

funding under this section, the Secretary shall, to the maximum extent practicable—

“(1) rely on technical and merit reviews provided by regional, State, or local weed management experts; and

“(2) give priority to projects that maximize the involvement of State, local and, where applicable, Indian Tribe governments.

“(h) **SPECIAL CONSIDERATION.**—The Secretary shall give special consideration to States with approved weed management entities established by Indian Tribes and may provide an additional allocation to a State to meet the particular needs and projects that the weed management entity plans to address.

“SEC. 455. AGREEMENTS.

“(a) **CONSULTATION AND CONSENT.**—In carrying out an agreement under this section, the Secretary shall—

“(1) if the activities funded under the agreement will take place on Federal land, consult with the heads of the Federal agencies having jurisdiction over the land; or

“(2) obtain the written consent of the non-Federal landowner.

“(b) **APPLICATION OF OTHER LAWS.**—The Secretary may enter into agreements under this section with weed management entities notwithstanding sections 6301 through 6309 of title 31, United States Code, and other laws relating to the procurement of goods and services for the Federal Government.

“(c) **ELIGIBLE ACTIVITIES.**—Activities carried out under an agreement under this section may include the following:

“(1) Education, inventories and mapping, management, monitoring, methods development, and other capacity building activities, including the payment of the cost of personnel and equipment that promote control or eradication of noxious weeds.

“(2) Other activities to control or eradicate noxious weeds.

“(d) **SELECTION OF ACTIVITIES.**—Activities funded under this section shall be selected by the Secretary taking into consideration the following:

“(1) The severity of the noxious weeds problem or potential problem addressed by the activities.

“(2) The likelihood that the activity will prevent or resolve the problem, or increase knowledge about resolving similar problems.

“(3) The extent to which the activity will provide a comprehensive approach to the control or eradication of noxious weeds.

“(4) The extent to which the program will improve the overall capacity of the United States to address noxious weed control and management.

“(5) The extent to which the project promotes cooperation and participation between States that have common interests in controlling and eradicating noxious weeds.

“(6) Other factors that the Secretary determines to be relevant.

“(e) **REGIONAL, STATE, AND LOCAL INVOLVEMENT.**—In determining which activities receive funding under this section, the Secretary shall, to the maximum extent practicable—

“(1) rely on technical and merit reviews provided by regional, State, or local weed management experts; and

“(2) give priority to activities that maximize the involvement of State, local, and, where applicable, representatives of Indian Tribe governments.

“(f) **RAPID RESPONSE PROGRAM.**—At the request of the Governor of a State, the Secretary may enter into a cooperative agreement with a weed management entity in that State to enable rapid response to outbreaks of noxious weeds at a stage which rapid eradication and control is possible and to ensure eradication or immediate control of the noxious weeds if—

“(1) there is a demonstrated need for the assistance;

“(2) the noxious weed is considered to be a significant threat to native fish, wildlife, or their habitats, as determined by the Secretary;

“(3) the economic impact of delaying action is considered by the Secretary to be substantial; and

“(4) the proposed response to such threat—

“(A) is technically feasible;

“(B) economically responsible; and

“(C) minimizes adverse impacts to the structure and function of an ecosystem and adverse effects on nontarget species and ecosystems.

“SEC. 456. RELATIONSHIP TO OTHER PROGRAMS.

“Funds under this Act (other than those made available for section 455(f)) are intended to supplement, not replace, assistance available to weed management entities, areas, and districts for control or eradication of noxious weeds on Federal lands and non-Federal lands. The provision of funds to a weed management entity under this Act (other than those made available for section 455(f)) shall have no effect on the amount of any payment received by a county from the Federal Government under chapter 69 of title 31, United States Code.

“SEC. 457. AUTHORIZATION OF APPROPRIATIONS.

“(a) **GRANTS.**—To carry out section 454, there are authorized to be appropriated to the Secretary \$7,500,000 for each of fiscal years 2005 through 2009, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs.

“(b) **AGREEMENTS.**—To carry out section 455 of this subtitle, there are authorized to be appropriated to the Secretary \$7,500,000 for each of fiscal years 2005 through 2009, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies.”.

SEC. 2. TECHNICAL AMENDMENT.

The table of sections in section 1(b) of the Agricultural Risk Protection Act of 2000 is amended by inserting after the item relating to section 442 the following:

“Subtitle E—Noxious Weed Control and Eradication

“Sec. 451. Short title.

“Sec. 452. Definitions.

“Sec. 453. Establishment of program.

“Sec. 454. Grants to weed management entities.

“Sec. 455. Agreements.

“Sec. 456. Relationship to other programs.

“Sec. 457. Authorization of Appropriations.”.

Amend the title so as to read “An Act to require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious weeds on public and private land.”

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to both bills, and the motions to reconsider be laid upon the table, en bloc, and that any statements be printed in the RECORD.

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

ORDERS FOR MONDAY, OCTOBER 11, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Monday, October 11. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be

reserved, and the Senate resume consideration of the conference report to accompany H.R. 4520, the FSC/ETI JOBS bill; and the time until 12 be divided as follows: Senator BOXER, 15 minutes; Senator LANDRIEU, 30 minutes; Senator BAUCUS or his designee, 15 minutes; Senator GRASSLEY or his designee, 60 minutes.

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

Mr. TALENT. I was busy making notes. If I could ask the majority leader, would that include a few minutes for me to do morning business?

Mr. FRIST. Through the Chair, that would be for tonight?

Mr. TALENT. Yes.

Mr. FRIST. I will do that shortly.

PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of the FSC/ETI JOBS conference report. Under the previous order, at 12 we will proceed to a vote on adoption of that conference report. That will be a rollcall vote. Following that vote, the order provides for us to dispose of the Military Construction appropriations bill and the Homeland Security appropriations bill and a number of other housekeeping measures.

As we indicated earlier, those will be completed without rollcall votes. Therefore, for scheduling purposes we will have one rollcall vote at 12, and that should conclude our voting. Again, I thank Members for their participation over this weekend.

We had a very full day yesterday and a very, very full day today. I do appreciate the cooperation of everyone. It was a real inconvenience to people's schedules, but it has allowed us to reach conclusion at a much earlier time than we would otherwise.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I mentioned off the microphones today to the two leaders, an hour or so ago, we are here on a Sunday and our dear friend, the senior Senator from West Virginia, Mr. BYRD, talked about the Sabbath and we were all so impressed with his remarks, but I say that if there ever were a time legislatively when the ox was in the mire, it was this weekend. But for our being here as a result of the work of the two leaders, Senator FRIST and Senator DASCHLE, we would not have completed the people's business.

We basically have done that tonight. Tomorrow we come in for some formalities: the FSC bill; cloture was invoked today and it will pass tomorrow and that is our only recorded vote. So I want the RECORD to reflect that Senators DASCHLE and FRIST are the two leaders for a good reason. It is very hard to get where we are, and we all have apologized on a number of occasions for having to come in on Sunday. It is a rare occasion we do that. But I repeat, the ox was in the mire. We had to do that. The ox is out of the mire,

and whether we do that on Sunday or Monday, I believe that is the appropriate thing to do.

I know the Chair will join with me in saying, these people here are glassy-eyed. They have worked so long and so hard. The Capitol Police, the official reporters, the enrolling clerks, the Parliamentarians, everyone here has worked so hard. Our staff has worked tireless hours. We are the ones who are here and people see us, but they see mere shells of what we would be but for their great work. They protect us. They cover for us. The mistakes we make, they find them and come back and correct legislation. So I want everyone who is here to know how much we appreciate what they do. They get so little attention. It is all of us who get the attention and we are the ones who depend on them so much. I know the majority leader joins me in this.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I do again want to emphasize what the distinguished assistant minority leader has said. What the American people see and what our colleagues see on the floor is a tiny portion of what is going on, whether it is the pages, law enforcement, Capitol Police, and the hundreds of staff people who are here to make this operation work, from early this morning until late tonight, and they will actually be here well after we close down. So we do want to express our appreciation, especially on this weekend when it is not totally unprecedented, but it is very unusual.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, finally, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following up to 20 minutes to be used in morning business by our colleague from the great State of Missouri.

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

The Senator from Missouri.

TRUTH BEHIND OVERTIME: IT HELPS WORKERS

Mr. TALENT. Mr. President, I am very grateful to the majority leader and the Democratic whip for allowing me this time. I am sorry to run in breathless at the end of the evening to ask for it. I thought I would have an opportunity, perhaps in the wee hours of the morning, to make this statement. I think it will be evident when I get into it why I want to do it now. I will explain that also.

Let me say I agree completely with the statement of the Senator from Nevada regarding the staff. I have presided, myself, during this weekend, on several occasions. I am grateful to the staff for coming in and sorry to keep them a few minutes later than they would otherwise have to stay. I just

want all the staff to know that, in compensation to them as a small token, if they would like to come to my desk after we adjourn, I have plenty of Russell Stover candy, pecan rolls and almond rolls—and low carb candy also, I say to the majority leader. I am more than happy to share it with all the staff who worked so hard this weekend.

I want to talk a little bit about overtime. I have not talked about overtime on the floor of the Senate despite the fact that there has been a lot of controversy over it. There are a lot of reasons I have not to this point. I have had other priorities. But the overtime regulations that went into effect about 6 weeks ago are actually, of course, having an impact in the United States. In other words, they are now the law. People are having to comply with them. Employers are having to comply with them.

So we have reached a new stage in the controversy over those rules because we don't have to speculate anymore what their impact is going to be. We know what their impact is because they have become law. What we are finding is that these overtime regulations, as many of us thought and as the Secretary of Labor said over and over again, are working the most significant enlargement of overtime pay, the most significant increase of overtime coverage in the history of the overtime law, at least since 1938.

I wanted to say this on the floor of the Senate before we left because I think it is owing, in particular, to the Secretary to say it. She has been criticized by many outside of this body and some in this body. They have said these overtime regulations the Department has issued would restrict overtime for people. It is not working that way, and there are a lot of us who knew it wouldn't work that way, which is why we always voted to allow that process to move forward.

So I want to say this evening, and I am going to go through the reasons why and then talk about what exactly is happening out there in my 20 minutes, but I want to repeat, these overtime regulations, far from restricting overtime coverage, are working the most significant enlargement in overtime protection since 1938.

I want to explain now why those of us who have some familiarity with this field of law always thought that would be the case. I read these proposed regulations when they came out about a year ago. I looked at them and said to myself, as a person who used to practice labor and employment law, my gosh, there are going to be a lot more people getting overtime under these regulations than have gotten it before. Let me explain why.

This is a rather arcane field of law, but it is possible to understand it. You have to start from the assumption that unless the law provides otherwise, every employee in the country is entitled to overtime if they work more

than 40 hours a week. You are entitled to overtime unless the law exempts you from overtime, so the bigger the exemption, the less the overtime. When we talk about exemptions expanding, we are talking about overtime restricting, and it is important to keep that in mind.

We start from the proposition that all employees are covered by overtime. The law exempts management employees. It has always been an aspect of the law that if you are in management, if you are one of the people who run the company, you are not entitled to mandatory overtime.

So how does the law define management? First of all, to be a management employee you have to be salaried. If you are paid by the hour, you get overtime. It doesn't matter what else your job may entail, you get overtime. So you have to be salaried.

Second, you have to be salaried above a certain level. This is very significant because it has changed. Under the old regulations, before the new regulations were issued and took effect, under the old regulations, if your salary was below about \$13,000 a year you automatically got overtime. You could not be considered management unless your salary was at least \$13,000 a year. That wasn't much protection because just about everybody in the country who worked full time and got a salary earned more than \$13,000 a year. But the new regulations raised that threshold to \$23,600. What the law is now, if you get paid a salary of less than \$23,600, you get overtime protection. You get mandatory overtime regardless of what the rest of your job may entail.

When I saw that, I knew immediately that there were going to be tens and tens of thousands of people who had been exempt, whose overtime had been denied them legally under the old regulations, who would now get it automatically. I am talking about people who work as assistant managers of restaurants or in some cases you might be a line leader in a plant or you might have some other job which looks like it may be management so you got exempted under the old regulations. But where you were not paid \$23,600, automatically those people come under protection.

It is not enough to be paid a salary above \$23,600 or above the threshold, whatever it is, to be considered management, and it never has been. The first step is, are you paid a salary? Is it above that certain level? If it is, you might be exempt. You might not be entitled to overtime if you fell into one of several categories of management.

I am not going to go through them all, but let me take two very briefly. One of them is if you were an executive. If you got a salary above the threshold and you were an executive, you were not entitled as management to overtime.

How do you define executive? The old rule said—I hope you are sticking with