

disability. And even in cases of hate crimes based on race, religion, or ethnic background, it contains excessive restrictions requiring proof that the victims were attacked because they were engaged in certain "federally protected activities."

This "federally protected activity" requirement is outdated, unwise, and unnecessary. There is no reason why the Justice Department should have to prove that someone was engaging in a "federally protected activity" before a case can be brought. This requirement severely limits the ability of the Justice Department to respond to hate crimes against Catholics, Jews, Muslims, and other religious groups. And it hamstring the Department in its effort to respond to hate crimes motivated by the victim's race or ethnic background.

Our bill is designed to close these substantial loopholes. It has six principal provisions:

No. 1, it removes the federally protected activity" barrier.

No. 2, it adds sexual orientation, gender and disability to the existing categories of race, color, religion, and national origin.

No. 3, it protects State interests with a strict certification procedure that requires the Federal Government to consult with local officials before bringing a Federal case.

No. 4, it offers Federal assistance to State and local law enforcement officials to investigate and prosecute hate crimes in any of the Federal categories.

No. 5, it offers training grants for local law enforcement.

No. 6, it amends the Federal Hate Crime Statistics Act to add gender to the existing categories of race, religion, ethnic background, sexual orientation, and disability.

These much needed changes in current law will help ensure that the Department of Justice has what it needs to combat the growing problem of hate-motivated violence more effectively.

Nothing in the bill protects or punishes speech, expression, or association in any way—even "hate speech." It addresses only violent actions that result in death or injury. The Supreme Court has ruled repeatedly—and as recently as this year, in the cross-burning decision *Virginia v. Black*—that a hate crimes statute that considers bias motivation directly connected to a defendant's criminal conduct does not violate the First Amendment. No one has a First Amendment right to commit a crime.

A strong Federal role in prosecuting hate crimes is essential, because crimes have an impact far greater than their impact on individual victims. Nevertheless, our bill fully respects the primary role of State and local law enforcement in responding to violent crime. The vast majority of hate crimes will continue to be prosecuted at the State and local level. The bill

authorizes the Justice Department to assist State and local authorities in hate crimes cases, but it authorizes Federal prosecutions only when a State does not have jurisdiction, or when it asks the Federal Government to take jurisdiction, or when it fails to act against hate-motivated violence. In other words, the bill establishes an appropriate back-up for State and local law enforcement, to deal with hate crimes where states request assistance, or cases that would not otherwise be effectively investigated and prosecuted.

Working cooperatively, State, local and Federal law enforcement officials have the best chance to bring the perpetrators of hate crimes to justice. Federal resources and expertise in the identification and proof of hate crimes can provide invaluable assistance to State and local authorities without undermining the traditional rule of States in prosecuting crimes. As Attorney General Ashcroft has said of current law, "Cooperation between federal agents and local law enforcement officers and between Justice Department prosecutors and local prosecutors has been outstanding." And it will continue to be so, and be even more effective, when this legislation is enacted into law.

Now is the time for Congress to speak with one voice and insist that all Americans will be guaranteed the equal protection of the laws. Now is the time to make combating hate crimes a high national priority. The Local Law Enforcement Enhancement Act is a needed response to a serious problem that continues to plague the nation. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Iowa.

MINIMUM WAGE

Mr. HARKIN. Mr. President, I compliment Senator KENNEDY on the statement he made regarding the minimum wage. I wanted to engage in a colloquy about that, but I was called off the floor on other matters.

I think Senator KENNEDY has made it quite clear that, rather than this being one of the throwaway issues that maybe we will address as we go through the year, increasing the minimum wage for the people of this country ought to be No. 1 on our agenda. We ought to be doing this right now.

We had the medical malpractice bill up earlier this week. We spent a couple of days on it. Everyone knew it was not going to go anywhere. Even by their own admission, some Republicans, in the newspapers at least, said it was a political exercise—according to some, in the newspapers. Whether it was or not, everyone knew it wasn't going to go anywhere. Yet here so many Americans are making the minimum wage which, I am sure was pointed out, is now less than the poverty level. It is about \$4,000—some less—I think \$4,500 below the poverty level for a family of three.

It is unconscionable that over the last 7 years, the Congress—the Senate and the House together—has raised its own salaries, our salaries, by \$21,000 a year. We have done that in the last 7 years. Yet a minimum wage in this country today is \$10,500 a year, less than half of what we just increased our own salaries by over the last 7 years. That is what is unconscionable.

These are working people; they are not on welfare. They are working. They are getting the minimum wage. Yet they are earning less than poverty level in this country. If nothing else, at least the minimum wage ought to get you above the poverty level. That is what we ought to be about.

So I compliment Senator KENNEDY for bringing this to the floor. I hope we can have this amendment on a bill here very soon, so we can express ourselves in a realistic way.

Another myth on the minimum wage I hear all the time is that so many of the people making minimum wage are just part-time earners; they are young kids just starting out, on and on. I hear that all the time.

The fact is that 70 percent of those affected by the minimum wage are adults, working adults; 35 percent—one out of three—are their family's sole earner. As Senator KENNEDY pointed out, almost two-thirds of the time these are women. These are single mothers; they are working; they are making the minimum wage; and they are the sole supporter of their family. So these are not just young kids getting a minimum-wage job to supplement the family income. As I said, more than 60 percent are women, one-third are mothers of children.

So I thank Senator KENNEDY for bringing this issue to our attention. I just find it unexplainable. How do you explain to people of this country we took all this time this year, we had this big tax break for the most wealthy in our country, yet we cannot even take a half a day, 2 hours to debate and pass an increase in the minimum wage?

President Bush has spent a lot of time talking about tax breaks, getting his tax break bill through—which helps mostly the most wealthy in this country, yet not one peep from this President in almost 3 years about increasing the minimum wage, not even one peep from this President on it.

So I am hopeful sometime before we break in August we can bring this up and pass it and get it to the President's desk. I know that is probably wishful thinking but hope springs eternal. I think that is what we ought to be doing here in the month of July.

One other thing: I said earlier we had the medical malpractice bill up. Really, what we ought to be talking about is the economic malpractice of this administration. That is what I call it—President Bush's economic malpractice. The victims of this malpractice are working Americans.

I just talked about the minimum wage and the need to increase that.

Look at the unemployment rate. It is now 6.4 percent, the highest level since April of 1994. That amounts to 9.4 million people looking for work who cannot find any. Under President Bush's leadership, we have lost 3.1 million private sector jobs.

This week the Senator from Washington, Mrs. MURRAY, offered an amendment to extend emergency unemployment assistance to the 1.1 million long-term unemployed. These are people who have been laid off since the recession began—early last year. They made futile searches for jobs that were not there, and then, unfortunately, we lost the job assistance amendment Senator MURRAY offered.

We are still losing jobs every month; 33,000 last month.

The economy is limping along. Now we are going to have a \$400 billion deficit facing us this year.

I read in the paper this morning that we now have some estimates on what it is costing us in Iraq—\$4 billion a month; \$4 billion a month. I have to tell you, if history shows us anything, those figures are lowballed. If this administration—I say it about any administration—comes up with figures this, you know they are lowballing it. I bet you when the facts are in and when all the costs are in, by the end of the year when we look back at the cost of our being in Iraq, it will approach \$5 billion a month. That is somewhere between \$50 billion and \$60 billion this year. That is not counting Afghanistan. Afghanistan is costing us somewhere over \$1 billion a month.

Again, I think that is lowballing it. I think it is probably a lot more than this.

When you take Afghanistan and Iraq and put them together, you are talking about somewhere in the neighborhood of between \$60 billion and \$75 billion this year on top of a \$400 billion deficit.

What is the administration's response? Don't increase the minimum wage, pass record tax cuts for the wealthiest, and then they push through a sham Medicare prescription drug bill that is going to force seniors to pay more out of their pockets before they can get their prescription drugs.

Right now there is a rule being written and proposed by this administration that will take money out of the pockets of hard-working Americans. This has to do with the issue of overtime pay.

This spring, the Labor Department proposed a regulation that would exempt perhaps up to 8 million workers from overtime pay. Overtime pay means up to 25 percent of a worker's annual income. Who are we talking about? We are talking about nurses, police officers, firefighters, emergency medical technicians, retail managers, journalists, medical therapists, paralegals, managers of fast food restaurants, among others who will now be put in a different category. Just by a new regulation they are going to be put into a new category so they will not be paid overtime pay.

Last week, 43 Senators sent a letter to the Secretary of Labor asking that the administration back off of this proposal. What does this proposal do? It expands the overtime exemptions by making it easier for employers to reclassify hourly workers and make them salaried workers, and then dramatically lowering the bar on which salaried workers are exempt from overtime pay protection. The result is millions of Americans earning—get this—more than \$22,100 year—we are not talking about people making \$100,000 \$200,000 a year. We are talking about people making \$22,100 a year and currently eligible for overtime who will be denied overtime pay under the proposed changes. What it means is the end of the 40-hour workweek. It means workers will spend more time away from their families because they will be forced to work longer hours.

But guess what. They won't be compensated for it. At least now, if someone is spending over 40 hours a week working and they are away from their family, they get time and a half overtime and compensated, which may help make up for a little bit of time they spend away from their families. Now they will be working more than 40 hours away from their families, and they will not be compensated for that.

It is not only bad economic policy, it won't create one new job. But it will also harm families by keeping the breadwinner away from their family for longer periods of time without giving them adequate compensation.

According to the U.S. Department of Labor estimates, the proposed rule changes would mean between 2.1 million and 3.3 million workers would face unpredictable work schedules because of an increased demand for extra hours for which the employers would not have to pay time and half. It just makes sense.

If you are an employer and the people working for you work over 40 hours, they are paid time and a half. You have to think about this. Does that justify keeping them on at time and a half? However, if by a little stroke of the pen you can reclassify them from hourly wage earners to salaried wage earners, you can get them to work 45 hours a week and not have to pay them one red cent more.

Again, with one stroke of a pen, I can get them to do more work and not have to pay them one additional penny.

Why wouldn't you do that? Of course, you would do that.

This regulation will open the floodgates for employers to help their bottom line by getting more work out of employees without paying them any more money. That is why we passed the 40-hour workweek. We are actually turning the clock back.

Senator KENNEDY pointed out this morning that we passed the minimum wage bill in 1938. By exempting these people from overtime pay we are turning the clock back even pre-1938 in terms of working conditions.

According to the GAO study, employees exempt from overtime pay—understand this—are twice as likely to work overtime as those covered by overtime pay. That is a GAO study. There you go. It makes sense. You are covered by overtime, and maybe you won't get that overtime. But if you are not covered by overtime, why not work a few hours extra every week because you are not being paid for your labor?

Yesterday, in the House of Representatives there was an amendment by Congressman OBEY of Wisconsin that would block the administration's proposal to deny millions of Americans overtime pay. Sadly, that lost by three votes. I was watching the vote last night. I noticed that they held the vote open. Actually, the proposal by Congressman OBEY won. The vote was held open, and I saw some switches being made. Finally, they got three people either to switch or something. So the vote, if I am not mistaken, was 213 to 210.

The proposal to block the administration from making these changes failed by three votes in the House.

I think one of the reasons it lost was there was a lot of misinformation about what the amendment would do. I have an amendment that is almost a mirror image of what Congressman OBEY offered in the House. I will be offering it at the first opportunity we have to do so on the Senate floor.

Basically, my amendment would prohibit the administration from exempting more workers from overtime pay who are currently eligible under the law. That is it. It is very simple and very straightforward. I look forward to offering this amendment to protect the 40-hour workweek, and to protect hard-working Americans who sometimes are caught between whether they want to spend more time with their family or maybe work overtime. At least if they work overtime they get compensated for it. This amendment would protect them and their families.

The administration's proposal will not, as I said, create one additional job. It will not do anything to put money back into the pockets of working Americans.

Couple that with their intransigence on raising the minimum wage, and what you have is what I call "President Bush's economic malpractice"—economic malpractice on hard-working Americans.

We need a real job growth plan in this country. We need to increase the minimum wage. We need to provide a real Medicare prescription drug benefit. We need to provide real incentives for businesses to create new jobs—not these kinds of incentives that will not create additional jobs but will allow employers to work employees longer than the 40-hour workweek without giving them just compensation. It is bad policy. It is economic malpractice.

I look forward to offering this amendment at the earliest possible time so the Senate can speak on this

issue, and hopefully we will have enough votes in the Senate so the administration will back off this ill-timed and ill-advised proposal.

I would like to know who really came up with this idea that somehow we are just going to, with the stroke of a pen, exempt people from overtime pay who are now getting it; we are just going to reclassify them. Well, I would like to know who that misguided "genius" was behind that decision. And whoever it is ought to have no place in this Labor Department or in this administration or anywhere in government.

So I hope we can take this amendment up as soon as possible, and I hope the Senate will approve it.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

INACCURATE INTELLIGENCE INFORMATION

Mr. DURBIN. Mr. President, there has been a great deal of debate in Washington, DC, about the circumstances leading up to the invasion of Iraq earlier this year. No one has come to the defense of Saddam Hussein, nor should they. He was a tyrant who oppressed his people. The fact that he is out of power is in the best interest of not only the people in Iraq but in the Middle East and the world.

But leading up to our invasion of Iraq were a series of statements and events from the administration justifying our role and our leadership. They were hotly debated on the floor of the Senate last October, leading to a vote on the use of force resolution—a vote which 23 of us opposed, believing that if we were going to be engaged in Iraq, it should be on an international basis, using the United Nations and other countries to join us in a coalition that would not only lead to a successful military invasion but also to a successful peace afterward, stability in Iraq for years to come.

The prevailing view, the majority view in the House and the Senate, was otherwise, giving the President the authority to go forward with this military invasion of Iraq. And so, for the months that followed between October and the ultimate invasion, the administration came forward with additional evidence, additional statements, and additional rationalization for our role and our leadership.

One of the key moments in the development of this case against Iraq and support by the American people was President Bush's State of the Union Address. It is a historic gathering each year, where a joint session of Congress comes together in the House Chamber, joined by the President's Cabinet, the Supreme Court, the diplomatic corps, and scores of people in the balconies, as the President comes and speaks from his heart to the American people. It is probably the most closely watched and covered Presidential speech of any

year, and should be, because the President really tries to outline where America is and where it is going.

So we listened carefully to each word. And many times during the course of that speech, President Bush made his case for the United States invasion of Iraq. One of the statements he made during the course of that speech has taken on quite a bit of controversy. It was a statement that the President made, attributing to British intelligence sources, which suggested that from the African country of Niger there was a sale or shipment of uranium which could be used for nuclear weapons in Iraq. President Bush said those words in his State of the Union Address. And, of course, this was growing evidence of our concern about the increased militarization of Saddam Hussein and his threat not only to his people and the region but to other nations as well.

This was one of many elements in the President's case against Iraq, but it was an important one because there was the belief that if Saddam Hussein had moved beyond chemical and biological weapons and now could threaten the world with nuclear weapons, he had to be viewed in a different context, as a much more dangerous leader than ever before. So people listened carefully to President Bush's statement.

But then, after that State of the Union Address—within a matter of days—questions were being raised as to the truthfulness of the President's statement, whether or not it was accurate to say that uranium or any type of nuclear fissile material had been sent from an African nation to Iraq. The debate ensued for many months, even as the invasion started.

Last night, CBS issued a special report based on statements coming out of the Central Intelligence Agency. Those statements are very troubling. Those statements indicate that America's intelligence agencies came to the White House before the State of the Union Address and told the National Security Council there was no credible evidence linking Niger or any African nation with providing nuclear fissile materials to Iraq, and despite that statement from the CIA to the National Security Council, and to the White House, decisions were made in the White House for the President to go forward with his speech saying exactly the opposite, carefully wording it so that it attributed that information to British intelligence sources, carefully making certain that the President did not allude to the fact that American intelligence sources thought that was not a credible statement.

So where do we stand today? The President said earlier this week that he apologizes, that that was an unsubstantiated remark and it was not accurate. And now, with this release of information from our intelligence agencies, reporters, who are traveling with the President and his group in Africa, are asking the leaders of the White House

who made this decision, who decided to go forward with the statement in the President's State of the Union Address which was not accurate, which was misleading.

Condoleezza Rice, the President's National Security Adviser, insists that George Tenet of the CIA approved this information that was included in the President's speech. George Tenet, in a press report, said he did not, he was not involved in making that statement to the White House. Two of the highest officials in the Bush administration are at odds as to who was responsible for that information. That question has to be asked and answered, and it has to be done so immediately.

I can think of nothing worse than someone at the highest level of leadership in the White House deliberately misleading the President or deliberately misleading the American people about something as essential as whether or not nuclear materials were being sent into Iraq before our invasion.

What was at stake, of course, was not just another foreign policy debate. What was at stake was an invasion of military force, largely led by the United States, putting American lives on the line.

The case was being made in that State of the Union Address for the American people to rally behind the President, rally behind the troops, and invade Iraq. And now we know that one of the elements—one of the central elements—in that argument was, at best, misleading—that in fact we knew better. We knew, based on our own investigation, based on a visit by former Ambassador Joe Wilson, based on the evidence of forged documents, that uranium and other fissile materials were not in fact transported from Niger to Iraq. Despite that, in the State of the Union Address, exactly the opposite was said.

Yesterday, on the State Department authorization, I offered an amendment, a bipartisan amendment, joined in by several of my Democratic colleagues and many of my Republican colleagues, calling on the inspectors general in the Department of State and the CIA to get to the bottom of this, and do it immediately. I believe the American people deserve an answer. We need to know what White House official decided to distort the intelligence information and give the President a statement which was in fact misleading.

I want to make it clear that there is no evidence whatsoever that the President knew this information was inaccurate. I do not make that accusation, nor will I. But someone knew. Someone in the White House knew the National Security Council had been briefed and told that this information was not accurate, and yet it was still included in the State of the Union Address. It really calls into question the leadership of the White House and our intelligence agencies. And I can tell you, now, more than ever, we need to have the best intelligence sources in the world.