous consent there be 2 minutes equally divided for debate prior to the second and third votes in sequence. And, finally, I ask unanimous consent the last two votes in this sequence be limited to 10 minutes each.

I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, we think this is a tremendous step forward. However, we are trying to get a fourth vote as the two leaders have requested. Both of those amendments are those by the Senator from Connecticut, the senior Senator from Connecticut: one dealing with Head Start and one dealing with special education. The one on Head Start he has not offered yet, but he wanted to do that tonight. There was a time period—we were told we could not do that because there was a second-degree amendment. We next come to the special education amendment, No. 1572. We are told the same thing.

We are in good faith trying to move this bill. But we can't be expected to meet the impossible. We have waited here a couple of days trying to move this stuff forward. We come up with amendments and people say we can't let you do that one. We are doing our best to meet the suggestion of the Senator from Tennessee, the majority leader. We asked Senator DODD, and he has agreed to do it in 20 minutes evenly divided—Head Start.

Mr. DODD. Reserving the right to object, Mr. President, I was just informed of a different proposal than I was operating under when I had the discussion with the distinguished minority whip and the ranking member of the chair of the committee. If you will give me 2 minutes to resolve the conflict, which

of these matters should be dealt with tonight or tomorrow, we could come right back to this. I am sure we will get an agreement. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor and cannot suggest the absence of a quorum. Is there objection?

Mr. REID. There is no objection at this point to the unanimous consent request. We hope we can add to it.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe in short order we will be able to work out an additional portion of the unanimous consent for the vote on the Head Start amendment.

Mr. DODD. I hope so, yes.

Mr. SPECTER. We will sequence that prospectively fourth in line for another 10-minute vote. The expectation is there will be a short time for debate, expected to be 10 minutes equally divided.

Mr. DODD. Something like that.

Mr. SPECTER. We can work that through in just a few moments.

Mr. REID. We can announce that prior to the next vote beginning.

Mr. SPECTER. We can.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Mr. President, inquiry: Do I now have 5 minutes to respond to the Durbin amendment?

The PRESIDING OFFICER. The Senator has 1 minute 18 seconds remaining.

Mr. SPECTER. Mr. President, I agree a great deal with what the Senator from Illinois has said about funding on HIV/AIDS. Just a few months ago, the Senator from Illinois and I offered an amendment of \$700 million on the for-

eign aid bill. Before it became generally recognized that there should be major U.S. appropriations for AIDS, the President included in his State of the Union speech a program for \$15 billion. As much as I would like to see another \$900 million-plus added, we simply do not have it in the budget resolution. We are now up to the amount of \$137.6 billion in the budget resolution and in the allocation.

I think it is important to note that we have in this bill in excess of \$14 billion.

I ask unanimous consent that a table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### GLOBAL HIV/AIDS FUNDING

[Dollars in thousands]

	FY 2003 final	FY 2004 request	FY 2004 Senate
CDC Global AIDS Program .....	\$142,569	\$143,763	\$142,569
CDC Int'l Applied Prevention .....	11,000	11,000	11,000
Mother-To-Child Transmission .....	40,000	150,000	90,000
Global Fund for HIV/AIDS .....	100,000	100,000	150,000
Bilateral TB and Malaria .....	15,000	15,000	15,000
NIH Global AIDS research .....	252,300	274,700	274,700
Global AIDS in the workplace .....	10,000	.....	10,000
Total .....	570,869	694,463	693,269

#### TOTAL HIV/AIDS FUNDING IN THE FY 2004 SENATE LABOR-HHS BILL

[Dollars in thousands]

Health Resources & Services Administration .....	\$6,996
Centers for Disease Control & Prevention .....	932,189
National Institutes of Health .....	2,869,858
Substance Abuse & Mental Health Services .....	171,774
Agency for Healthcare Research & Quality .....	1,800
Office of the Secretary .....	63,113
Global Fund for HIV/AIDS .....	150,000
Ryan White CARE Act Programs .....	2,041,599
Total Discretionary Including Ryan White .....	6,237,329
HIV/AIDS Services in Medicare and Medicaid .....	7,800,000
Grand Total in Labor-HHS bill .....	14,037,329

[In thousands of dollars]

Program	FY 2003 ap- propriation	FY 2004 bud- get request	FY 2004 Sen- ate
Subcommittee—Foreign Operations:			
Child Survival Assistance for bilateral programs .....	591,500	650,000	500,000
Other Economic Assistance .....	38,500	40,000	50,000
Bilateral Malaria & AIDS .....	105,000	105,000	105,000
State Department Global AIDS Initiative <sup>1</sup> .....	.....	450,000	700,000
Global Fund Contribution .....	250,000	100,000	[250,000]
Other .....	2,000	1,500	2,000
Total Foreign Operations .....	987,000	1,346,500	1,357,000
Subcommittee—Labor-HHS:			
CDC Global AIDS program .....	142,569	143,763	142,569
CDC Mother to Child Transmission .....	40,000	150,000	90,000
CDC International Applied Prevention Research .....	11,000	11,000	11,000
NIH International Research .....	252,300	274,700	274,700
DOL AIDS in the workplace .....	10,000	.....	10,000
Global Fund Contribution from NIH .....	100,000	100,000	150,000
CDC Malaria & Tuberculosis .....	15,000	15,000	15,000
Total Labor-HHS .....	570,869	694,463	693,269
Subcommittee—Defense: DOD HIV/AIDS education w/African Armed Forces .....	7,000	.....	.....
Subcommittee—Agriculture: Section 416(b) Food Aid .....	25,000	.....	.....
Total—All Subcommittees .....	1,589,869	2,040,963	2,050,269

<sup>1</sup> Includes up to \$250 million for Global Fund.

Total to Global Fund is \$400,000,000 (\$250 million from Foreign Ops & \$150 million from NIH).

Mr. SPECTER. Mr. President, we have an additional \$4 billion from other Departments.

I ask unanimous consent that a chart be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### HIV/AIDS PROGRAM LEVEL 2002–2004

[Dollars in millions]

	2002	2003	2004
HHS:			
HHS Discretionary .....	\$5,789	\$6,130	\$6,390
Medicaid (Federal Share) .....	4,200	4,700	5,200
Medicare .....	2,050	2,350	2,600

#### HIV/AIDS PROGRAM LEVEL 2002–2004—Continued

[Dollars in millions]

	2002	2003	2004
Sub-Total, HHS .....	12,039	13,180	14,190
All Other Government:			
Social Security—DI .....	961	985	1,014
Social Security—SSI .....	390	410	430
Veterans Affairs Department .....	391	396	402



HIV/AIDS PROGRAM LEVEL 2002–2004—Continued  
(Dollars in millions)

	2002	2003	2004
Defense Department .....	96	78	88
Agency for International Development .....	510	740	790
Justice/Bureau of Prisons .....	16	17	19
State Department .....	0	0	459
Labor Department .....	11	1	1
Education Department .....	0	0	0
Housing and Urban Development .....	277	292	297
Ofc. Personnel Mgmt.—FEHB .....	297	321	343
Sub-Total, All Other Government .....	2,949	3,240	3,834
Total, HIV/AIDS .....	14,988	16,420	18,024

Mr. SPECTER. Mr. President, we are making enormous strides with some \$19 billion. Much as I would like to see another sum added, we simply do not have the money in our resolution.

I refer to a letter from Dr. Joseph O'Neil, Director of the Office of National AIDS Policy, to Senator FRIST dated July 17 specifying—and I will not take the time to read it now—that the \$2 billion on this particular program is all that can be usefully expended.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,  
Washington, July 17, 2003.

Hon. BILL FRIST,  
Majority Leader, U.S. Senate,  
Washington, DC.

DEAR LEADER FRIST: It is my understanding that an amendment regarding funding for HIV/AIDS, tuberculosis and malaria may be offered today to the Department of Defense FY2004 appropriations bill currently under consideration on the Senate floor.

I want to reiterate the Administration's strong support for the FY2004 budget request of \$2 billion for all international HIV/AIDS, tuberculosis and malaria activities, including \$200 million for the Global Fund to Fight HIV/AIDS, TB, and Malaria. This request is a solid first step in fulfilling the President's commitment of providing \$15 billion over the next five years to address the HIV/AIDS pandemic in Africa, the Caribbean and around the world.

I recently finished traveling to Africa with the President where he saw first-hand the positive impact that current U.S. funding is having in caring for the sick, providing treatment for individuals living with HIV/AIDS and extending lives. He also witnessed the vast infrastructure and capacity challenges that need to be addressed in order to scale-up many of these efforts.

It is by careful design that the President's FY2004 budget request is for \$2 billion. This request was based on the sound judgment that funds in excess of this amount could not be spent effectively in this first year. These funds will be spent in a focused manner, increased each year, to efficiently and effectively create the necessary training, technology, and infrastructure base needed to ensure delivery of appropriate medical treatment protocols and the long term success of this initiative.

These funds are vital to our efforts to combat HIV/AIDS abroad, but must be spent in the right way, at the right time. Similarly, efforts to increase funding to the Global Fund to Fight AIDS, TB and Malaria are not appropriate at this time. Currently, the United States is responsible for over 40% of all contributions made to the Global Fund. We have reached a critical time in the Global Fund's development, and other nations must join the U.S. in supporting the work of the Global Fund.

For the reasons stated above, the Administration strongly opposes any efforts to increase funding beyond the \$2 billion requested in the President's FY 2004 budget. I appreciate your unwavering leadership on this issue and look forward to the continued strong bipartisan support of the Senate in ensuring the success of this lifesaving initiative.

Sincerely,

Dr. JOSEPH F. O'NEILL,  
Director, Office of National AIDS Policy.

Mr. SPECTER. Mr. President, I ask unanimous consent that following the last stacked vote in this sequence, Senator DODD be recognized to offer an amendment relating to Head Start; there be 10 minutes equally divided for debate in relation to the amendment; further, that following the debate, the Senate then proceed to a vote in relation to the Dodd amendment, with no amendment in order to the amendment prior to that vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1543

Ms. MIKULSKI. Mr. President, I rise in support of the Byrd amendment to fully fund title I. America's strength is our opportunity ladder. One of the strongest rungs on the ladder is our public schools. Education is what gives parents hope for their children. That is why it is so important to continue our commitment to improving public schools.

When Congress passed the No Child Left Behind Act, we placed the burden on schools to improve. It is a worthy goal—but it will be a difficult task. We knew this when we passed No Child Left Behind, and so we promised to give schools adequate resources. Yet only 1 year later, the Senate Labor, Health and Human Services, and Education bill falls far short of our commitment to providing the resources needed to make the reforms work. I have heard from teachers and parents from all over Maryland. They all tell me that they are worried about whether their school will make the grade. They are worried about how they're going to meet all the requirements in No Child Left Behind—especially in this time of budget cuts and budget crunches.

This bill shortchanges our schools and our students. I am concerned that we have lost track of what America stands for—empowerment, hope, and opportunity. Instead of funding for our schools, this Congress passed a tax cut for the rich. And guess what? The tax cut left us shackled. It left us with no money in the Federal checkbook for education.

That is why I am proud to cosponsor this amendment, which would provide an additional \$6.15 billion for title I. Title I is vital to the success of No Child Left Behind. Reforms without resources is a hollow opportunity. Fully funding title I will help our Nation's poorest schools hire more teachers, buy more computers, and implement the kind of reforms they need to improve student achievement.

There is a lot of talk about leaving no child behind. Yet today we are still fighting to make sure our children go to good schools with good teachers and up-to-date books and facilities. The No Child Left Behind Act will be a hollow promise if we don't match our rhetoric with resources. That is why this amendment is so important. We must make sure no child is left out of the budget. I urge my colleagues to vote for the Byrd amendment.

Mrs. CLINTON. Mr. President, I support the Byrd amendment, which provides \$6.15 billion in additional funding for title I grants.

Two years ago, we promised school districts that they would have the resources they needed to meet new standards mandated by the Federal No Child Left Behind Act.

As it stands, this bill fails to adequately, fund title I—the cornerstone of No Child Left Behind, NCLB. In fact, it provides \$6.15 billion below the amount promised to school districts for fiscal year 04.

This funding level in this bill is even \$334 million below the increase that was slated for title I in the budget resolution for fiscal year 04.

Children are failing in many of our schools in all of our states. These children need extended learning time. They need instruction from high-quality teachers and they need to learn in smaller classrooms.

The Byrd amendment gives schools the resources they need so that they can create the best possible condition in which all teachers can teach and all children can learn.

Today, 23.3 percent of all children in New York are living in poverty, more than all but six other States.

The proposed appropriation in this bill fails to meet the need for more resources for these children. As a result, 458,745 eligible New York children would not be fully served and will consequently be left behind.

Funding title I at its NCLB-authorized level of \$18.5 billion would provide New York with \$682,595,000 more than the current proposal.

Title I grants help school districts in all State pay for tutoring instruction, specialized services, class size reduction and other critical support services to help the neediest of all children achieve high standards.

With this funding, New York school districts can hire up to 13,379 teachers to reduce class size and provide specialized instruction in math and reading aimed at helping these needy children meet state standards.

The impact of the proposed funding level is especially felt in key cities across New York State. Without the resources provided by this amendment, 243,803 eligible children in New York City, 2,902 children in Albany, 15,222 in Buffalo, 7,362 in Syracuse and 5,887 children in Yonkers will not be fully served. These children will be left behind.

Securing these additional funds could enable districts to hire an additional 72

teachers in Albany, 385 in Buffalo, 7,862 in New York City, 312 in Rochester, 164 in Syracuse, and 159 teachers in Yonkers.

If we expect every single child to succeed there should be no exception to our commitment to turning around struggling schools. This amendment will reaffirm our commitment by giving schools the resources they need so that teachers can teach to the highest standards and all of our children can learn.

I urge my colleagues to support this amendment.

Mrs. LINCOLN. Mr. President, I rise today to speak in support of the amendment of my colleague from West Virginia to increase funding for the title I program by \$6.15 billion. By bringing the total up to \$18.5 billion, title I would be funded at the level authorized in the No Child Left Behind Act for fiscal year 2004.

The title I program is critical for disadvantaged students because it targets federal resources to the poorest school districts where Federal dollars are needed most.

In my State of Arkansas, this funding is crucial because 67 percent of students attend title I schools. These schools depend on these important funds to upgrade technology, provide professional development for teachers, and implement school-wide programs.

Like dozens of other States today, Arkansas is currently experiencing a serious budget crisis at the same time the State is expected to meet the new requirements we imposed in No Child Left Behind.

To make the situation even more challenging for my State, the Arkansas Supreme Court ruled last November that the current funding level for education in Arkansas is inadequate and that the distribution of funding is inequitable. The AR Supreme Court gave the state until Jan. 1, 2004 to comply with its order.

Arkansas is not alone. States all across the country are facing similar financial woes, which means title I funding is more important than ever.

Like title I, additional funding for IDEA is also critical to students and school districts in my State. I hear more complaints from constituents about the Federal Government's failure to meet its obligation under IDEA than any other Federal education program.

Even though Congress has increased funding for IDEA in recent years, the funding level in this bill falls far short of the promise we made in 1975 to pay 40 percent of the costs of providing a quality education to special needs students.

Currently, IDEA is an unfunded mandate, which is profoundly unfair to school districts, teachers, and the students they serve. I am disappointed that an amendment offered last week by Senator DAYTON to fully fund IDEA in fiscal year 2004 was not adopted.

For the sake of the students who depend on the services provided under

IDEA and the educators who are responsible for implementing the law, I am hopeful the Senate will have another opportunity to consider full funding either on this legislation or another bill before Congress adjourns this year.

We also need to pass meaningful legislation that will encourage more students in Arkansas and the Nation to pursue a college education. I think that promoting post-secondary education is an essential element of any effort to prepare our workforce to meet the demands of today's global marketplace.

I also believe we should continue to build on our success regarding Federal student financial assistance. That is why I am pleased to support an amendment to this bill by Senator KENNEDY that would increase student financial aid in fiscal year 2004 by \$2.2 billion, which is essential to keep up with the growth in college costs.

One of the most worthwhile financial assistance programs is the Pell grant. Since its inception in 1972, students nationwide have received enormous benefits from Pell grants, so I think we need to continue to make a larger investment in this area. The higher education funding amendment would increase the maximum Pell grant by \$450, which would give close to 2,000 more Arkansans access financial assistance for higher education.

This higher education amendment also includes additional funding for the TRIO programs, which are particularly important to Arkansas. The TRIO programs are designed to help low-income, first-generation college students prepare for, enter, and graduate from college. While student financial aid programs help students overcome financial barriers to higher education, TRIO Programs help students overcome class, social and cultural barriers. Considering Arkansas has one of the lowest percentages of residents with a four-year college degree, the more than 50 TRIO programs currently serving participants in my state provide a critical source of encouragement and support to thousands of students who might otherwise never receive their college degree.

As many of my colleagues know, for the last 3 years I have circulated a sign-on letter with the Senator from Maine to increase Federal support for the TRIO programs. Our goal is to increase the population served under these programs from 6 percent to 10 percent of eligible students. By passing the Kennedy higher education amendment, we would be making a significant downpayment on that goal.

Nearly 40 percent of the children in this country attend rural schools. These schools face enormous challenges such as teacher recruitment and retention and small student populations.

I am extremely disappointed that the Senate rejected an amendment that I supported which would have fully fund-

ed the Rural Education Achievement Program, REAP. This program recognizes the unique needs of small and rural schools while ensuring accountability. It provides essential funding that many of these schools rely on because they lack the personnel and resources to apply for competitive grants.

Last year, well over half of Arkansas' school districts received approximately \$5.6 million in total funding under this program to help meet critical educational needs. And this funding is needed now more than ever as schools strive to meet the new accountability measures of the No Child Left Behind Act.

I want to close my remarks by emphasizing my strong belief that education can be and must be a high priority for our Nation.

I was proud to support a bold reform plan for our Nation's public schools a few years ago because I believe firmly that every child deserves a chance to receive a quality education regardless of where they live or go to school.

The approach I supported created a new contract between the Federal Government and local school districts—more funding and flexibility for public schools in return for greater academic achievement for all students.

I said at the time that additional funding and reform go hand in hand—you can't have one without the other and expect to succeed.

As many of the accountability requirements of No Child Left Behind take affect, it is critical for Congress to meet its obligation to provide schools and students with the resources they need to meet higher standards.

I hope my colleagues will rise to the occasion during consideration of this bill and deliver on the promise of equal opportunity for all students.

My greatest fear is that we won't meet our obligations to our children in this bill. In the years ahead, our children will provide the workforce and leadership for our nation. Indeed, our children are our future. We don't have the luxury of waiting to fund these programs adequately at some undetermined time in the future. We should fulfill our responsibility today.

Mr. SPECTER. Mr. President, I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment exceeds discretionary spending limits in this section and, therefore, is not in order; that is, as to the Byrd amendment on which we are about to vote.

The PRESIDING OFFICER. Under the previous order, the Byrd amendment is now pending.

Mr. REID. Mr. President, under the applicable statutes, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of death in family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) the Senator from Massachusetts (Mr. KERRY) the Senator from Florida (Mr. GRAHAM), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote "yea."

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas, 44, nays, 51, as follows:

[Rollcall Vote No. 330 Leg.]

#### YEAS—44

Akaka	Dodd	Levin
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Stabenow
Daschle	Lautenberg	Wyden
Dayton	Leahy	

#### NAYS—51

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Bennett	Ensign	Murkowski
Bond	Enzi	Nickles
Brownback	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Shelby
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner

#### NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

AMENDMENT NO. 1566

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes equally divided prior to a vote on the Kennedy amendment No. 1566.

Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

There are 4.8 million young Americans who take advantage of the Pell Program. That is \$4,050. The average cost of public university tuition has increased 10 percent. This amendment effectively provides the \$2.2 billion that will increase the Pell grant to \$4,500. That is an increase of 10 percent. Without this kind of increase, more than

100,000 students who have been admitted to colleges on the basis of merit will drop out. There is no question about it; this amendment is about opportunity. It is about hope. It is about the future of America. I hope the Senate will accept it.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there is no doubt that the Pell grants are very important. We have increased Pell grants in the past decade, almost doubling them. And while I would like to see more money in this education budget and fought to have a greater allocation, we simply do not have it within the budget resolution to appropriate any more money. With respect to the higher education items, there is very substantial funding in TRIO, GEAR UP, Perkins, and other education programs. So as much as I would like to see this appropriation, we simply do not have the funds in the budget resolution or in the allocation of the subcommittee.

I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment exceeds discretionary spending limits in this section and therefore is not in order.

Mr. KENNEDY. Mr. President, I move to waive section 504 of the concurrent resolution for the purpose of the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be to be a sufficient second.

Mr. SPECTER. Mr. President, this is a 10-minute vote.

The PRESIDING OFFICER. This is a 10-minute vote.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oregon (Mr. SMITH) is absent because of death in family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 46, as follows:

[Rollcall Vote No. 331 Leg.]

#### YEAS—49

Akaka	Carper	Dorgan
Baucus	Clinton	Durbin
Bayh	Coleman	Feingold
Biden	Collins	Feinstein
Bingaman	Conrad	Harkin
Boxer	Corzine	Hollings
Breaux	Daschle	Hutchison
Byrd	Dayton	Inouye
Cantwell	Dodd	Jeffords

Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln

Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid

Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

#### NAYS—46

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Specter
Campbell	Gregg	Stevens
Chafee	Hagel	Sununu
Chambliss	Hatch	Talent
Cochran	Inhofe	Thomas
Cornyn	Kyl	Voinovich
Craig	Lott	Warner
Crapo	Lugar	
DeWine	McCain	

#### NOT VOTING—5

Edwards	Kerry	Smith
Graham (FL)	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

AMENDMENT NO. 1591

The PRESIDING OFFICER. Under the previous order, there are 2 minutes of debate evenly divided prior to a vote on the Durbin amendment No. 1591.

Who yields time?

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, my colleagues will remember the President's State of the Union Address, during which \$15 billion over 5 years was pledged to fight global AIDS.

This bill only provides \$2 billion. When Senator BINGAMAN offered his amendment on the floor on July 10, by a vote of 78 to 18, we said we want it to be \$3 billion regardless of the budget resolution; 45 Democrats and 33 Republicans voted for \$3 billion in spending. It can be spent. Every major organization has come forward and said the need is there, the need is now.

To my friends on the other side of the aisle, including the chairman of the subcommittee, who voted for the Bingaman resolution, if 33 Republicans will step forward today as they did July 10 for the same proposition, we guarantee our 45 Democratic votes will be there with you. Let's pass this resolution and keep our promise to fight the global war on AIDS. Stand behind President Bush's promise of \$3 billion.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I agree with the Senator from Illinois on the importance of fighting HIV/AIDS. A few years ago, Senator DURBIN and I joined together on an amendment for \$700 million before there was a general recognition of the importance of U.S. funding on AIDS and even before the President made his speech committing some \$15 million.

We have in the budget at the present time \$14 billion. We have some \$4 billion from other agencies. The Director of the Office of National AIDS Policy has expressed the view that the \$2 billion now for global AIDS is all that can be used.

Much as I would like to see additional funds, we simply do not have it in the budget resolution or in our allocation. So I must oppose the amendment, and I raise a point of order under section 504 of the concurrent resolution on the budget for fiscal year 2004 that the amendment exceeds discretionary spending limits specified in this section and, therefore, is not in order.

Mr. DURBIN. Mr. President, I move to waive section 504 of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent and the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 51, as follows:

[Rollcall Vote No. 332 Leg.]

#### YEAS—43

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Harkin	Nelson (NE)
Boxer	Hollings	Pryor
Breaux	Inouye	Reed
Byrd	Jeffords	Reid
Cantwell	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Collins	Kohl	Schumer
Corzine	Landrieu	Stabenow
Daschle	Lautenberg	Wyden
Dayton	Leahy	
Dodd	Levin	

#### NAYS—51

Alexander	Crapo	McCain
Allard	DeWine	McConnell
Allen	Dole	Miller
Bennett	Ensign	Murkowski
Bond	Enzi	Nickles
Brownback	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Shelby
Carper	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Conrad	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner

#### NOT VOTING—6

Domenici	Graham (FL)	Lieberman
Edwards	Kerry	Smith

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Under the previous order, the Senator from Connecticut is recognized to offer an amendment on which there will be 10 minutes of debate evenly divided prior to a vote.

The Senator from Connecticut.

AMENDMENT NO. 1597 TO AMENDMENT NO. 1542

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, Mrs. MURRAY, Ms. MIKULSKI, Mr. DASCHLE, Mr. REED, Mr. BINGAMAN, Mr. LAUTENBERG, Ms. STABENOW, Mr. AKAKA, Mr. CORZINE, Mr. PRYOR, Mr. KERRY, Mr. JOHNSON, Mr. NELSON of Florida, Mrs. CLINTON, and Mrs. BOXER, proposes an amendment numbered 1597 to amendment No. 1542.

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

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

The amendment is as follows:

(Purpose: To increase funds for Head Start)

On page 61, between lines 14 and 15, insert the following:

SEC. \_\_\_\_ (a) HEAD START FUNDING.—In addition to any amounts otherwise appropriated under this Act to carry out programs and activities under the Head Start Act (42 U.S.C. 9801 et seq.), there are appropriated an additional \$350,000,000 for such programs and activities.

(b) OFFSET.—Of the funds appropriated in this Act for the National Institutes of Health, \$700,000,000 shall not be available for obligation until September 30, 2004. The amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,245,199,000, and the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,433,301,000.

Mr. DODD. Mr. President, I offer this amendment on behalf of myself and a number of my colleagues. I will not recite the entire list of all of those who have joined with me on this Head Start amendment.

This amendment would increase the appropriation by \$350 million above the increase recommended by the Appropriations Committee over the coming fiscal year. Very briefly, what this means, in the absence of this amendment being adopted, we will have to cut the number of children who are presently in Head Start programs. With the adoption of this amendment of \$350 million, we can increase the enrollment by 36,000 children in Head Start programs across the country.

There are 19,000 centers and 50,000 classrooms. This is a program that has worked remarkably well over the past

almost 40 years. It serves children by helping them get ready to learn. It has been remarkably successful. We are still underserving a very needy population, as the Presiding Officer knows. If we do not get them started right, these are the children who drop out of school, who become teen parents, who end up in the juvenile justice system, and become people who abuse substances.

Head Start works. We are going to be reauthorizing the program in the coming year, to do a variety of things to improve the program even further. In the absence of this kind of a start, when we now know the poor population of children has been increased by 600,000 just in the last 2 fiscal years, to be reducing the number of children presently in the program would be a huge mistake. These are poor children. They come from single-parent families. They are struggling to make ends meet. Head Start gives them an opportunity to get on the right track early on before they begin a formal education.

I urge my colleagues on both sides to be able to find the resources to do this. Head Start has been remarkably successful. It deserves our bipartisan support, and I urge my colleagues to support this amendment.

I yield to my distinguished friend from Florida who would like to be heard on this issue as well.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I have been to Head Start facilities all over my State. What a wonderful little academic atmosphere for these 3-, 4-, and 5-year-olds who are starting the program, as well as those who are younger than 3. It is this little academic atmosphere where they start to learn their letters, the alphabet, and their numbers. They start to learn respect for their fellow little citizens, respect for property. In addition to that academic environment, we are looking at their health, their physical health, their mental health, their dental health.

Back in July, the House of Representatives by a 1-vote margin, 217 to 216, started to sound the death knell on this fantastically successful and wildly popular program by saying, instead of funding it directly to the Head Start centers, they were going to put it in a nice little block grant and send it to eight State legislatures and Governors.

You know the fiscal distress the States are in. You know the temptation it is going to be for those States if we ever entertain anything like that.

To the contrary, here we have an opportunity to take a stand with the amendment of Senator DODD, to say responsibly we are going to increase the Head Start Program that gets these little fellows, these little children, prepared to enter prekindergarten and the first grade.

I support the Senator's amendment.

Mr. DODD. Mr. President, I want to close by talking about the reauthorization of Head Start. We need these resources to keep trying to expand the number of children who can participate in this program. We all know the importance of getting these children ready to learn. If we end up reducing the number of children presently in the program, as we will if we accept just the language of the pending appropriations bill, it is a major setback in early education.

I yield the floor.

Ms. MIKULSKI. Mr. President, I support the Dodd amendment to add \$500 million to the Head Start Program. I have heard from communities all over Maryland that are being forced to make tough choices because funding for Head Start is inadequate. Communities have to choose between two bad options: diluting the quality of Head Start, or shutting the doors on some eligible children.

And what does President Bush propose to solve this problem? Instead of putting the resources in the budget, he proposed dismantling Head Start by handing it over to the States. Head Start is already one of the more successful Federal programs. Head Start can be even more effective than it already is. But you know what? It is going to take Federal leadership and a serious investment—not a block grant and a prayer. That is why I am proud to cosponsor the Dodd amendment.

Currently, only 60 percent of eligible preschool children are in Head Start, and only 3 percent of eligible infants and toddlers are in Early Head Start. In Maryland, about 25 percent of eligible children under 5 are in Head Start and Early Head Start. At the same time, we are trying to improve Head Start by requiring stricter teacher qualifications, by improving academic instruction, and by maintaining vital health and social services. Yet this bill provides only \$148 million more for Head Start. That is not even enough to cover inflation.

The Bush budget puts communities in a tough position. They have to choose between diluting the quality of their Head Start programs or serving fewer children. In my own State of Maryland, we are facing this kind of impossible choice. For years, Montgomery County contributed \$16 million of its own money to run a very high quality Head Start Program. But they still didn't have enough money to serve to all the low-income children in Head Start.

Recently, the county proposed using its money for a pre-K program that would serve more children. But they also proposed making cutbacks and sacrifices. They proposed cutting back on comprehensive health and family services for the new pre-K classes. They proposed shortening pre-K classes, which would mean teachers couldn't accomplish as much. And they proposed reducing the number of children in Head Start by almost half.

The Bush budget forced Montgomery County into this situation by not providing the resources to serve all children in Head Start. I think we need to put the money in the Federal checkbook so that communities won't have to make bad choices between bad options. The Dodd amendment is a step in the right direction.

You can't get more for less. You get what you pay for. We need to increase Federal funds so that all eligible children can benefit from high-quality Head Start. I urge my colleagues to support the Dodd amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I agree with the Senator from Connecticut about the desirability of Head Start. I think it is a marvelous program and the increase in appropriations reflects a doubling in the past decade. In my capacity as chairman of this subcommittee, whenever we could find an extra dollar we put it into Head Start.

In fiscal year 2000, we increased Head Start by more than \$600 million. In fiscal year 2001, we increased Head Start by \$933 million.

I just wish we had the funds available now to add the \$350 million requested by the Senator from Connecticut. For next year, we have funded an increase in Head Start for almost \$150 million. Regrettably, we are stretched very thin with respect to the budget we have here, on the budget resolution and on the allocation to this subcommittee.

My colleagues are coming to me for relatively small sums, some in tribute to former Members of this body, and we simply do not have the money. The Senator from Wisconsin wants \$1 million, not a large request in a \$137.6 billion bill, but there is just not enough money here. Being a manager of a bill has a great many challenges getting it organized and getting it in gear. But in the last 3 days I have cast more controversial votes—I would consider really bad votes, according to my own instincts of what I would like to see done—than I cast in the whole last year.

The title I Amendment offered by Senator BYRD, I voted against and I deplore the inadequacy of funding on title I. With regard to Pell grants, Senator HARKIN and I have led the way. When we pushed it up to \$4,000 a couple of years ago, the Director of OMB came to my office and threatened a broad-scale rescission of the entire bill.

I would very much like to see more money for Head Start. But we just do not have it in the resolution and we don't have it in the allocation. You can't squeeze blood out of a turnip and this bill has turned into a turnip. I don't think it is a lemon but I think it is a turnip.

Mr. President, for that reason I raise the point of order under section 504 of the concurrent resolution on the budget for the fiscal year 2004 that the amendment exceeds the discretionary spending and therefore is not in order.

Mr. DODD. I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent and the Senator from Oregon (Mr. SMITH) is absent because of death in family.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. (Mr. TALENT). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 47, as follows:

[Rollcall Vote No. 333 Leg.]

#### YEAS—47

Akaka	Dayton	Leahy
Baucus	Dodd	Levin
Bayh	Dorgan	Lincoln
Biden	Durbin	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Campbell	Hutchison	Reed
Cantwell	Inouye	Reid
Carper	Jeffords	Rockefeller
Clinton	Johnson	Sarbanes
Collins	Kennedy	Schumer
Conrad	Kohl	Stabenow
Corzine	Landrieu	Wyden
Daschle	Lautenberg	

#### NAYS—47

Alexander	Dole	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Inhofe	Sununu
Coleman	Kyl	Talent
Cornyn	Lott	Thomas
Craig	Lugar	Voinovich
Crapo	McCain	Warner
DeWine	McConnell	

#### NOT VOTING—6

Domenici	Graham (FL)	Lieberman
Edwards	Kerry	Smith

The PRESIDING OFFICER. On this question, the yeas are 47, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. SPECTER. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, in our sequencing, we now turn to the Senator from Nebraska; how long does the Senator intend to speak?

Mr. HAGEL. I request 4 minutes.

Mr. SPECTER. Fine.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 1572

Mr. HAGEL. Mr. President, I rise tonight in support of an amendment I have offered, along with my colleagues, Senators DODD and JEFFORDS and others, to increase funding for the Individuals with Disabilities Act, IDEA, part B, by an additional \$1.2 billion in fiscal year 2004. This amendment would bring the total IDEA fiscal year 2004 increase to \$2.2 billion, which was the level approved by the Senate in the fiscal year 2004 budget resolution earlier this year.

For the past 3 years, I have worked with Senators HARKIN, DODD, JEFFORDS, and many of my Republican colleagues to increase funding for IDEA. I have argued that no education funding priority is as important or will do more for States in this time of budget crisis than meeting our Federal commitment to IDEA.

As we all know, in 1975 Congress guaranteed children with disabilities the right to free and appropriate education. This meant that, whatever the cost, States and local school districts would be mandated by Federal law to provide the necessary services to educate a child with a disability. Congress understood that this Federal mandate would be costly. As a result, they agreed to provide States with 40 percent of the cost of educating these children. That was almost 30 years ago.

Unfortunately, Congress has not kept its end of the deal. While our schools continue to meet the necessary requirements under IDEA year after year, they also bear more than their fair share of the costs for complying with this law. Today, the Federal Government's commitment to IDEA is only 18 percent.

As in years past, I offered legislation with Senator HARKIN and others to ensure that the Federal Government provides for special education by making funding increases for this program mandatory. But we will have this discussion on mandatory versus discretionary funding for this program when we take up the IDEA reauthorization legislation later this year.

We are here today because, again, as years in the past, this appropriations bill has failed. We failed to keep our funding proposition. That is why we need this amendment. The fiscal year 2004 budget resolution approved by this body allowed for a \$2.2 billion increase for IDEA, part B funding. Unfortunately, the Senate Appropriations Committee underfunded this program, only providing an increase of \$1 billion.

The Dodd-Hagel-Jeffords amendment provides an additional \$1.2 billion for IDEA, meeting the approved budget increase of \$2.2 billion already approved this year.

Additionally, the amendment would put us on a realistic path to reaching our obligation to provide States and local school districts with 40 percent of the cost of educating children with disabilities.

This is the responsible thing to do. I ask my colleagues to support this amendment when it comes up for a vote tomorrow morning.

Mr. President, I thank you and yield the floor.

Ms. COLLINS. Mr. President, I rise today in support of the Dodd-Hagel-Jeffords amendment to increase funding for the Individuals with Disabilities Education Act or IDEA. I am pleased to join Senators COLEMAN, MURRAY, DORGAN, BINGAMAN, KERRY, MIKULSKI and others as a cosponsor of this amendment.

IDEA is based on two fundamental principles: first, that all disabled children are entitled to a free and appropriate public education. And second, to the maximum extent possible, these children should be educated along side their nondisabled peers.

To help States achieve these principles, Congress authorized funding at 40 percent of the average per pupil expenditures. Unfortunately, this funding level has never been realized, leaving States with insufficient resources and jeopardizing the achievement of IDEA's goals.

In 1996, the year I was first elected to the Senate, the Federal Government provided only \$2.3 billion for IDEA funding, about 7 percent. Last year, IDEA funding had risen to \$8.9 billion, about 18 percent. While clearly we have made great strides in this area, the currently IDEA funding is still less than half of the 40 percent originally promised by Congress. Over the years, this shortfall has placed a tremendous financial stress on States in providing these services, and in particular on small rural communities such as those in Maine.

As startling as these shortfalls are, they fail to fully convey the crushing financial blow which can result to a small community when a medically fragile, high cost child locates there. In these situations, school systems are often forced to cut back in services to all children, both disabled and nondisabled, in an attempt to meet their legal obligations. Unfortunately, this can result in resentment of these children by members of their own community.

Increased Federal support is desperately needed, and that is why I want to thank Chairman SPECTER for the substantial increase in IDEA funding he has included in the Senate base bill. He has included nearly a billion-dollar increase over last year's level.

Our amendment seeks to further boost this funding by providing an additional \$1.2 billion for IDEA Part B State Grants. This increase would result in a \$2.2 billion increase over fiscal year 2003 funding and will keep us on the track toward full funding. Our

amendment would also be consistent with action taking during Senate consideration of the fiscal year 2004 budget resolution, which similarly provided for a \$2.2 billion increase for IDEA. In Maine, passage of this amendment would result in a \$10 million increase over fiscal year 2003 funding levels.

With this amendment, we would raise the Federal Government's commitment to roughly 21 percent of the costs of special education. I urge my colleagues to join us in support of this amendment. Let's continue our efforts to make good on our promise and fully fund IDEA.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New York.

AMENDMENT NO. 1598 TO AMENDMENT NO. 1542

Mr. SCHUMER. Mr. President, I rise to offer an amendment to increase the funding levels in the Ryan White CARE Act.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Ms. LANDRIEU, Mr. DURBIN, Mr. LAUTENBERG, Mrs. CLINTON, Mr. KENNEDY, Ms. STABENOW, Mr. BINGAMAN, and Ms. CANTWELL, proposes an amendment numbered 1598 to amendment No. 1542.

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

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

The amendment is as follows:

(Purpose: To provide additional funding for programs under the Ryan White Care Act)

On page 61, between lines 14 and 15, insert the following:

SEC. \_\_\_\_ In addition to amounts otherwise appropriated under this Act to carry out programs and activities under title XXVI of the Public Health Service Act (42 U.S.C. 300ff-11 et seq.), there are appropriated an additional—

(1) \$74,010,000 to carry out part A of such title XXVI (42 U.S.C. 300ff-11 et seq.);

(2) \$50,000,000 to carry out part B of such title XXVI (42 U.S.C. 300ff-21 et seq.);

(3) \$214,800,000 to carry out State AIDS Drug Assistance Programs under section 2616 of such title XXVI (42 U.S.C. 300ff-26);

(4) \$21,130,000 to carry out part C of such title XXVI (42 U.S.C. 300ff-51 et seq.);

(5) \$25,450,000 to carry out part D of such title XXVI (42 U.S.C. 300ff-71 et seq.);

(6) \$10,450,000 to carry out section 2692(a) of such title XXVI (42 U.S.C. 300ff-111(a)); and

(7) \$5,590,000 to carry out section 2692(b) of such title XXVI (42 U.S.C. 300ff-111(b)).

*Provided*, That of the funds appropriated under this Act for the National Institutes of Health, \$750,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,296,629,000: *Provided further*, That the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,381,871,000.

Mr. SCHUMER. Mr. President, I will be brief because I know we have a lot to do to finish this bill tomorrow.

This amendment increases the funding levels of all titles contained in the

Ryan White CARE Act by a total of \$401 million, with \$214 million specifically going toward the AIDS Drug Assistance Program, commonly referred to as ADAP.

The CDC estimates that nearly 900,000 people are living with HIV in the United States, and among those are 362,000 who are living with AIDS.

Forty percent of the new estimated HIV infections each year occur in the New York City metropolitan area. So obviously this has great importance to us.

Adolescents, women, and minority communities are particularly hard hit by this epidemic. Over 80 percent of the new estimated HIV infections in women occur among African-American and Latino populations.

In the last 10 years alone, the number of AIDS cases among women has more than tripled, and every hour in this country two people under the age of 25 become infected with HIV.

Now the interesting thing here is, this is not just limited to New York. Cleveland, OH, and Atlanta, GA, have been named as two hot spots for this growing trend in the increase in AIDS and HIV, particularly among women.

In his fiscal year budget of 2004, President Bush stated his goal to help reduce the number of HIV infections in the United States by 50 percent by 2005. However, the President's budget provides no new domestic prevention funding for CDC to meet this goal.

The Ryan White CARE Act provides resources to State and local health departments and community-based organizations for primary medical care, drug treatments, and supportive services for low-income, uninsured people living with HIV and AIDS.

The ADAP program provides access to vital but costly new drug treatments that have enabled many people to live longer, more productive lives.

Since 1996, the number of people served by ADAP alone has more than doubled, expenditures have quadrupled, and the need for services still outpaces available services. If we do not provide full funding for ADAPs, we will accumulate as many as 21,000 Americans on waiting lists in the next 20 months.

With no access to lifesaving drugs, they will experience HIV disease progression, they will end up in hospital emergency rooms and intensive care units, and they will incur very significant, avoidable costs to local health care systems.

Currently, Oregon, Kentucky, and Alabama have the longest waiting lists. Alaska, Colorado, Idaho, Nebraska, New York, Oklahoma, South Dakota, Washington, and West Virginia all currently have severe access limitations due to the lack of funding and will have to close enrollment sooner than they planned.

To effectively fight the spread of HIV/AIDS in the United States, America's leading organizations committed to fighting this epidemic have called for an increase of \$400 million for do-

mestic prevention activities at CDC. My amendment attempts to fill in these gaps.

As increasing numbers of people with HIV/AIDS live longer, the cost of their care and treatment places greater financial demands on State and local governments and community-based organizations. We can provide funding for these needed services through the Ryan White CARE Act.

I urge my colleagues to adopt this much-needed amendment.

Mr. President, I yield back my remaining time.

Mrs. CLINTON. Mr. President, I thank my colleague from New York for addressing the HIV/AIDS epidemic on behalf of the millions of people affected by HIV/AIDS in New York and around this country. The profound human tragedy of HIV/AIDS has exacted an incalculable economic and human toll on civilization—the Ryan White CARE Act programs have helped to fill the gaping holes in care and survival we have experienced these last few decades. This amendment will provide essential funding for those programs so that those struggling to survive each day can access necessary, life-saving treatments.

We are all familiar with the statistics—800,000 to 900,000 Americans currently live with HIV/AIDS, 77,000 in my State of New York alone. Furthermore there are a devastating 40,000 new infections in the U.S. each year.

This is why we need the \$401.43 million that this amendment would provide for the Ryan White CARE Act programs, including a \$214.8 million increase for the AIDS Drug Assistance Program or ADAP. The Ryan White CARE Act provides invaluable resources to State and community health organizations for primary medical care, drug treatments, supportive services for low-income, and uninsured people living with HIV/AIDS. Ryan White is also crucial to helping people follow complicated drug treatments, to alleviate high medical costs for people with low incomes and to combat HIV/AIDS in communities with a high degree of new HIV/AIDS cases.

It is precisely because of Ryan White CARE Act's documented success that we need to help the program survive, so they can help patients survive. Improvements in care and powerful drug therapies are well publicized and indeed many people with HIV/AIDS are living longer, more productive lives. Yet as patients live longer, the cost of their care and treatment places greater demands on community-based organizations and State and local governments. This funding is vital for health facilities and State budgets, which have come under considerable financial strain due to costly new drugs.

For example, the AIDS Drug Assistance Program, ADAP under Title II of the CARE Act was created in part to address the enormous need brought on by the advent of new combination drug therapies. However, several States

have been forced to cap or restrict access to drug treatments through ADAP, and continually deplete their ADAP budgets long before the fiscal year ends. Turning our backs on patients who have clearly benefited from better access to newer, more effective drugs would be a step backwards.

I urge my colleagues, on behalf of patients and states, to support this amendment. We need to keep one step ahead of this disease with education and prevention efforts, focusing on hard hit populations such as women and minorities, or else we risk sliding backwards in our battle. Millions continue to face the daily grind of living with this insidious disease, and it is my sincere hope that funding these programs will bring a measure of help and hope to New Yorkers and Americans who suffer each day.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I believe the Ryan White HIV/AIDS program is a very important one. I wish we had additional funding so we could accept the amendment offered by the Senator from New York, who seeks to add \$400 million to this program.

There have been very substantial increases in the program. In 1999, the program was set at approximately \$1.4 billion and that has increased to the current appropriation of \$2.041 billion.

Overall, on HIV/AIDS, in the Labor-HHS bill, we have in excess of \$14 billion. The entire bill, which we have, has an allocation \$137.6 billion. I fought to have a larger allocation, but this is the maximum appropriation we can make within the budget resolution and within our allocation, as much as I would like to see even more resources directed toward HIV/AIDS.

For those reasons, Mr. President, because it does exceed the budget, I raise a point of order under the Budget Act.

Mr. SCHUMER. I move to waive the appropriate section of the Budget Act, Mr. President.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. We are going to vote on this tomorrow, Mr. President, but now we are set to go.

Mr. SCHUMER. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 1595 TO AMENDMENT NO. 1542

Mr. REED. Mr. President, I call up amendment No. 1595 with respect to LIHEAP.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Ms. COLLINS, Mr. KENNEDY, Mr.



LEAHY, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. JEFFORDS, Mr. KERRY, Mr. LIEBERMAN, Mr. SCHUMER, Mr. CORZINE, Mr. SARBANES, Mr. BINGAMAN, Mrs. LINCOLN, Mr. LEVIN, Mr. HARKIN, Mrs. CLINTON, Mr. DURBIN, and Ms. SNOWE, proposes an amendment numbered 1595.

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

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

The amendment is as follows:

(Purpose: To provide funding for home energy assistance needs under the Low-Income Home Energy Assistance Act of 1981)

On page 61, between lines 14 and 15, insert the following:

SEC. \_\_\_\_\_. In addition to any amounts otherwise appropriated under this Act for additional home energy assistance needs of one or more States arising from a natural disaster or other emergency, under section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e)), there are appropriated an additional \$300,000,000 for such needs: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, \$264,000,000 shall not be available for obligation until September 30, 2004: *Provided further*, That the amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,195,199,000: *Provided further*, That the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,483,301,000.

Mr. REED. Mr. President, first let me start off by commending Chairman SPECTER for his efforts to meet the needs that are so evident in this appropriations bill in a very difficult budgetary climate.

The amendment I offer this evening, together with my colleague from Maine, Senator COLLINS, would be to increase funding for the Low-Income Home Energy Program to \$2.3 billion for fiscal year 2004.

I thank my other colleagues and cosponsors—Senators KENNEDY, LEAHY, ROCKEFELLER, VOINOVICH, JEFFORDS, KERRY, LIEBERMAN, SCHUMER, CORZINE, SARBANES, BINGAMAN, LINCOLN, LEVIN, HARKIN, CLINTON, DURBIN, and SNOWE—for cosponsoring this amendment.

The amendment Senator COLLINS and I are offering will provide \$300 million for the LIHEAP contingency fund. This money is available under certain specified conditions: a significant home energy supply shortage or disruption, a significant increase in the cost of home energy, a significant increase in home energy disconnections, a significant increase in participation in a public benefit program, or a significant increase in unemployment.

Contingency money for LIHEAP is very important to ensure that these resources can be quickly dispensed and targeted to those areas of the country and those populations that are experiencing either severe weather or severe economic distress.

Today, on September 9, it is a balmy day in Washington, DC, but no one can forecast the weather that will take place throughout the course of this winter on the east coast, in the Northeast, or on the west coast, nor can we forecast hot weather that could occur

in the summertime. So this contingency fund is absolutely essential.

What we need to do is to ensure that this funding is there in sufficient quantity so there will be no disruption in meeting the needs of people who are facing crises, either economic distress or severe weather.

I particularly thank Senators SPECTER, HARKIN, STEVENS, and BYRD for their commitment to the basic program. This appropriations bill contains \$2 billion for the LIHEAP State grant program. It is the first time we have had \$2 billion for the basic LIHEAP program since 1986, and it is a testament to the commitment and effort of Senators SPECTER and HARKIN and their colleagues. It is the absolute minimum we need for the state grant program. Any lower amount represents a real cut in dollars. But we also need something else, and that is the contingency funds. If we don't have those contingency funds, I don't think we can respond to the needs many of us foresee taking place this winter.

Last year, States provided LIHEAP assistance to over 4 million families. Yet this is only about 15 percent of the 30 million households who were eligible for LIHEAP assistance. So 85 percent of eligible Americans could not be helped because of constrained funding in LIHEAP.

My colleague, Senator BINGAMAN, is going to offer an amendment later which would try to increase the basic State grant by \$1 billion up to \$3 billion. This is a goal Senator COLLINS and I have aspired to for many years. We annually send a letter asking for state grant funding of \$3 billion. I certainly support that proposal. But I readily understand, given the constrained budget, where this is a very difficult judgment to be made by the committee and by the Senate. Nevertheless, I do believe—and that is why I offer, with Senator COLLINS, this amendment—we need, for operational efficiencies and for the ability to respond, the \$300 million in contingency funds. I hope on a bipartisan basis we can support this \$300 million contingency fund.

My colleague is here. I know she wishes to speak on this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the program for low-income home energy assistance is a vital program. Pennsylvania, my State, compares about the same as the State of the Senator from Rhode Island in terms of weather. It gets very cold. I am well aware of the fact that for many people, especially seniors, it is a matter of heat or eat.

Since I have been on the subcommittee, we have made enormous progress in increasing the funding for LIHEAP. I thank the Senator from Rhode Island for noting the allocation which Senator HARKIN, the ranking member, and I had put in at \$2 billion. When the Senator from Rhode Island

cites statistics on the number of people who will not be covered, it is true. If his amendment is adopted, there will be some people who won't be covered. If a vastly increased sum of money were added, we would simply have to make the allocations.

We had an allocation last year of \$1.7 billion with a \$300 million amount in the contingency fund. This year the Senator from Iowa, Senator HARKIN, and I decided to put the full \$2 billion in the main account so you wouldn't have to get the contingency to activate those expenditures. I would like very much to have more money in this account. I fought hard on the budget resolution for more money for this subcommittee. If we had more money, nothing would give me greater pleasure. I don't think I have voted against any increase in funding for LIHEAP in the time I have been in the Senate.

There are very heavy responsibilities on the manager of the bill. One is to get the bill moving. If we don't get this bill through by September 30, we lose \$3 billion. So it is with great reluctance that I have to oppose the amendment from the Senator from Rhode Island, because I would like to see this funding granted, but it does exceed the budget resolution. And therefore, with reluctance, I raise a point of order.

The PRESIDING OFFICER. A point of order has been made.

The Senator from Rhode Island.

Mr. REED. Mr. President, pursuant to section 504(b)(2) of the concurrent resolution on the budget, I move to waive section 504 of that concurrent resolution and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be and is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, the plan is to stack this vote until tomorrow morning.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am very pleased to join with my colleague and friend from Rhode Island, Senator REED, in offering an amendment that would increase the funding for the Low Income Home Energy Assistance Program, commonly known as LIHEAP, by \$300 million.

Before I begin my formal comments, I, too, want to pay tribute to the distinguished chairman of the subcommittee, Senator SPECTER, for his longstanding support of low-income heating assistance funding. Due to his efforts, there is in this bill a \$200 million increase in LIHEAP funding over last year. Moreover, the bill would provide \$300 million more in much-needed regular LIHEAP funding than either the administration's request or the House bill. So the legislation before us represents significant progress.

Nevertheless, I am joining in the effort of my colleague from Rhode Island because I think it reflects a realistic

appraisal of the needs for more assistance in this program.

During the past year, the Nation has gone from energy crisis to energy crisis. In just this year alone, we have seen price spikes involving home heating oil, natural gas, gasoline, and electricity. Earlier this year, one of the largest suppliers of oil to American markets, Venezuela, ceased production as a result of political turmoil. A harsh cold snap occurred at about the same time, causing home heating oil supplies to plummet and prices to surge upward.

More recently, we have run into a shortage of natural gas that has again sent prices shooting upward. Three weeks ago, 50 million Americans suffered through the biggest blackout in American history. And finally, most recently, the price of gasoline rose with unprecedented speed to approximately \$1.75 per gallon.

These energy crises impose an especially heavy burden on our low-income families and on those of our elderly who are living on limited incomes. Low-income families spend a greater percentage of their incomes on energy and have fewer options available when energy prices soar. High energy prices can even cause some families to choose between keeping the heat on, putting food on the table, or paying for much-needed prescription medicine.

These are choices no American family should ever have to make. Despite the hardship which energy emergencies impose on low-income Americans and despite the frequency with which we have all been forced to suffer through energy emergency after energy emergency, the bill before us does not provide any contingency LIHEAP funds to respond to these kinds of emergencies. Given the frequency with which we have been beset by energy crisis after energy crisis, in my view it is only prudent that we plan ahead and that we include some contingency funding to ensure low-income families can get through the next energy crisis on the horizon.

I hope we won't have to use that funding. I hope prices will be stable, that the winter will not be unusually harsh or long, and that there will be no energy emergencies in fiscal year 2004. If there aren't, if we are lucky or fortunate, then we will have no need to spend this money and we will all be much relieved. But just in case the future repeats the past, doesn't it make sense, just in case there is another shortage of home heating oil or natural gas or price spikes or heat-related crisis next summer, we be better prepared? Should we not set aside some funding to help those who will need the help the most?

I call upon my colleagues to join Senator REED and me in supporting this amendment which will set aside an additional \$300 million for energy emergencies.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Rhode Island.

Mr. REED. I believe we have concluded our discussions on this amendment. I ask unanimous consent to lay aside this amendment.

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

AMENDMENT NO. 1592 TO AMENDMENT NO. 1542

Mr. REED. Mr. President, I call up amendment No. 1592.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Mrs. MURRAY, Mr. DURBIN, and Ms. CANTWELL, proposes an amendment numbered 1592 to amendment No. 1542.

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

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

The amendment is as follows:

(Purpose: To increase funding for immunization services)

On page 61, between lines 14 and 15, insert the following:

SEC. \_\_\_\_\_. In addition to any amounts otherwise appropriated under this Act to carry out immunization programs under section 317 of the Public Health Service Act (42 U.S.C. 247b), there are appropriated an additional \$50,000,000 to carry out such programs: *Provided*, That such amount shall not be available for obligation until September 30, 2004: *Provided further*, That the amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$6,945,199,000: *Provided further*, That the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,733,301,000.

Mr. REED. Mr. President, once again, I have to commend Senator SPECTER and Senator HARKIN for trying their best to meet extraordinary demands with very limited resources. In this case, it is with respect to childhood immunization. This is an issue that is too often taken for granted because it has been such a success throughout many decades in American public health. They have tried extremely hard to maintain these funds. They did not accept the President's proposal for a \$28 million decrease from the previous year's funding.

Nevertheless, the CDC, the principal Federal agency for immunization policy and implementation, after enjoying several years of increases, will only receive a \$5 million increase over last year's funding for global vaccine activities. Regrettably, it is not sufficient to continue meeting the challenge of vaccinating all of our children and truly protect children from diseases that are preventable through immunization.

States and public health authorities throughout the country are facing difficult issues of increased prices for vaccines and increased demands for services. These factors argue very strongly for increased funding, not level funding.

Right here in the District of Columbia, school began last week and the school department is struggling to contend with thousands of children who

are not up to date with respect to their vaccinations.

The amendment I offer today, in conjunction with Senators MURRAY, DURBIN, and CANTWELL, would increase funding for the CDC National Immunization Program by \$50 million. This additional funding will ensure that State and local immunization programs can maintain their commitment to protecting the health and well-being of our children.

One of our greatest successes in the area of public health has been the campaign to have all children properly immunized by the age of two. During this century, substantial progress has been made toward eliminating and controlling many vaccine-preventable diseases. Simply level funding this effort will not allow us to stay ahead of the problem but to actually lose ground in this public health campaign. That is why I am proposing this amendment.

Immunization initiatives have a proven track record of success. They are terribly cost efficient. Our efforts today have resulted in high levels of coverage around the country and record low numbers of outbreaks of diseases. In fact, by looking at this chart, you can see the success we have enjoyed with immunizations for vaccine-preventable diseases, including diphtheria, measles, mumps, polio, and rubella. These diseases struck fear in the hearts of Americans many years ago.

Today, we see a record of success in which diphtheria, for example, has been reduced by over 99 percent on an annual basis; measles has been reduced by 99 percent; polio, which when I was a young child was the most dreaded disease one could imagine, has been eliminated in the United States. This is a testament to the success of immunizations. We have to do more than what we were doing last year just to maintain current services.

Now, the other factor that we have seen in terms of the success of immunization is the direct and indirect savings when it comes to health care costs. For example, for every dollar invested in the hepatitis B vaccine for infants at birth to 2 months of age, that dollar saves \$14.50 in direct and indirect costs. The mumps, measles, and rubella vaccine saves about \$23, or approximately \$9 billion each year. This is an incredibly cost-effective program as well as a very necessary program. We cannot rest on our laurels. We have achieved this success, but if we relent and do not continue to put in the effort, we will find ourselves with fewer children immunized and higher incidence of disease outbreaks.

There is another factor, and that is at the time we are funding these immunization programs, we are discovering that science is making great breakthroughs and creating new vaccines, but these vaccines add to the cost of the program.

This chart illustrates the recommended immunization schedule in the year 2003—hepatitis shots, diphtheria shots, polio shots, et cetera. All

of these are multiple dosages over a number of months. All of them are expensive or getting more expensive. So what we have here is an increased demand not only in terms of children but also in terms of the vaccines and the immunizations they must receive.

The CDC is at the heart of our efforts. This chart depicts the six stages or elements of a good immunization program: community assessment; outreach and education; delivery of the recommended vaccines by providers; followup; tracking; maintenance of coverage rates and outbreak control. On all of these efforts, CDC is using their resources by giving grants to States, by making vaccines available under their programs.

This is an involved, intricate, and, frankly, expensive program that we must support. To do otherwise would risk what I fear would be a lack of progress in the days ahead with respect to the protection of our children in particular.

Now, the next chart illustrates one other aspect of the dilemma that is facing public health authorities—many more vaccines to be delivered, and also the cost of vaccines are going up, particularly the latest vaccine added to the inventory, the pneumococcal vaccine. The diagram describes the recommended vaccines in 1985. Back then, it was diphtheria, polio, and 1-2 MMR, or measles, mumps and rubella. Also, notice that the cost per child was very low, relatively speaking. Today, in 2003, with additional vaccination requirements, that cost has shot up significantly. So the range is almost \$450 compared to \$50. That is putting a greater burden on States, causing an additional need for Federal resources.

One of the things that is happening because of the clash of demand and limited Federal resources is that, in some cases, we are seeing a two-tier immunization system. Now, 32 States have implemented the new pneumococcal vaccine using Section 317 funds; 19 States have not done it. So in many respects, these 32 States are on the leading edge of providing total protection—or as much as we can ensure today for children—and yet 19 States are lagging behind. The principal reason for that is the inability to finance these new vaccines. Another very important reason we must, I believe, increase the appropriation this year for our immunization program.

You can see by these charts that we are beginning to lose a little bit of ground. This was 2001. The blue figures are the highest levels of vaccination, ranging from 80 to 89 percent. The yellow are the passing, if you will, 70 to 79 percent. The red is 60 to 69 percent of coverage.

Back in 2001, there was one State, Louisiana; and in 2002, because of strained resources, we are seeing many more red States show up. They are Louisiana, Oklahoma, Colorado, New Mexico, and other States are on the decline in terms of coverage. This is an-

other reason why we have to insist—at least I feel it is important enough to insist—that we increase funding for this very important program. We all, as I said initially, sometimes take for granted that our vaccine programs are working, that polio and rubella and measles are something of the past.

You can just look around the country at some of the headlines we are seeing in local newspapers: "Whooping Cough Rates Soar in Three Oregon Counties." This one says "Tetanus Continues to Pop Up in the U.S." "Officials Warn of Pertussis Outbreak." "Whooping Cough Cases Could Double." There are other examples.

It reminds us that we cannot take immunization for granted. I know the chairman has tried valiantly to put more resources into this program. I urge my colleagues to do what they can to support this amendment so we can increase funding for this very worthwhile and very efficient program. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there is no doubt about the tremendous need for adequate vaccines to protect our children from a wide variety of maladies. The Senator from Rhode Island seeks to add \$50 million to existing accounts. I appreciate his acknowledgment of the work which Senator HARKIN and I have already done on the appropriations for vaccines.

The current bill has almost \$3 billion for vaccination programs. Health Resources and Services Administration has \$1.6 billion. The Centers for Disease Control and Prevention has \$1.65 billion. From that, \$1.14 billion is for vaccines for children. The Center for Medicine and Medical Services has \$300 million related to an immunization program. The vaccine development at NIH has almost \$1 billion—\$988 million. In addition to the funds provided in this bill, Indian Health Services has \$1.526 million.

I suggest when we are dealing in the \$3 billion range, there has been very substantial consideration, really adequate consideration for this important issue.

The Centers for Disease Control is an installation which has received special attention from this Senator. Three years ago, I made a trip to the CDC when I heard that it was in deplorable condition and I found prize-winning scientists with desks in hallways and poisonous materials unguarded in hallways.

With the cooperation of the ranking member, Senator HARKIN, we made an immediate addition of \$170 million and added to that \$250 million, and last year \$250 million, and have increased the administration's request by some \$300 million this year with an additional \$250 million for capital improvements.

This past Saturday, I traveled to Atlanta and took a look at the Centers for Disease Control. I take second place

to no one in my concern for the Centers for Disease Control and all their important operations on SARS, on HIV/AIDS, and the bioterrorist threats which now confront America.

Simply stated, I think we have done a pretty good job in this vaccination area. Certainly, \$50 million more might be nice under some circumstances, but I think this program is adequately funded.

The amendment offered by the Senator from Rhode Island exceeds the budget and, therefore, Mr. President, I raise a point of order under section 302(f) of the Congressional Budget Act and the allocation for this subcommittee.

The PRESIDING OFFICER. A point of order has been raised.

Mr. REED. Mr. President, I move to waive section 904(c) of the concurrent resolution on the Budget for fiscal year 2004 for purposes of the pending amendment, and request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that a chart showing the extensive expenditures on this line be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### IMMUNIZATION PROGRAMS IN THE FISCAL YEAR 2004 BILL

	Fiscal year 2002	Fiscal year 2003	Fiscal year 2004
Health Resources and Services Administration (in millions) .....	\$1.6	\$1.6	\$1.6
Centers for Disease Control and Prevention (in billions) .....	1.617	1.683	1.655
Vaccines for children (in billions) .....			1.145
Centers for Medical and Medicaid Services (in millions) .....	270	285	300
Vaccine development, NIH (in millions) .....	610.2	962	988
Total in Labor-HHS bill (in billions) .....	2,498	2,731	2,944
Indian Health Service (in millions) .....	1,526	1,556	1,580

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 1596 TO AMENDMENT NO. 1542

Mr. REED. Mr. President, I call up amendment No. 1596 with respect to museums and libraries.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. CORZINE, Mr. LEVIN, Mr. LAUTENBERG, Mr. SARBANES, Mrs. BOXER, Mr. SCHUMER, Mr. JOHNSON, and Mrs. FEINSTEIN, proposes an amendment numbered 1596 to amendment No. 1542.

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

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

The amendment is as follows:

(Purpose: To increase funding for certain literacy, library, and museum programs)

At the end of title III, insert the following:

SEC. 306. (a) In addition to any amounts otherwise appropriated under this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) an additional \$15,081,000 to carry out subpart 4 of part B of title I of the Elementary and Secondary Education Act of 1965;

(2) an additional \$24,100,000 to carry out the Library Services and Technology Act; and

(3) an additional \$5,182,000 to carry out the Museum Services Act.

(b) Of the funds appropriated in this Act for the National Institutes of Health, \$20,000,000 shall not be available for obligation until September 30, 2004.

(c) The amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$6,939,562,000, and the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,738,938,000.

Mr. REED. I thank the Chair.

Mr. President, once again, I rise to offer my final amendment of the evening, and I again commend Chairman SPECTER and Senator HARKIN for their efforts.

My amendment is designed to increase funding for libraries and museums. I am pleased to be joined by Senators KENNEDY, BINGAMAN, CORZINE, LEVIN, LAUTENBERG, SARBANES, BOXER, SCHUMER, JOHNSON, and FEINSTEIN in offering this critical amendment.

The appropriations bill before us essentially levels or cuts the funds in the library and museum accounts for this fiscal year.

The Federal Government has a long history of supporting our Nation's libraries and museums. The Federal Government started providing direct assistance to public libraries in 1956 and funding to museums in 1976. So this is a function we have taken on for many decades.

We all understand that museums and libraries are rich sources of culture and learning. They are part of the fabric of our intellectual and civic life in every community, small and large, throughout America. Libraries have been the foundation of education for years. They are vital sources of literacy training, of community activities, and so many things that are important to the quality of life in every community in America. Our museums bring into the lives of our people great art, scientific discoveries—indeed a host of discoveries and amazing items that educate, inform, and, inspire the people of this country. These institutions are more important now than ever because we must recall our past to deal with a very difficult present and a challenging future.

These facilities are also in great demand. If you speak to librarians and museum directors, they would like to stay open longer and offer additional programs and services because the demand is there, but the funds are not there.

We are facing these issues and facing this appropriations bill just a few weeks after we passed the Museum and Library Services Act of 2003. This body passed it with strong, bipartisan support. It would reauthorize these Federal programs for the next 6 years.

Among the many aspects of the bill that passed was providing for a doubling of the minimum allocation to each State, which is very important to smaller states like Rhode Island. Also, it established a reservation of 1.75 percent for museum services for Native Americans, to match the reservation currently provided for library services.

We are charting down a new reauthorization path but, unfortunately, we have not been able to, in this appropriations bill, match the design for that authorization. Indeed, this is one of those situations in which the President's budget is much more robust with respect to funding than the Appropriations Committee's proposal to the Senate. The President sometimes gets criticized for not following through, and then we have to do more. This is a case where the President's proposals have been strong with respect to museums and libraries.

For example, in the No Child Left Behind Act, we authorized a program called Improving Literacy through School Libraries. This program is designed to provide library resources to schools throughout this country, a central part of learning. The bill before us would fund that at \$12.4 million. The President requested \$27.5 million because I believe both the President and the First Lady recognize the importance of school libraries and books and materials for those libraries.

I was the principal author of this legislation in the Health, Education, Labor, and Pensions Committee, and I feel very strongly that we must make a greater commitment to our nation's school libraries. Too often when you go to a school library, you find books that are out of date—vastly out of date—or books that are insufficient in number or quality for students to truly learn.

Indeed, in an ideal world, every young American should have two libraries to call upon: A good school library and a good neighborhood public library. This will allow them to learn, to explore, and to understand that education is not just the hours in school, but it is every opportunity they have to read and to explore on their own.

I hope we could raise our efforts to increase the level of funding to \$27.5 million, the President's proposal, and not the funding level contained in the bill. Indeed, the President, in his statement of administration policy on this bill, said:

The administration also urges the Senate to provide the full request for . . . Literacy Through School Libraries.

My amendment will also increase funding for the Library Services and Technology Act by \$24.1 million to bring the new total to \$171.48 million. This increase in funding for the Library Services and Technology Act would reach the President's funding request of \$169.6 million for library State grants plus provide an additional \$1.6 million needed to double the minimum State allotment which is a key reform in the recently passed Museum and Library Services Act of 2003.

If we do not follow through with this funding, we are going to inhibit the ability of libraries to serve their neighborhoods. We are going to inhibit the ability of libraries to take part in literacy programs which is one of the centerpieces of the President's overall educational policy. We see it every day in our hometowns and across our States, where libraries cut back hours, cut back access, cut back collections and, indeed, as many States face fiscal crises, one of the first areas that is cut in State budgets is libraries and museums.

I believe we should be able to, hopefully, step into the breach and help a bit more.

My amendment would also boost funding for the Museum Services Act by \$5.18 million to again reach the President's funding request. Our museums are key partners not only of our educational programs but also of our culture and our national memory. I hope we can increase funding in this regard.

This is a modest amendment, in total increasing resources by \$43.36 million that will directly help our museums and libraries throughout the country.

I reiterate that I understand the difficult challenge both Senator SPECTER and Senator HARKIN face in trying to fund all of these programs. I think they would be the first to point out how valuable they are. I feel very moved to point out how I believe we can do better. In this case, simply matching the President's request would do much better.

My amendment is fully offset for fiscal year 2004. It achieves this by rescinding fiscal year 2004 advance appropriations and reappropriating those funds in fiscal year 2003. This is the same mechanism Chairman STEVENS and Chairman SPECTER used to add \$2.2 billion to the underlying appropriations bill.

I urge my colleagues to support museums, libraries, and the Reed amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I oppose the amendment by the Senator from Rhode Island with some trepidation, because of two factors: My sister Shirley Katy is a professional librarian, and my sister Shirley Katy is reportedly watching this debate on C-SPAN. Senator HARKIN just said, sotto voce—I had better be careful.

That is one of the problems of being a manager of a bill. You have to try to keep the bill within the budget resolution, within the budget allocation. If it conflicts with the longstanding interests of my sister Shirley Specter Katy, that is just one of the costs of being the manager of the bill.

I might say parenthetically, and not too much at length because of the hour, that my sister was a great inspiration to me on developing early reading habits. It actually led to my downfall; I became a lawyer. She was always

with a book. She has been a librarian in the Elizabeth, NJ, school system for many years. She recently retired.

From her and from my educational experience generally, I have great reverence for libraries. I would like to see the libraries funded even more than they are. The Institute of Museum and Library Services has an appropriation of \$243,889,000. Notwithstanding the difficulties of the budget, we were able to maintain that figure.

It is worth noting that the figure is \$1,865,000 above the President's request. Here again, I would like to see more money in libraries, but we simply do not have the money within the budget resolution or within the allocation for this subcommittee. Therefore, it is with reluctance that I raise a point of order that this amendment exceeds the budget resolution and therefore is not in order.

The PRESIDING OFFICER. A point of order has been raised.

Mr. REED. I move to waive the Budget Act under Section 504 for purposes of the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 1602 TO AMENDMENT NO. 1542

Mr. CORZINE. Mr. President, on behalf of myself, Senator LAUTENBERG, and Senator CLINTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE], for himself, Mrs. CLINTON, and Mr. LAUTENBERG proposes an amendment numbered 1602 to amendment No. 1542.

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

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

The amendment is as follows:

(Purpose: To restore cuts in student aid)

At the end of title III add the following:

SEC. 306. None of the funds provided under this Act shall be used to implement or enforce the annual updates to the allowance for State and other taxes in the tables used in the Federal Needs Analysis Methodology to determine a student's expected family contribution for the award year 2004-2005 under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) published in the Federal Register on Friday, May 30, 2003 (68 Fed. Reg. 32473), to the extent that such implementation or enforcement of the updates will reduce the amount of Federal student financial assistance for which a student is eligible: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, \$200,000,000 shall not be available for obligation until September 30, 2004.

Mr. CORZINE. Mr. President, my amendment is simple. It would block

the Department of Education from implementing recent changes in student aid eligibility that will reduce financial aid to college students by billions of dollars starting in the fall of 2004. Let me repeat that—billions of dollars.

These changes come at a time when tuition is rising dramatically, double digits in many of our State schools across the country; just 9 percent in the State of New Jersey. Students and working families are straining to provide the financial wherewithal to access America's promise of access to higher education.

This challenge to working Americans has been vividly documented in a feature article in U.S. News & World Report September 8, entitled "Beyond Their Reach."

I ask unanimous consent that a copy of that article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CORZINE. It goes through tuition hikes. It goes through how Federal funding for grants and loans has not kept pace with the rise in tuition. It talks about students having to work many additional hours to be able to meet the financial stress. It is a very complete review of what the burden on working families is with regard to paying for higher education and having access to the American promise that provides.

I put that into the RECORD because it sets the framework for what I am talking about with regard to these regulations on financial aid.

I will explain these cuts in student aid which I feel are inappropriate for the times, but I think I can show they are totally unfair within the context of what is happening in the real world. This is a case where people in the Department of Education are operating off of information that is dated and is not applicable to the current circumstances.

I will take a few minutes to explain the situation, which is not immediately obvious, but it is very clear it undermines access to higher education in a very substantial way. On May 30 of this year, the Department of Education changed the formula for determining eligibility for Pell grants and other types of Federal financial aid. The formula is complex. It looks a lot like a tax return. I guess people have to go to H&R Block to figure it out, but it is very clear what this does. A family starts with their gross income and through a series of calculations subtracts from that their income to calculate what is called the expected family contribution. They start with gross income and subtract away a number of items to get to expected family contribution.

As the name implies, this is the amount a family is expected to contribute toward the college education of their child in any given year, at least for those families above \$15,000 in gross

income—hard-working, middle-class families. Expected family contribution then is subtracted from the cost of education for that year to determine a student's need for the purpose of Federal aid, such as Pell grants. The expected family contribution is also used by many State and private institutions. This is important to understand. This doesn't just apply to Pell grants; it applies to private institutions as well, all kids who are going to school, not in every instance but in most instances. It impacts their ability to get financial aid and basic allocation of financial assistance for both loans and grants across the country.

In other words, changes in a student's expected family contribution has direct impact on that student's eligibility for all kinds of financial aid. As a student's expected family contribution goes up, their eligibility for financial aid goes down.

As I noted earlier, the way the student's expected family contribution is calculated is similar to the way Federal taxes are calculated. One of those similarities is the fact that you get credit for State and local taxes that you pay. For income tax purposes we call it a deduction, and it reduces the amount of your taxable income. In the financial aid world it is called an allowance, but it works in a similar way. A student's family gets an allowance for paying State and local taxes. This allowance then reduces the amount of their student's expected family contribution. So, as the State and local tax goes up, the student's expected family contribution goes down. The eligibility for financial aid goes up. If the allowance goes down, the opposite happens: A student's family gets less credit for paying State and local taxes and the student is eligible for a smaller amount of financial aid. This gets at the heart of the problem, this issue I am trying to address tonight.

The allowance for State and local taxes is not determined for families based on what they pay; it is not individualized; it is determined by the Department of Education, and through publication in the Federal Register they establish those for each and every State.

Each year, the Department of Education publishes a table, and the percentage of income that family can deduct from their income as an allowance for paying State and local taxes is established. Until this year, the Department of Education had not changed these allowances in 10 years. Let me repeat: They had not changed these allowances in 10 years. Somehow or another they decided to do it this year but had not done it in 10 years, while State and local taxes are moving up and down in different amounts in all different environments. On May 30 they decided to slash the allowances across the board.

I will just show you this chart, show what actually is taking place in many States. I would like to show, for instance in South Carolina, they would

argue taxes fell from 7 percent to 3 percent, so they reduced the allowance by 57 percent.

If I am reading this correctly, the Presiding Officer, who lives in Missouri—they have gone from 5 percent to 3 percent and they reduced the allowance for Missouri citizens 40 percent, the deduction to change the eligibility for families to access financial aid.

You can go through this chart for every State. Local tax allowances were cut in every State but one, Connecticut. Some of those allowances were 100 percent, 50 percent, 80 percent. New Jersey is one of the lucky ones; it was only 14 percent.

I see the Senator from Pennsylvania. Pennsylvania's cut was, if I am reading it correctly, 50 percent.

It is important that people understand that, again, this is determining financial eligibility of families on a very wide basis. We can talk about each of the States and how much is being cut. Almost every State except, as I suggested, Connecticut has reduced the allowances we have here.

The bottom line is students and their families all across America will get less on allowance for State and local taxes next year for purposes of applying for Federal financial aid. I repeat, it also applies for many private institutions and private aid beyond that.

As a result, the expected family contribution, what families are expected to contribute, will go up for nearly all American families and students. While the financial aid impact will vary from family to family, it is clear that an increase will reduce aid for many students.

I am having a hard time understanding, as I read the newspapers and I hear that State income taxes and local income taxes are going up, why we have decided to implement this today.

This is a very hard thing to calculate for a lot of different issues, but one of the places the Department of Education has worked with CRS is with regard to local allowances as they apply to Pell grants. They have acknowledged that there will be 84,000 students across America who will lose their Pell grants entirely. Not everybody is going to lose them. Some are going to lose just a portion of their eligibility. I will go through an example later.

We know that for those 84,000, that is a \$270 million drop in the amount of financial aid being provided for students in grants across the country. The fact is, if you sum it up for those who are partially participating and all the others, we are talking about billions of dollars. I emphasize, it is not just Pell grants.

Listen to the assessment of Bryan Fitzgerald, the Director of the Advisory Committee for Student Financial Assistance, created by Congress to advise it on higher education. Mr. Fitzgerald was quoted in the New York Times on July 18. Asked about whether

damage from the Department's action would just affect the Pell Grant Program, Mr. Fitzgerald said:

It doesn't stop there. It will have a ripple effect through all the other financial aid programs—State grants, loans and institutional dollars. The cumulative effect will be much larger.

Bryan Zucker, president of the Human Resources Capital, in the same New York Times article stated:

[I]n aggregate, there's no question that we're talking about a swing of billions of dollars [in financial aid.]

I think it is important that we have laid out these facts, that tinkering around with the formula is going to end up undermining the ability of literally hundreds of thousands of middle-class Americans to have access to financial aid grants and loans. It is going to make something that is already very difficult even more troubling, to have access to higher education.

I think it is very difficult to understand why we are doing it.

Let's put this in the context of what is going on in our States. The Department of Education is reducing the allowance families get for paying State and local taxes. But I think everyone in this Chamber knows State and local taxes are not going down; they are going up. According to the National Association of State Budget Officers, States raised taxes by more than \$8 billion in fiscal year 2003 and already plan to enact additional tax increases of over \$17 billion for 2004.

It is likely through the 2003 and 2004 period that we will see State taxes go up by \$25 billion, compared to what the Department is using, where they are saying they are going down. That is before we take into consideration what is happening at the local level, local taxation in many places.

I want to use one example. Students and families in Pennsylvania, for example, will have their State and local tax allowance cut from 6 percent to 3 percent. For purposes of this calculation, Pennsylvania families will get 50 percent less credit next year than they did this year. But in fact the senior Senator knows, State taxes are going up in Pennsylvania. In fiscal year 2003 they were raised by \$569 million, and in 2004 Pennsylvania is planning more increases. I don't think that is fair to Pennsylvania any more than I think it would be fair in New Jersey. In fact, we have many of the same situations.

I think you can go State by State and look at it, look at this possibility. I will not go through each State but I think you can calculate it for every State but Connecticut and you will see there is a loss. State taxes are going up. Local taxes are going up. The only people who do not realize it seem to be the Department of Education.

I want working families to have an opportunity at this American dream. I think this needs to be done.

I also would cite this article about which I spoke. There is a specific case

of a lady named Lynn Caputo of Massachusetts, one of hundreds of thousands of students going through this process about which I spoke.

I am not going to read this article. We have a quote here that shows how deeply flawed this is when you apply it to an individual. Ms. Caputo lost a father. By these calculations, she will lose over \$1,000 in financial aid next year. Just at the time when her personal situation is changing, taxes are going up in Massachusetts. By these standards of how we deal with expected family contributions, she is doing better than she would have been doing before. It is very hard to understand how that fairness fits with the reality of the world in which we live.

Eighty-four thousand students are losing Pell grant loans, and 270 million of them broadens it out to billions of dollars when you take into account all of the other higher education needs.

I think we need to do something about this. We can do that without impinging on our budget formulation. That is what my amendment would do. It says the Department of Education cannot use any funds to implement new State and local tax allowances to the extent that they would reduce aid for any student.

By the way, there are some technical things about one class of students here or there. But the vast majority are losing.

I should note that the amendment is fully offset by provisions to delay the obligation of \$200 million in NIH funds until September 30, 2004. As a practical matter, this should have no real impact on their operations or change their needs. We are talking about a serious impact on a broad swath of middle-class Americans having access to financial aid.

This isn't partisan. There are Republican States and Democrat States. This is just bureaucracy not keeping up with the times.

Let me repeat that they haven't changed these formulas in 10 years. They somehow or other woke up on May 30 and thought we needed to change these formulas. They have not done it for 10 years. Now they are reducing that allowance for taxes at just the time taxes are going up. I don't get it. We are trying to do this in a fiscally sound way by getting an offset. I think we can make a big difference in a very substantial way for a lot of folks. It will not cut Pell grants in any way. I think it will make a big difference in providing access to higher education for kids who are really stretched.

I hope the Senate will consider this tomorrow. It really is something that I think goes to the heart of everyone in this Chamber. We are not talking about costing money. We are talking about costing working families in America money.

## EXHIBIT 1

[From the U.S. News and World Report,  
Sept. 8, 2003]

## BEYOND THEIR REACH

(By Rachel Hartigan Shea)

In July, administrators of tiny Unity College in Maine tagged 100 fish with vouchers totaling \$165,000 in scholarships and other goodies and dumped the finned financial aid into a nearby lake. Nearly 100 students and parents pushed off from shore in canoes, kayaks, and rowboats, all hoping to snag the big one: a fish carrying the \$56,800 that would cover four years tuition at the private college, known for its outdoorsy majors such as aquaculture and forestry.

It was a good day to be a smallmouth bass. After seven hours, all but one of the students participating in Unity's first annual "Fishing for Scholarships" paddled back empty-handed. Mike Bradford, a sophomore from Bear, Del., reeled in a \$50 tuition coupon and a free sea-kayaking trip donated by a local merchant. Nice, but it hardly covered those hefty college bills.

A lot of families these days feel as if they're facing college costs without enough funds on the line. Salaries are flat, jobs are scarce, investments haven't fully recovered and savings are tapped out. Financial aid can't seem to keep pace with financial need, and now the Department of Education has tinkered with the financial aid formula to some families' detriment [story, Page 54]. Tuition, particularly at state schools, continues to rise. Families aren't alone in their anxiety: Colleges, too, wonder how they will pay the bills, with endowments down 6 percent last year, the biggest drop since 1974, and 25 states cutting higher education appropriations by as much as 14 percent. Many schools have had to cut classes and sports teams, freeze salaries, and lay off employees to deal with the budget shortfalls.

Yes, it looks like a crisis. But before you despair, listen to this: It's still possible to get help paying for college. There's more financial aid money available today than ever before, and more students are getting a piece of it. But the piece is smaller, and it might be in the form of an IOU. It all adds up to a substantial shift in who ends up footing a big chunk of the bill for college: you. "Students and their families are paying more of the share than they did a decade ago," says Donald Heller, senior research associate at the Center for the Study of Higher Education at Penn State.

Financial aid was originally designed, of course, to make college affordable for everyone. In 1965, Lyndon B. Johnson signed the Higher Education Act which gave colleges government grants to distribute to needy students and established a loan program for the middle class. Seven years later came the debut of the Pell grant, the primary funding mechanism for low-income students. In its early years, the Pell—with a maximum award of \$452 based on family income—covered as much as 84 percent of college costs. But while federal spending on Pell grants has gone up 8 percent since 1991, tuition and fees have increased by 38 percent. The Pell's current maximum of \$4,050 covers roughly 39 percent of the average cost of tuition and room and board. And with the White House and Congress eager to limit spending, it's unlikely that the Pell will be raised this year.

Gap math. Because of the high cost of grants, the federal government in the late 1970s began turning to loans to fill the gap between federal grants and family need. Two thirds of federal aid now comes in the form of loans. Subsidized Stafford loans allow students with demonstrated need to borrow up to \$2,625 their first year (\$6,625 for independent students) and more in subsequent

years, up to a maximum of \$22,265. The government pays the interest—currently 3.42 percent—until the student has been out of school for six months. Students not deemed needy can take out unsubsidized Stafford loans; parents can turn to Parent Loans for Undergraduate Students. Both also boast low rates.

It sounds like a pretty good deal. But more loans means more students (who are today outborrowing their parents) are paying the bulk of their college costs. "The student aid system was based on the parental responsibility to pay for college," says Brian Fitzgerald, staff director of the Department of Education's Advisory Committee on Student Financial Assistance. "Loans mean it's the actual student who is bearing the burden." Nationwide, student debt is up 66 percent since 1997.

Take Erin Brindell, a 21-year-old from St. Louis. In April, her father, an accountant, took early retirement rather than risk losing his job. Her mother, a teacher who's been fighting cancer, also retired. With Brindell's family income down almost 60 percent from last year, and two other siblings in college (another four have already graduated), the senior asked her school, a private university in Missouri, for more aid. The college said it was out of money and pointed her to a state loan agency. She borrowed \$9,700, bringing the grand total of her debt upon graduation next spring to \$60,000. Brindell, who is majoring in secondary education, will end up paying for what her family could not, which promises to be a struggle on a teacher's salary.

Deep debt. This fall, Congress will consider raising the Stafford loan cap during the reauthorization of the Higher Education Act. The combination of low interest rates and a higher limit, some education experts argue, will help more students pay for college without resorting to private loans, which generally have higher interest rates and require quicker repayment. But critics respond that the debt load is already too high and looms darkly over students' futures, forcing them to consider majors—and careers—based on potential earnings rather than academic inclination. Some experts suspect a higher loan limit would not translate into more aid: Institutions will just reduce grant aid by the extra amount students can borrow.

At the same time that federal policy is influencing the growth of loans at the expense of grants, states are driving up public university prices and accelerating the cost shift to students. State support for universities has been steadily declining over the past two decades. Legislators see that colleges have sources of funds like tuition and private donations that other pressing budgetary needs like primary education and healthcare do not. And the recent fiscal crises have just exacerbated the decline. This year was the third in a row of drastic cuts to university funding nationwide. The Maryland university system lost 14 percent of its budget, while California lost \$700 million of the \$9 billion it usually spends on higher education. Experts predict an additional 2.3 percent decline next year. And remember this all comes at a time when many states expect higher enrollments. Nevada, for example, is bracing for a 33 percent boom in high school graduates by 2007.

So what can the state systems do? Mostly, raise tuition. The tab at the University of Virginia and the University of California shot up 30 percent this year; the University of Arizona's, nearly 40 percent. And many of the increases are on top of previous tuition spikes; 16 states raised tuition by more than 10 percent last year. Of course, state universities are still a bargain for in-state students, almost 70 percent of whom pay less

than \$8,000 per year. But low-income students can't afford even small jumps in their share of college costs. For the poorest families, the cost of attendance at a public university is more than half their income. And according to a study last year by the Department of Education's Advisory Committee, there is a \$3,800 gap between what families in the lower income brackets need to attend public universities and the financial aid they receive.

Some states, like Arizona, have tried to shield the neediest students. "We ran the numbers to see how we can increase tuition and set aside enough to hold the most needy harmless," says Jack Jewett, former president of the state's board of regents, who notes that 14 percent of all tuition revenue will be funneled into financial aid.

But many states are coming up short. Indiana managed to boost spending but not enough to cover higher tuition, so it will now have to limit the amount of the awards. And Minnesota couldn't give out any grants to new college students last spring, despite an extra \$8 million in the budget, because current students had already consumed the available money. "I think that policymakers are siding with aid programs more than institutions in terms of cuts," says Kristin Conklin, a senior policy analyst with the National Governors Association, "but that relative protection is not translating into more buying power for students."

Individual universities are exhausting their financial aid dollars as well. Take Penn State: While it raised tuition 9.8 percent to about \$9,500 for incoming freshmen, it has lost \$45 million in state funding over the past two years. "Something would have to be traded off, like competitive wages for faculty or forgoing already delayed maintenance on buildings," says Anna Griswold, an assistant vice provost.

But there may be another significant reason why there's not enough money to go around. Some critics say that too much is being spent on merit aid. Over the past decade, state grants have gone up 447 percent, but much of that is not need-based. Since 1993, the Georgia HOPE Scholarship, the granddaddy of all the state scholarship programs, has doled out more than \$1.9 billion to more than 693,000 students with B averages or better in high school. But programs like Georgia's tend to favor middle- and upper-class students whose families probably could afford college without a scholarship. And with several states funding the merit programs through lotteries, a 2002 study by the Civil Rights Project at Harvard University argues that lottery players, who are "disproportionately low income, poorly educated, and black," are paying for the college education of these better-off kids. The study found that 12 states with merit programs gave out nearly three times as much money for those scholarships as they did for need-based aid.

Not surprisingly, colleges limit their financial aid bills by being choosy in the admissions game. "If a student is marginal and has money, his chances of being admitted are better than a student who is marginal and has no money," says Robert Massa, vice president for enrollment, student life, and college relations at Dickinson College. That said, the private Pennsylvania school, which finances most of its aid through tuition, enrolled more students this year because the class as a whole was needier. "Those additional 30 students are helping us afford financial aid to assist the entire student population," says Massa. Just a few dozen schools—all of them private—still pledge that a student's financial need won't influence the admissions process and that they'll



meet the full need of the students they accept. Trouble is, poorer students are gravitating to the few need-blind colleges that are left. "Places like Macalester are reaching a point where we have to consider not being need blind," says Michael McPherson, the Minnesota college's former president.

Looking up. Yet there are bright spots on the horizon. Institutional aid from private universities rose almost 197 percent in the past decade. Schools with generous endowments can purposely keep loans to a minimum. "A one-year downturn doesn't necessarily severely impact our ability to maintain our [financial aid] policies," says Joseph Russo, director of financial aid at Notre Dame. And a group of wealthy schools (called the "568 Group" for a section of federal law that allows them to collaborate) are giving out more grant aid this year, having decided to cap home equity at 2.4 times a family's income in its eligibility test. (The federal government does not count home equity when assessing need.) So, those families whose home prices shot up while their salaries stagnated will find themselves with better aid offers.

Even Erin Brindell, with her \$60,000 debt, isn't gloomy. "I can't worry too much," she says. "I've had a great college experience."

Mr. SPECTER. Mr. President, will the Senator from New Jersey yield for a question?

Mr. CORZINE. Sure.

Mr. SPECTER. Has the Senator from New Jersey considered offering legislation which would be taken up by the Committee on Health, Education, Labor, and Pensions? I believe he is a member of that committee.

Mr. CORZINE. I wish I were. I wish the Senator from Pennsylvania could make the argument that I could be on that committee. I would be happy to be on that committee.

Mr. SPECTER. I withdraw that portion of my question.

I ask the Senator: Isn't it true the Senator can offer an amendment which would be considered by that committee?

Mr. CORZINE. I very much will consider looking at all of the various ways. I think we have legislation pending to be reviewed in that committee. It just so happens this is one of those places where we deal with higher education. It seems quite appropriate since we have a budget-neutral approach both to raise this issue and to make sure we address it now so people can make their financial plans.

Mr. SPECTER. Aside from considering a substantive law change, has the Senator from New Jersey proposed one?

Mr. CORZINE. We have a bill that has been submitted. I will check out the number for the senior Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I raise that question because this is an issue of some complexity. Nobody has been a greater proponent of higher education than this Senator. It may be that the whole approach on making deductions or changes based on taxes is an inappropriate way to deal with the funding of higher education. What we have here is an effort to stop funding on a change in a formula which involves a sub-

stantive change in law. We have very few amendments offered. We have to reach some substantive objective by limitation of funding.

If it is something which is fairly direct, I would think it appropriate. But where you have something which is as complicated as this matter is—there have been no hearings on it, there has been no opportunity for the Secretary of Education to come in to offer an opinion, there has been no opportunity for the Secretary of the Treasury to come in and offer an opinion.

We have an article from U.S. News & World Report which I can't even get a copy of. I sent over for a copy a few minutes ago so I could have an opportunity to read it and so I would be in a position to know a little something about what the Senator from New Jersey offers an amendment to effect, as he calls it, a "swing" of billions of dollars. I would not like to swing on billions of dollars on a U.S. News & World Report article I can't even get a copy to read.

The Senator from New Jersey has an amendment. It would have been helpful to have had it in advance of the moment when he offered it. If he is relying on an article, it would have been helpful to have the information.

I am very much concerned about what is proposed to be an offset here. The last part of his amendment, which I have just seen, provides that the funds appropriated under this act to the National Institutes of Health—\$200 million—shall not be available for obligation until September 30, 2004.

Anybody who tampers with the funding of the National Institutes of Health for any amount of money is going to draw strenuous objection from this Senator. The ranking member, Senator HARKIN, and I have worked for many years to double NIH funding from \$12 billion to \$27 billion. On a murky amendment such as we have today and not knowing where it goes, I would strenuously object to it on the grounds that it ought to be considered in an authorizing committee, and that before we tamper with the National Institutes of Health on this funding, even though it may not amount to a great deal of money, because I don't know how much they will obligate, the \$200 million has the potential to be very substantial. But I would strenuously urge my colleagues to reject the amendment.

I hope to have an opportunity to read U.S. News & World Report before the night is over.

Mr. HARKIN. Mr. President, I am sorry. I don't know who has the floor?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. CORZINE. I thank the President. I will respond to the Senator from Pennsylvania.

It is not the U.S. News & World Report calculations. The Congressional Research Service calculated what the impact is. It is a Federal study. The stimulus doesn't come from U.S. News & World Report. It is reporting to the

public what some of the changes are. I think it is important that we do what is necessary to make sure higher education is openly available to every student and to every family.

That is what the amendment is about. It is very simple. It is not changing the law. It is dealing with an issue of regulation. The Department of Education has chosen to deal with one in 10 years. It is going to change the flow of funds that is made available—Pell grants, loans, and other financial aid—to students across the country.

I would be more than happy to provide my own copy of U.S. News & World Report. But they didn't do the analysis. The analysis was done by the Congressional Research Service in a study provided to the Department of Education.

I hope we can consider this not on the basis of publications but looking at it from the effective study of some of the Government agencies that have looked at it.

Mr. HARKIN. Will the Senator yield?

Mr. CORZINE. Certainly.

Mr. HARKIN. First, I thank the Senator for his amendment on issues at NIH. I very seldom disagree with my esteemed friend and chairman of the subcommittee, Senator SPECTER. I may have a slight disagreement here.

A couple of questions: First, I noticed on the chart that the deduction for my State of Iowa was 57 percent. That looked to be one of the highest of all the States, if I am not mistaken. Is a 57-percent reduction correct?

Mr. CORZINE. The distinguished Senator from Iowa is reading the chart correctly.

Mr. HARKIN. Would the Senator state what that would mean? Give me some idea what that might mean for a family in Iowa that applied for student aid, has been getting student aid, a son or daughter going to a private college—Simpson College or Graceland or Clarke or a number of colleges in Iowa. They have been applying for student aid and all of a sudden they get hit with this change. Give me some idea what that means for that family that is eligible for student aid with a couple of kids in high school and maybe they have a couple of kids in college.

Mr. CORZINE. The Federal study has shown that 84,000 kids across this country would be dropped from the Pell grant program itself, completely eliminated.

Mr. HARKIN. Is the Senator saying there could be young men and women in Iowa who are in college who are getting Pell grants, eligible for Pell grants today, who, because of this change in this Department of Education regulation—not a law, but a regulation—will be denied access to Pell grants next year?

Mr. CORZINE. This change in regulation is done once in 10 years, by the way, not on a systematic every-year basis looking at what is going on in the States. It will have the potential to affect your students in Iowa or my students in New Jersey and anywhere

across the country. The effect is quite substantial, and it also can reduce that amount somebody would be eligible for a Pell grant. So \$4,000-plus could be reduced to \$2,000. This could be meaningful dollars in grants that are lost to students across this country just at a time, by the way, when tuition is going up 10 percent a year—in that neighborhood—in State universities across the country, at the same time that universities are having to cut back classes because they do not have the resources coming and budgets are being reduced from the State governments. It is a difficult mix of things to be implemented.

We ought to act sooner rather than later. That is why we are talking about it now.

Mr. HARKIN. Would the Senator say further that this change in this regulation not only affects the families that need this student aid, the young people going to college who need the student aid but, again, when they get the student aid, they use it usually to pay their tuition at school, so not only does it hurt the families—it is a double hit—it also hits the schools, too?

Mr. CORZINE. When students have to drop out or are not be able to go, and there is a decreased demand for higher education from students, that would happen. We are losing a major investment in human capital as time goes on.

Clearly, universities are hurt. They are having to deal with trying to find other sources of aid, basically trying to find jobs for kids so they can work at the same time they go to school.

It seems to me we are being very shortsighted in implementing such a regulation which does not conform with the facts anywhere. It has been talked about broadly, obviously in the media. There have been studies equally by a number of government institutions. I hope the Senate will consider this in the long run best interest of the country. We are not changing the fiscal year for the NIH funding, just delaying the timing.

Mr. HARKIN. If the Senator will yield for my last question, I want to make sure I am correct that the Senator in his amendment is not taking any money away from NIH; is that correct?

Mr. CORZINE. That is correct. As a matter of fact, I am supportive of what both the Senator from Pennsylvania and the Senator from Iowa have done to double NIH funding over a period of time. I will continue to support that. I believe very strongly in it.

Mr. HARKIN. I know the Senator has been supportive of our efforts to increase funding of NIH.

As I understand the amendment of the Senator from New Jersey, it delays until September 30, the last day of the fiscal year, by \$200 million, NIH obligations. It is my information that NIH estimates that it will obligate \$8 billion next September. In September of next year it will obligate during September, 1 month, \$8 billion.

I assume they work on a 5-day work-week. I assume that. I know NIH does

research 7 days a week, but in terms of this, that is 20 days out of the month, so \$8 billion for 20 days. If we could figure out how much that is a day, that is \$400 million a day.

What the Senator is basically saying, we are just asking for one-half day, to delay until September 30.

Now, if, in fact, they do \$8 billion in September and do it evenly, which they do not normally do, but if they do, they will be obligating \$400 million on September 30 anyway, so the Senator is saying that for purposes of getting the funding we need for this, we are simply going to ask to officially delay \$200 million until the last day of the month. They can still obligate it. This gets us the money we need to pay for the Senator's amendment. Am I correct in what I said?

Mr. CORZINE. The Senator from Iowa is exactly correct. He is talking about how budget accounting works in the Federal Government, which is a cashflow system. We are in no way trying to undermine the ability of NIH to be effective.

Mr. HARKIN. One last observation. If it is \$200 million, we take no money away. They will obligate \$8 billion in September anyway. That \$200 million is one dollar out of every 40. That is all you are saying they will obligate on September 30. I have to believe it. I have been around NIH now for the 19 years I have been privileged to serve on this committee, and I watched how they obligate money and how they spend money. Quite frankly, it is in this Senator's judgment that asking NIH to obligate \$200 million the last day of the month is nothing. That is a no-brainer. They will do that anyway, but it gets us the money needed to make sure we do not shortchange the kids and their families needing help for Pell grants and help meet the needs of our higher education, our institutions so they can get the young people in and pay the tuition.

In that regard, I ask unanimous consent to add my name as a cosponsor, and I ask unanimous consent, also, that Senator REID of Nevada be added as a cosponsor.

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

Mr. CORZINE. I yield the floor.

Mr. SPECTER. Mr. President, my calculations differ. I took \$8 million—and I don't know if that is a correct figure or incorrect figure—and that works, to me, to be \$20 million a day. So if you are talking about \$200 million, that is considerably more than the calculations we have just heard.

I don't think it is too important how much money it is. If it is delayed funding which is available for the National Institutes of Health, I think it is a bad idea.

Mr. HARKIN. Four hundred million dollars a day.

See, Mr. President, that is why we need a hearing. I thank the Senator from Iowa for proving my point. This is not something that you can roll off the

back of your hand going into the 15th hour of the day, a little before 9 o'clock Eastern Standard Time.

But whatever the calculation comes out to be, I would strenuously object to tampering with any of the NIH money. And I say that after having put a lot of blood, sweat, and tears, along with my colleague from Iowa, on getting the funding up.

When the Senator from New Jersey says he is not changing the law, I think he is categorically wrong. If you are stopping the funding so that the change in the formula cannot be worked out, it is conclusively changing the law.

This amendment to this appropriations bill is a specific effort to change the law. When you talk about a swing of billions of dollars—and I don't know whether that is right, wrong, or indifferent, but that is the representation made by the Senator from New Jersey—the impact on looking for an offset can hardly be de minimis, can hardly be minuscule, can hardly be irrelevant.

You are talking about a swing of billions of dollars. I don't know that is so, but I would like to know a lot more about this amendment and what its impact is. And I would like to know a lot more about this whole idea of reducing student aid based upon some formula. I am not familiar with it. And this is something which I think the Department of Education and the Department of the Treasury would like to comment about.

In an effort to peruse this Congressional Research Service document just a bit, I have some bedtime reading. In fact, I have quite a bit—U.S. News & World Report. But I note a paragraph in this CRS document. It is CRS-8, and it says this:

Quantifying the impact of the May 30th revisions to the state and other tax allowance tables will require identification of which students will have their eligibility for federal aid affected by changes in their [expected family contributions] and to what extent. Although it would appear that the levels of federal aid awarded to many students will be affected by these revisions, without substantial and complex modeling, the size of that student population and the financial effect on federal aid programs remain largely undetermined.

So to repeat, it says: "It would appear that the levels of federal aid awarded to many students will be affected by these revisions. . . ." It does not know it for sure. It says "without substantial and complex modeling"—which supports what I am talking about, that you need to know what this is really all about, which you should have a hearing on—"the size of that student population and the financial effect on federal aid programs remain largely undetermined."

I would ask the Senator from New Jersey, since he cites this as his authority, How does he explain this authority saying that it is largely undetermined on the basis of the existing record?

Mr. CORZINE. The Senator from Pennsylvania is asking me a question. I would just remark that the Education Department indicates that Pell grant costs will be potentially impacted by \$270 million or less. And they estimate—the Department of Education—based on the information of the CRS, that 84,000 students would lose eligibility altogether. They did not make an estimate about how many other students would lose partial eligibility, partial coverage. And they made no estimate with regard to how other people in private institutions or State institutions, using the same calculations of allowances for State and local taxes, would do it. Just know it will be quite substantial, not impacting the Federal Government but impacting how student aid is allocated nationally.

Now, very clearly, the Education Department accepts the estimation of 84,000 students losing eligibility for Pell grants. It is not U.S. News & World Report. It is their estimate from their own budget service.

I think the Senator is looking at the CRS report of June 25, 2003. And that point is made on—let's see if I can help the Senator from Pennsylvania. It is on CRS-8.

Mr. SPECTER. Well, Mr. President, I have an additional question.

How can the Senator from New Jersey make the assertions he has when his own authority says there would have to be "substantial and complex modeling" to determine "the size of that student population and the financial effect on federal aid programs" which "remain[s] largely undetermined"?

Mr. CORZINE. I think the Senator from Pennsylvania has heard me say that the only number I have used specifically is the 84,000 that CRS has estimated would lose all Pell grant assistance, not the full calculation of how many individual students would lose partial benefits on grants and student loans, by way of Stafford loans and other things, which would be much more complex. And that is what they are pointing out.

Mr. SPECTER. Well, Mr. President, the essence is that when you want to stop funding to carry out existing law, there ought to be a lot more understanding of what is going on. And our processes for legislation are customarily carried out by the introduction of bills and by hearings. And when you affect the Department of the Treasury, you affect the Department of Education, you affect swings of billions of dollars—again, the language of the Senator from New Jersey.

This is not the way to accomplish that result. I oppose this amendment.

Mr. President, are we prepared to move now to the final amendment of the evening, the amendment from the Senator from Nevada?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1603 TO AMENDMENT NO. 1542

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1603.

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

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

The amendment is as follows:

(Purpose: To increase funding for certain education and related programs)

At the end of title III, insert the following: SEC. 306. (a) In addition to any amounts otherwise appropriated under this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) an additional \$85,000,000 to carry out title III of the Elementary and Secondary Education Act of 1965 (language instruction);

(2) an additional \$6,449,000 to carry out part A of title V of the Higher Education Act of 1965 (Hispanic-serving institutions);

(3) an additional \$4,587,000 to carry out part C of title I of the Elementary and Secondary Education Act of 1965 (migrant education);

(4) an additional \$11,000,000 to carry out high school equivalency program activities under section 418A of the Higher Education Act of 1965 (HEP);

(5) an additional \$1,000,000 to carry out college assistance migrant program activities under section 418A of the Higher Education Act of 1965 (CAMP);

(6) an additional \$12,776,000 to carry out subpart 16 of part D of title V of the Elementary and Secondary Education Act of 1965 (parental assistance and local family information centers); and

(7) an additional \$69,000,000 to carry out migrant and seasonal Head Start programs: *Provided*, That such sum shall be in addition to funds reserved for migrant, seasonal, and other Head Start programs under section 640(a)(2) of the Head Start Act.

(b) Of the funds appropriated in this Act for the National Institutes of Health, \$146,000,000 shall not be available for obligation until September 30, 2004.

(c) The amount \$6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be \$7,085,011,000 and the amount \$6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be \$6,593,489,000.

Mr. REID. Mr. President, I am not going to debate this amendment tonight. We have no vote scheduled tomorrow. I am not sure we are going to have a vote on it tomorrow. But I will discuss it tomorrow. I am not going to discuss it anymore tonight.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Will my friend yield?

Mr. SPECTER. I do.

Mr. REID. It is my understanding you are going to raise a budget point of order on the amendment offered by the Senator from New Jersey?

Mr. SPECTER. No, I am not because it does not lie. If I could, I would.

Mr. REID. I missed the first part of the debate.

Mr. SPECTER. I missed most of the debate myself.

Mr. REID. Mr. President, I ask for the yeas and nays on the Corzine amendment.

The PRESIDING OFFICER. Without objection, it will be in order to request the yeas and nays at this time.

Mr. REID. I ask for the yeas and nays on the Corzine amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the White House and the Republican Congress see a perfect storm coming. Our policy in Iraq is crashing, the Federal budget is crashing, and so are State and local budgets. Family budgets are crashing, too. The administration and the Republican Congress are worried that their power to stay in office is crashing along with the electric power grid.

The overtime issue should be an embarrassment for anyone who supports the Republican position. It's a symbol of all that's wrong with so many of their other policies.

Three million Americans have lost their jobs since President Bush took office. Ninety-three thousand more were lost in August alone—the seventh consecutive month of job losses.

This is no time to end overtime. It's precisely the wrong time.

We need to create more jobs to bring this troubled economy back to life.

But under the Bush proposal, businesses can raise their profits by asking employees to work harder for lower pay, and avoid hiring new employees.

Especially in times like these, the right to overtime pay is a clear incentive for firms to create jobs, because it encourages employers to hire more workers instead of asking current employees to work longer hours.

We know that employees across America are already struggling hard to balance their family needs with their work responsibilities. Requiring them to work longer hours for less pay will impose an even greater burden in this daily struggle.

Protecting the 40-hour work week is vital to protecting the work-family balance for millions of Americans in communities in all parts of the nation. The last thing Congress should do is to allow this anti-worker administration to make the balance worse than it already is.

What can the administration be thinking, when it comes up with such a shameful proposal to deny overtime protections on which millions of workers rely?

According to the Congressional General Accounting Office, employees

without overtime protection are twice as likely to work overtime as those covered by that protection. Americans are working longer hours today than ever before—longer than in any other industrial nation. At least 1 in 5 employees now has a work week that exceeds 50 hours, let alone 40 hours.

Congress cannot sit idle while more and more Americans lose their jobs, their livelihoods, their homes, and their dignity. Denying overtime pay rubs salt in the open wounds.

The 8 million Americans who will lose their right to overtime under the Bush administration regulation include police officers, firefighters, nurses, and EMTs the heroes of September 11. With the anniversary of that tragic day just 2 days away, we can't help but remember the horrifying images of that day. The many lives lost.

The exhausted firefighters raising the American flag. And we recall the long, grueling hours so many of our first responders invested to protect and save their fellow Americans.

Today our first responders work long hours keeping our Nation safe from terrorism and other threats. President Bush wants to take away their overtime pay.

Cutbacks in overtime pay are a nightmare that no worker should have to bear. Overtime pay now makes up a quarter of the total pay of workers who receive it. The administration's proposal will mean an average pay cut of \$161 a week for them. Hard-working Americans don't deserve this pay cut, and it's wrong for the administration to try to force it on them.

Our Democratic amendment is clear. It says that no worker now eligible for overtime protections can lose it as a result of the new regulation.

The overtime protections in the Fair Labor Standards Act have been a fundamental right of the Nation's workers for more than half a century. That basic law was enacted in the 1930s to create a 40-hour workweek. It requires employees to be paid fairly for any extra hours.

I urge my colleagues to support this essential proposal to keep the faith with the Nation's working families. We will continue the battle to restore jobs, provide fair unemployment benefits, and raise the minimum wage, and we will do all we can to preserve the overtime protections on which so many Americans families depend.

Mr. SPECTER. Mr. President, I ask unanimous consent that at 9:45 a.m. on Wednesday, the Senate proceed to a vote in relation to the following amendments in the order stated: Harkin 1580, Schumer 1595, Reed 1595—I have two 1595s—the three Reed amendments, 1592, 1596, and Corzine 1602. I further ask unanimous consent that there be 2 minutes equally divided for debate prior to the vote in relation to each amendment beginning with the second vote; further, that no amendments be in order to any of the amendments prior to the vote.

Mr. REID. Reserving the right to object, Senator SCHUMER has offered only one amendment, so we will make sure that we are voting on the right amendment. Senator SCHUMER is No. 1598, so the RECORD should reflect that. I ask, further, that the request of my friend from Pennsylvania be modified that the following would be added: That there be 4 minutes for debate equally divided prior to Reed amendment No. 1595. That would be after the Schumer amendment. Rather than 2 minutes, it would be 2 minutes on each side, a total of 4 minutes. Further, I ask that the votes following the Harkin amendment be 10 minutes in length.

Mr. SPECTER. Agreed to.

Mr. REID. Prior to entering the consent, Mr. President, I would note that we hope to have three more votes lined up here. On the Mikulski amendment, there has been a good faith offer made by the other side. We will discuss that with Senator MIKULSKI in the morning. Maybe we won't have to have a vote on that. And then we were hoping to have a vote on the Dodd and Gregg amendments. We will do those side by side. The two leaders agreed that those two votes would follow the Harkin amendment. I am not going to say a lot about that now. I know Senator GREGG says he does not have his ready to go yet. I have spoken to Senator DODD at home this evening. He said he is agreeable to doing it following this sequence of votes. So following the Corzine amendment, I hope we can have the two votes that are going to be cast dealing with Dodd and Gregg which are on the same subject matter, I understand.

Having said that, I have no objection to the consent as modified.

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent to proceed as in morning business for up to 10 minutes.

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

#### TERRORIST PENALTIES ENHANCEMENT ACT OF 2003

Mr. SPECTER. Mr. President, I have sought recognition to speak on a bill that I will introduce to increase the criminal penalties relating to terrorist murders and to deny Federal benefits to terrorists, and for other purposes.

I authored the Terrorist Prosecution Act of 1986, which provides for extraterritorial jurisdiction to try in United States courts anyone who assaults, maims, or murders a U.S. citizen anywhere in the world. And that bill, which provides for the death penalty, has been enacted into law and has been very helpful.

I have been trying to extradite Palestinian Authority terrorists who have murdered United States citizens abroad. This bill would go beyond existing law to provide for the death penalty in all terrorist offenses resulting in death. It adds the death penalty as a

punishment in a number of situations that do not currently provide for the death penalty, such as sabotage of a national defense installation, sabotage of a nuclear facility, or destroying an energy facility.

In addition, this legislation includes conspiracy and attempt to commit terrorist acts in the list of terrorism offenses subject to the death penalty. It would enable prosecutors to seek the death penalty for terrorist fundraisers, for example.

Another important aspect of this legislation would be to remove the so-called gateway factors to impose the death penalty for terrorist offenses. It adds terrorism to the list of offenses, espionage and treason, for which the death penalty can be imposed without the gateway factors being met. For other offenses, the death penalty can only be imposed if there is a direct link between the criminal act and the death of a victim and prosecutors do not believe they can establish such a link in the case of a terrorist fundraiser.

There are Supreme Court decisions which preclude the imposition of the death penalty, for example, on the driver of a getaway car in a felony murder or robbery murder. Someone in the getaway car cannot get the death penalty because the Supreme Court has said it is too remote. And when I have pressed the Department of Justice to proceed with criminal prosecutions and to seek the death penalty for terrorists, for people who contribute to organizations such as Hamas, where they know there are terrorist branches and instigation of the murdering of U.S. citizens, as they did some months ago at Hebrew University and in other situations, the prosecutors have said to me they are concerned that the analogy to the driver of a getaway car might prevent the imposition of the death penalty.

Frankly, I disagree with that assessment because the driver of a getaway car may not be considering the consequence of death. And the contributors to terrorist organizations, knowing what those organizations do, are really on notice and are accessories before the fact to murder. I think they ought to be held liable under existing law. But to clear up any ambiguity, this legislation would remove those limitations and would make such contributors to terrorist organizations liable for the death penalty as accessories before the fact.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

S.

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorist Penalties Enhancement Act of 2003".

#### SEC. 2. PENALTIES FOR TERRORIST MURDERS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following: