

confrontation with Iraq before he was against it. He was for an All-Volunteer military before the pressures of war in Iraq obliged him to do away with the All-Volunteer military.

Now he says he is against the draft. I think our young people can be forgiven for doubting President Bush is going to stick with that position. George W. Bush may have avoided the draft when he was a young man, but he is not going to be able to avoid the draft as President if he is reelected and pursues his policy of preemptive war.

OVERTIME PAY

Mr. HARKIN. Mr. President, I also want to talk about a few of the things that have happened here this year in the course of our deliberations and debate on legislation in the Senate and in the Congress.

One of the issues I would like to talk about—and it came to a head here at the end—has to do with agriculture. But before I get into that, I want to talk about overtime pay. Then I want to talk about agriculture and conservation.

Last week, in a replay of what happened almost a year ago, the Bush administration used a conference committee to kill my provision to stop the Department of Labor's new rule on overtime pay, a new rule which, if it is allowed to stand, will strip 6 million workers of their right to time-and-a-half overtime pay.

Once again, the overtime provision I offered and which was adopted by the Senate was killed in conference, despite votes in both Houses of Congress demonstrating strong bipartisan support for my amendment to stop these onerous rules of the President from going into effect and denying the right of overtime pay to some 6 million Americans.

Now, yesterday, we in the Senate, yet again, voted to protect hard-working Americans' right to earn overtime pay. That bill we passed—as the amendments I have offered before that we passed four times—serves the simplest of purposes. It lets stand the new threshold of \$23,660, below which anyone who is working is automatically guaranteed the right to overtime pay, and it guarantees that no worker who currently receives overtime pay would lose the right to overtime under the new rule. That is what this Senate voted to keep four times, and the House, twice.

This is a subject I feel deeply about, and I know I am not alone. Wherever I travel in the United States, people come up to me and talk about what overtime pay means to them and their families. They can become quite emotional about it. They know what this administration is trying to do. They are angry that this administration wants to roll back this new overtime rule.

It is a simple matter of honoring work. People believe that when they

put in more than 40 hours of work in a week, that they are giving up their premium time, their time with their families, and that their employers should provide them with premium pay if they are giving up their premium time.

Also, many Americans rely on that premium pay as a substantial part of their income—to put a little bit aside for a college education, a rainy day fund, or perhaps maybe to buy a better house, move up the ladder a little bit, buy a new car.

Other people, to tell the truth, would just rather not work a lot of overtime hours. They believe a 40-hour workweek is a full workweek. That is what the Fair Labor Standards Act established when Congress passed it in 1938.

It established in law the principle of a 40-hour workweek, that anyone basically who works over that gets time-and-a-half overtime pay. That was 1938.

But get this, in 1933, this Senate, right here in this very Chamber—in 1933, after lengthy debate—passed a bill to establish not a 40-hour workweek, or 50-hours, as it was then, but a 30-hour workweek—a 30-hour workweek, in 1933. Think about that. They voted here to establish a 30-hour workweek in 1933.

Congress fought about it for about 5 years, and finally, in 1938, they compromised at 40 hours. It has been that way ever since. I will bet we couldn't pass a bill in this Senate today to establish a 50-hour workweek. By letting these rules go into effect, we are telling people, hey, you can work over 40 hours a week, but don't expect time-and-a-half overtime pay. That is exactly what we are talking about.

Again, we know that if overtime is free to the employer, if they don't have to pay anymore, they will work people overtime. This chart illustrates that. The red block is those who have no overtime protection. The green represents people who do have overtime pay protection. Of those who have overtime protection, only 19 percent work more than 40 hours a week, about one out of every five. These are people who get paid for overtime. But if you are not eligible for overtime pay, 44 percent work more than 40 hours a week, almost one out of every two. So if you don't have overtime pay protection, you are twice as likely to work overtime.

How about working more than 50 hours a week? If you have overtime pay protection, only about 5 percent work more than 50 hours a week, but if you don't have overtime pay protection, three times as many—15 percent—work more than 50 hours a week.

That tells the whole story right there. That is what is happening. If this new rule is allowed to stand, we will be back here 5, 6, 7 years from now, and you are going to see this red mark way up there, 50, 60 percent or more of people without overtime pay protection working more than 40 hours a week.

Last year, the Bush administration launched an assault on the time-hon-

ored principle of time and a half pay for over 40 hours. Actually the proposal of the President came out in a set of proposed rules from the Department of Labor. The Fair Labor Standards Act of 1938 has been amended and changed a number of times since 1938, but it has always been done through the legislative process, not administrative rule-making.

Ordinarily, the administration comes to Congress. They say they would like to modify the Fair Labor Standards Act for one reason or another. The appropriate committees have hearings. They bring in witnesses. We work it out. We bring it to the floor. We pass it. It goes to a conference with the House, and it is sent to the President for signature. That is the way it ought to be done.

This time, for the first time, this President issued a proposed set of regulations drastically changing the overtime pay rules without one public hearing. They issued these proposed rules without having one public hearing. It actually took us several weeks, kind of plodding through the proposed rules, to see what they were proposing. The magnitude was breathtaking.

Some of the most harmful provisions were not discovered until months later. Frankly, we were shocked when we first saw in these proposed rules of the administration that they were proposing to strip overtime pay from police officers, firefighters, veterans, nurses, and many others—radical stuff. Of course, once the true intent and extent became known, many of those affected were in open rebellion. We talked about it, and I talked about it here on the Senate floor.

When the Department of Labor issued the final rule just this spring, the White House seemed to have an election year conversion. Under extreme pressure from labor unions as well as us here in Congress, the administration backed off its attempt to strip overtime from certain high-profile groups such as rank-and-file police officers, firefighters, emergency medical technicians. I salute the efforts of many individuals and groups who fought hard and who forced the administration to abandon several of these most offensive and egregious proposals.

But what did the change do? They took us from an estimated 8 million people hurt by these overtime rules to 6 million. So basically we went from a proposed set of rules that were profoundly terrible to a set of rules that were just plain terrible.

The administration said they fixed it up. Sure, I admit there are about 2 million fewer people who were affected in the final rules, policemen and others. But make no mistake about it, up to 6 million hard-working Americans earning as little as \$23,661 a year will lose their right to time-and-a-half overtime pay.

Mr. FRIST. Will the Senator yield for a question? It is really an inquiry about tonight's schedule. About how

long do you think you will be? You are the last speaker. I know you outlined all the things you will be talking about. Just so I can plan personally.

Mr. HARKIN. I have been guaranteed 2 hours today. I spoke 10 minutes earlier. I assumed I had about an hour and 50 minutes.

Mr. FRIST. I can come back later tonight. My son's birthday is tonight. I have been here for the last 3 days. I wanted to plan for my dinner. Again, I can come back later tonight.

Mr. HARKIN. I have probably about 10 more minutes on overtime. I want to talk about the conservation program and just a little on the economy, so maybe 45 minutes.

Mr. FRIST. OK.

Mr. HARKIN. Frankly, at this point the administration has zero credibility. As I said, when the proposed rule was issued more than a year ago, it took months of reading the fine print before we realized just how destructive it was. Only belatedly did we discover that the administration was giving tips and advice to employers as to how they could avoid paying overtime to employees. Right in the rules there is advice to employers how they can get around it. I had never seen that before, either.

Here we go again. The administration is all smiles and happy talk. Again the administration is assuring workers they won't lose their overtime rights. When the Bush administration smiles and says it only wants to fix overtime, I have five words of advice to American workers: Hang on to your wallets.

What I am telling you about this new overtime rule is not just according to me. Just a couple of months ago, the top three people who administered these regulations over the course of the last two decades released a report detailing their indepth review of these rule changes. Of all the people in the universe of labor experts who have weighed in on the Bush overtime rule, I would have to think that the credibility of these three persons is unparalleled on this issue. Why do I say that? They have no ax to grind. They worked for Republican and Democratic administrations, going clear back to President Reagan, the first President Bush, and President Clinton. One of them worked for this Bush administration. These are the three experts who administered this program. If you have any reservations about my interpretation or criticism, I invite you to read their analysis.

These three career officials have said:

In every instance where DOL [Department of Labor] has made substantive changes to the existing rules, it has weakened the criteria for overtime pay exemptions and thereby expanded the reach and scope of the exemption.

Let me repeat the administration's central claim. They are saying that no workers earning less than \$100,000 a year will lose their right to overtime pay. Well, one of these career DOL officials was quoted in the New York

Times as saying by his analysis, 3 to 5 million Americans would lose their eligibility.

This other chart I have shows the impact of this new rule. It is clear that employees earning \$100,000 a year or more can be exempted because they are exempted under the highly compensated employee provisions, if they make more than \$100,000. Then if you earn less than \$23,660, you are automatically nonexempt. You have to be paid time and a half. Who is in between? Well, a lot of people but especially team leaders. I will talk a little bit about team leaders.

Under the new rule, a worker who leads a team of other workers loses his or her right to overtime. Under the old rule, there was no provision concerning so-called team leaders. There wasn't even such a term. But the new rule, section 541.203(c), states:

An employee who leads a team of other employees assigned to complete other projects for the employer meets the requirements for exemption even if the employee does not have direct supervisory responsibility of the employees on that team.

This team leader loophole is big enough to run an Amtrak train through. Team leaders are commonplace throughout the manufacturing and service sectors. They are especially common in factories, refineries, chemical plants.

MIT professor of management Tom Kochan estimates that this team leader loophole alone could deny overtime rights to as many as 2.3 million workers. Again, the administration claims that no worker making between \$23,660 a year and \$100,000 a year will be denied overtime. That statement is just plain false.

When Congress enacted the Fair Labor Standards Act in 1938, it anticipated there would be a number of less than honorable employers who would try to cheat workers out of their overtime pay. So Congress included a penalty provision that would act as a strong deterrent. Here is what it was. Under the old rule, if an employer was cheating employees out of overtime pay, the penalty could be massive. All employees in the enterprise—all employees, including even salaried employees who were exempt from overtime—had to be paid time and a half overtime for the period that the improper practices took place. It was known as the nuclear deterrent. It was very tough.

Now, by contrast, under the new rule, the penalty is limited to the work unit where the violation was detected. This ignores the fact that, in nearly all instances, overtime violations are not limited to a renegade supervisor. They are almost always as a result of companywide practices. In other words, we have gone from the nuclear deterrent of old to the new sort of pussycat deterrent under the new rule. Under the new rule, many workers will legally lose their right to overtime pay. That is one part of it. And employers who

cheat workers out of overtime pay illegally will receive a penalty that is nothing more than a slap on the wrist. No wonder the Wall Street Journal called the new rule a victory for business groups. No wonder this new rule is so strongly supported by corporate America.

It is time for the Bush administration to listen to Main Street, not just Wall Street; listen to ordinary working Americans. One of their highest concerns is economic security. Not only do they fear losing jobs, health care, and retirement; they are now afraid they will lose their right to time and a half compensation. They have good reason to fear that. They fear they will work a 50- to 60-hour week, with zero compensation. That is what is going to happen under these new rules. Last week, in 17 cities across the country, thousands of workers, who are angry about these new overtime rules, rallied in parks and outside Federal buildings. They delivered scores of boxes full of postcards to the Bush-Cheney campaign headquarters, asking the President to take back this overtime pay cut.

Dixie Harms, a long-time trainer of nurses in Des Moines, said:

If overtime is changed for hospital nurses, we will see a mass exodus of registered nurses from the hospital setting, because they will get fed up and refuse to volunteer so many hours to do what they really love doing.

It is bad enough to deny American workers overtime pay rights, but what is striking is the mean-spiritedness of the Department of Labor. As I said, the Department offered employers what amounts to a cheat sheet, giving helpful tips on how to avoid paying overtime to the lowest paid workers. For example, the Department suggests cutting a worker's hourly wage so any new overtime payments will not result in a net gain to the employees. It also says you can take a worker's salary, raise it up a little bit so that it meets the threshold. Say an employee is making \$23,600 a year. All you have to do is give them a \$61 increase, and guess what. You don't have to pay them overtime; you can exempt them. That is in the Department's rule, those tips. I liken that to the IRS giving helpful hints to tax cheats, saying if you want to cheat on your taxes, here are some tips on how to do it. We would be up in arms if the IRS were to do that. But we let the Department of Labor do it. Here are helpful hints on how to cheat your workers out of their legitimate right to overtime pay.

It happened recently. According to an article in the Detroit News last month, 2 managers out of 150 at Rozwell's Metro Detroit Burger King franchises became eligible for overtime. Listen to this. Rather than make them hourly workers, the company gave them a \$20 a week raise to maintain their salary status. Two managers out of 150 are eligible for overtime under these new rules. What a deal.

I want to close my statement on this by saying there is one group disproportionately harmed by these new overtime rules: working women. Why? Because women tend to dominate the workforce in retail, services, and sales positions, which would be particularly affected by the new rule. Three in 10 working women earn all or almost all of their family incomes. Three in 5 earn about half or more of their family's income. Four in 10 women work evenings, nights, or weekends on a regular basis. One-third work shifts different than their spouses or partners. From 1979 to 2000, married women increased their working hours by nearly 40 percent. Their contributions are especially important to lower and middle-income families.

Yet, now the administration's new rule will take overtime pay protection away from millions of American women. They will have to work longer hours for less pay. This means more time away from their families, more childcare expenses, with no additional compensation. Listen to what Sheila Perez of Bremerton, WA, says. She is a single parent, working hard to support her family. When she leaves work after a difficult 8-hour shift, she says:

My second shift begins. There is dinner to cook, dishes to wash, laundry, and all the other housework that must be done, which adds another 3 or 4 hours to my workday. My time at home with my kids and family is truly my premium time. It is personal time. It is the most valuable time of the day. So if I am required to work longer than 8 hours, if I have to sacrifice that premium time with my family, then I ought to receive premium pay. That is overtime pay.

I have never heard it said better. Sheila Perez is right. If she is going to sacrifice her personal time, premium time, with her kids, it is only fair that she be compensated on the premium basis, with time and a half overtime pay.

Later this week, we will have another debate between President Bush and Senator KERRY. It is going to be on domestic issues—that is what I understand—the economy and domestic issues. I hope we will hear about this issue of overtime pay.

I am sure the President will say: Look, we expanded overtime pay. Why, we raised the base from \$8,000 to \$23,660.

Yes, with one hand, they raised up the base for low-income workers; and with the other hand, they took it right back. What a nice shell game. I gave you examples of how employers are getting around it, and the fact that the Department of Labor put out a cheat sheet on how to cheat workers out of overtime pay legally. How about the workers making \$24,000, \$25,000, or \$26,000 a year? That is barely poverty wages. They are above the threshold. They will be exempt from overtime pay. Senator KERRY has stated that if he is inaugurated President in January, the next day he will rescind those onerous Bush administration rules. We will keep the base raise; we will raise

the base from \$8,000 to \$23,660. That is what my amendment did. But we will guarantee that every worker in America who is eligible for overtime pay this last year will be eligible next year and the year after and the year after.

If President Bush is reelected, up to 6 million Americans will lose their right to overtime pay. To me, this is a gut issue. This affects our working families. We want to protect our overtime rights in America, getting time and a half over 40 hours. Senator KERRY, the day after he is sworn in as President, will rescind those onerous rules and put us on the right track.

I want to close my comments on this legislative year today regarding a couple of other matters, including the insistence by this administration that we take money for disaster assistance out of USDA conservation programs. Now, I have here a statement of the President of the United States, George W. Bush, that he made when he signed the farm bill.

I was there. I was chairman of the Agriculture Committee at that time. He touted the new farm bill for what it did on conservation. He said:

This bill offers incentives for good conservation practices on working lands.

That is the Conservation Security Program. The President went on to say:

For farmers and ranchers, for people who make a living on the land, every day is Earth Day. There are no better stewards of the land than the people who rely on the productivity of the land. And we can work with our farmers and ranchers to help improve the environment.

That is what he said when he signed the bill. However, twice now—once a little over a year and a half ago—the President has tried to take some \$3 billion out of conservation funds. He succeeded in 2003, but then we put it back early this year.

Here we are again with the legislation that passed today. The President has once again taken just short of \$3 billion out of conservation after saying he is for conservation. He said this in the debate last Friday. In his debate with Senator KERRY, he talked about how he was for strong conservation. I about came out of my chair when I heard that because at the very time the President in St. Louis was making this statement in the debate about how much he supported conservation, his people were up here on the Hill trying to gut it, take money away from it. Amazing.

Let me talk a little bit about this program. We have always had different conservation programs in America. We helped farmers who built terraces or grass waterways, for example. We supported practices to try to conserve soil and water, but much of Federal efforts entailed taking land out of production.

For years, farmers and ranchers all over the country have said: It seems that the people who get the USDA money are mostly those who are the worst in protecting soil and water.

They plow up the turn rows, they go up and down the hills. They plant one crop right after the other. They do not rotate the crops, and they do not worry about soil erosion. Those were the ones who got the USDA funds. The good stewards stop runoff. They do not allow the streams to be polluted. But there is not much help for them, and these are most of our producers. These are the people who produce our food and fiber, the most abundant food anywhere in the world at the lowest cost, and the safest food.

Out of that came this idea that we ought to have an incentive program, as the President said in his statement, an incentive for good conservation practices on working lands.

We put that into the farm bill of 2002. It was called the Conservation Security Program. The idea was to begin to reward farmers for adopting and maintaining good practices. Unlike the commodity programs that give more money the bigger you are—the bigger the farmer, the more money he gets—unlike that, this program said: We do not care how big or small you are, it depends on what conservation you do. The more conservation work you do on your working lands—we are not taking land out of production; it is how you farm—then that is how you will get incentive payments.

The most any farmer, no matter how big you are, could ever get out of this is \$45,000 a year. So it does help family-size farms. It helps all kinds of farms—vegetable farms, orchard and fruit farms. It helps corn, soybean, cotton, rice farms, and anybody else who wants to practice good conservation on their working lands. That was the cornerstone of the conservation title in the 2002 farm bill. And that is what the President talked about. That is what he touted. That is what he said he supported as recently as last Friday night in the debate.

The farm bill had a major conservation initiative. The President and his administration keep talking about it, but the President's people are up here gutting the program. Soon, right after it became law, they moved to take \$3 billion out. They succeeded for a little while, but we put the money back. For 2005, the President in his budget is cutting nearly \$600 million in conservation programs. That cuts the Environmental Quality Incentives Program, called EQIP, the Wetlands Reserve Program, the Farmland Protection Program, the Grassland Reserve Program, the Wildlife Habitat Incentives Program, and the Watershed Rehabilitation Program, and, of course, the Conservation Security Program. All of those are cut in his budget, yet the President last Friday night said he was for strong conservation.

For EQIP alone, President Bush requested a cut of more than \$215 million. That does not include the additional \$75 million to \$100 million in cuts that will come from EQIP to pay for technical assistance, again a problem caused by this administration.

President Bush claims he supports efforts to restore wetlands, but each year he advocates cutting acreage for the Wetlands Reserve Program by 50,000 acres below the farm bill level. The Wetlands Reserve Program is the best tool we have to restore and protect wetlands, and the Bush administration is leading the way in keeping the enrollment down. Again, words are not matching what the President is doing.

In August of this year, President Bush announced in Minnesota—I was up there right about the time—he is going to direct the Secretary of Agriculture to offer early reenrollments and extension of existing contracts in the Conservation Reserve Program, those contracts that were set to expire in 2007 and 2008. Again, words do not match the deeds.

There is no automatic or guaranteed enrollment in CRP for producers whose contracts are expiring. On the contrary, all these producers got was the right to comment on how USDA should enroll the expiring acreage. There was no guarantee that any of the currently participating producers would get back into the CRP program; no guarantee that all these acres will be reenrolled; and certainly no reenrollment any time soon. So what was the President talking about in August in Minnesota?

In 2001 and 2002, we had a drought in many Western States. The Bush White House did not want to provide farmers and ranchers relief, as we have done in past emergency situations. They insisted if we are going to have disaster assistance, we have to get money out of the farm bill. What did they do? They went after the conservation funds to get the money to pay for it.

The Conservation Security Program is about our future. Here is what the Des Moines Register said in an editorial:

The CSP holds enormous promise to sustain the soil for agriculture, to clean up rivers and lakes, to boost rural development. People will want to live and visit a fresh, pure countryside where wildlife and recreation flourish. Moreover, the program could be the template for the farm programs of the future, superseding the crop subsidies which are almost certain to be outlawed some day under the rules of international trade. CSP could give farmers an income safety net based on how well they take care of the land instead of how much they produce. It is shortsighted to fail to invest enough in the conservation security program.

That is what the Des Moines Register said about it, and yet the administration keeps wanting to gut the program.

There is uniform opposition to this action taken by the administration from farm, conservation, and environmental groups. When can anyone ever remember the commodity groups, the environmental groups, and the wildlife conservation groups being in such agreement?

I have served on Agriculture Committees in the House and Senate for nearly 30 years, and I can never remember in my life all of these groups being so united in one cause. That tells

us something. It tells us that the administration's actions are just plain wrong.

The White House, through the OMB, insisted on taking money from the Conservation Security Program. Now we have heard a lot of talk that this program is spending more money than what was anticipated. Well, that is not really true. Here is what happened: In 2002, when we passed the farm bill, the CBO made an estimate as to how much CSP would cost over 10 years. They said it would cost \$2 billion. OK, fine. We passed the bill. The President signed it. About 6 months later, not one rule has been written, not one regulation promulgated, nothing has been done, and now OMB comes out and says, well, they reestimated CSP's cost at \$7 billion over 10 years.

Where did they get that figure? They just plucked it out of thin air. But then they said, well, now that we have \$7 billion there we can take \$3 billion out. Right away that tells us they are up to something funny, but that is what they did.

In so doing, they capped the program, changed the nature of the program, so it could not operate as intended by the farm bill. As I said, we reversed that, but just a few months later, just this month, they have come back and proposed it again. They reached in again, took nearly \$3 billion out of it, put a cap on the program.

Some are saying we need to put a cap on it; it might cost too much. Well, we do not know for certain what it is going to cost. But I think CBO is way out of line exaggerating the cost. That is from my own personal standpoint. We do not hear this call to limit other programs. What about food stamps? Food stamps is an uncapped entitlement program. If one qualifies income-wise, they are eligible for food stamps.

We know as unemployment goes up, wages go down, more people apply for food stamps. When employment is up, wages are up, the cost of food stamps comes down. Medicaid is another program. It has no cap on it. If one qualifies, they get it. In agriculture, the commodity program has no cap. My goodness, the corn, the soybean, the cotton, the rice, and wheat, there is no cap on those programs. It depends on what kind of year one has.

If prices are high, we spend less. If prices are low, we spend more. I thought it was pretty interesting also when the farm bill passed we had a milk income loss contracts program. It was estimated by CBO to cost \$1.7 billion for the life of the program. After the bill passed, CBO raised its cost estimate to \$4.2 billion.

Now it looks like it may cost less than that, but it has already cost some \$2 billion already, which is higher than the \$1.7 billion estimate. We have another year to go under this program, and it may well spend more money, my point being that these are uncapped programs so that they can operate as intended. The CSP program was un-

capped to operate as intended, that if one does certain things, if one meets certain requirements of conservation practices, they will qualify for tier 1, tier 2 or tier 3, anywhere from \$20,000 to \$45,000 a year for the life of the contract, which is 5 to 10 years.

By what the administration has done, by taking the money out and capping it, they have turned a national program into a selective conservation program for only a few people, and it has led to all kinds of distortions and problems. What the administration did this year is they said, OK, certain watersheds will be eligible to get in the Conservation Security Program and only a few farmers in those watersheds. So there could be a farmer in a watershed who is eligible for CSP, and 2 miles away there could be a farmer who is a better conservationist, who is doing better work on his farm in saving soil and water, but is not eligible.

The second abnormality is that even within a watershed, there could be farmers who are good conservationists, but they did not get accepted, they did not get in that little select group. And guess what.

They have to wait 8 years before they can apply again. What signal are we sending to farmers? Forget about it, that is the signal. Forget about help for conservation unless you are part of this little select group. Maybe you will be in it; most likely you will not. That is what they have done to this Conservation Security Program.

The President had the gall, last Friday, to say that he was strong for conservation. Well, I have just pointed out that they have been gutting conservation, and they continue to do so. To those who ask why they are opposed to the program because it is uncapped, I am sorry, that is what the Agriculture Committee voted. We hammered this out in long sessions and long negotiations between the House and the Senate, between Republicans and Democrats, between those from the South, the North, the West and the East. There is no surprise.

This is what we voted. It is not right for OMB and the administration, through the Appropriations Committee, of which I am a member, to come in and unilaterally change this program. That is not the purview of the Appropriations Committee. It is the purview of the Agriculture Committee. That is why I kept the Senate in this week and that is why I stood here on Friday and Saturday because I am fighting for farmers and for conservation. I am fighting for the right of our farmers to rely upon what we passed in the farm bill, not having the Appropriations Committee take it away. So we passed a resolution on Saturday. We passed a resolution—I am not going to read all the “whereases,” but here is the resolution.

One of the things I negotiated to let some bills go through was I said, let us have another vote on whether the Senate wants to take disaster money out

of conservation or whether they want to treat disaster money as an emergency like we ought to and have before.

This is the resolved clause of that resolution: Resolved that it is the sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available for all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farm bill.

Guess what. It passed the Senate 71 to 14. Seventy-one Senators said, you are right, it ought to be treated as an emergency. But the President of the United States says, no; no, we will treat some disaster losses as an emergency but not the drought that hit Iowa or the floods that hit North Dakota or the drought that hit Colorado. No, they are going to be treated different. What the administration said we are going to do is we will take money out of conservation, out of agriculture to pay for that.

The junior Senator from Pennsylvania was here on the floor the other day arguing heatedly that disaster assistance should be taken out of the farm bill. I pointed out that Pennsylvania is one of the States covered by hurricane assistance. The hurricane money is not taken out of the farmers' pockets. Why should their disaster be different than the ones out west?

I heard one Senator say: They have had a drought for 4 or 5 years, and we cannot be putting emergency money into those States where they have a drought year after year.

Wait a minute. It seems to me that Florida gets hit by a hurricane every couple of years. That is hurricane alley. We don't get hit by hurricanes in Iowa, but Florida does. Maybe we should not have hurricane assistance because Florida gets hit year after year by hurricanes? What kind of nonsense is that?

Again, we passed that resolution on emergency funding 71 to 14.

Also, an agreement was struck between the leadership, the Republican leadership and the Democratic leadership, on another resolution that passed today. Since it passed by unanimous consent—that means no one objected—I want to read it because it was not read today. Here is a resolution:

To instruct conferees to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or on a Consolidated Appropriations Measure that includes the substance of that act.

Resolved that, for the purpose of restoring the provisions governing the Conservation Security Program to those enacted in the Farm Security and Rural Investment Act—

That is the farm bill of 2002—

and restoring the practice of treating agricultural disaster assistance as emergency spending, the Senate instructs conferees to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or a Consolidated Appropriations Measure that includes the substance of that act, to insist that the

conference report contain legislative language striking subsections (e) and (f) of section 101 of division B of H.R. 4837. . . .

Mr. President, I ask unanimous consent a copy of these resolutions be printed in the RECORD.

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

S. RES. 454

Whereas, agriculture has been the cornerstone of every civilization throughout history and remains the driving force behind the nation's economy;

Whereas, American farmers and ranchers help keep food affordable in this country and also help to feed the world;

Whereas, America's farmers and ranchers produce the food and fiber that is so vital to our economy while protecting our soil, helping to keep our waters clean, and reducing air pollution across the country;

Whereas, all sectors of our country rely in some way on a successful, strong and vibrant agriculture industry;

Whereas, it is the nature of agriculture that farmers and ranchers will suffer production losses because of the vagaries of weather;

Whereas, Congress has responded to natural disasters by providing assistance to those affected including the nation's farmers and ranchers to help restore financial stability in times of such losses; and

Whereas, Congress has traditionally provided such assistance on an emergency basis without cutting programs to the class of those suffering.

Resolved, That it is the Sense of the Senate that the 108th Congress should provide the necessary funds to make disaster assistance available or all customarily eligible agricultural producers as emergency spending and not funded by cuts to the farm bill.

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Resolved, That for the purpose of restoring the provisions governing the Conservation Security Program to those enacted in the Farm Security and Rural Investment Act and restoring the practice of treating agricultural disaster assistance as emergency spending, the Senate instructs conferees to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2005, or a Consolidated Appropriations Measure that includes the substance of that act, to insist that the conference report contain legislative language striking subsections (e) and (f) of section 101 of division B of H.R. 4837, An Act Making Appropriations for Military Construction, Family Housing, and Base Realignment and Closure for the Department of Defense for the Fiscal Year ending September 30, 2005 and for Other Purposes.

Mr. HARKIN. What does all that language mean? It means that the Senate went on record today to instruct conferees, those of us on the Appropriations Committee, to undo what the administration did, to restore what was in the farm bill for conservation, and to not take the money out of conservation for disasters but to treat agricultural disaster assistance as emergency spending, as it should be.

So 71 Senators voted that way on the earlier resolution to treat it as emergency spending. Now we have an instruction to conferees. Can we get any plainer than that?

We will see. We come back in November. We have to come back in a lame-

duck session because we have a continuing resolution to keep the Government running until November 20. So sometime before November 20 we in the Appropriations Committee and the Congress, we have to come back, are going to meet to either pass what is called an Omnibus appropriations bill or something of that nature, and we have instructions from the Senate to undo what the administration called for to cut conservation. We will see. We will see if Senators on that side of the aisle have the courage to stand up to this administration and to follow the will of the Senate and tell the President, no, you are not taking the money out of conservation. We will see. We have the instructions. We have 71 Senators who voted that way.

I will say about the future consequences to agriculture if this cut to the farm bill stands, this will set a precedent that will be used time and time again. Today it is conservation. Next time what will it be? How about the commodity programs? Those are uncapped entitlement programs. They go to rice and cotton and corn and soybean and wheat farmers. Someone will point out payments that go out to farmers and they will say: Wait a minute, we ought to cap that. If we cap it, we will have a lot of money to do other things. That is next. Or payment limitations. That has been fair game out here on the floor before.

My message to the farm groups in America is this is just the first step in reopening the farm bill. Reopen it here, and look out, it is fair game.

Shame on those in this administration who just 2 years ago loudly touted the farm bill. We signed off on it. We hammered out our agreements. Now they want to reopen it and take money out for disaster assistance. Look out. They will be coming after it again because there is money there. Commodity programs are uncapped entitlement programs. They are going to want to take that money for other things because people will look at this. There is a lot of staff around here. There are a lot of people looking at, where can I get money for this program and where can I get money for that? Those of us who represent farmers, are in the minority around here, aren't we?

There are a lot of good programs out there that maybe need money. Some of them I would even support myself. People are going to want to get money for them. Guess what. They are going to come after the farm bill because Congress and the White House now opened it. It is opened up wide. That barn door is open, and they are going to come after it. Mark my words. What are we going to say? We didn't protest enough? We didn't take strong stands against this administration when it refused to protect conservation, to protect our farmers? We will see when we come back. We will see when we come back in November whether we have the courage to override the administration.

THE ECONOMY

Mr. President, I will take a few minutes to talk about the economy and what is happening to American families. There is one question I never hear the President of the United States ask of anyone. I never hear it when I see him in all of the rallies. I never hear him asking one question: Are you better off today than you were 4 years ago? You never hear that question. Are you, your families, or is the country, better off than they were 4 years ago?

I want to talk briefly about why the answer to that is obvious. We are not better off, either personally, our families, or the country as a whole. If there is one word that describes the Bush economic policy, it is "reckless." If there is one word to describe the President's foreign policy in Iraq, it is "reckless."

This President has recklessly pursued tax cuts for the most affluent in our society above other priorities. He has recklessly squandered the surpluses he inherited from President Clinton. He has recklessly supported outsourcing of our jobs. The President has recklessly ignored 45 million Americans without health insurance, and he has recklessly set us on a course to run up nearly \$5 trillion in new debt over the next 10 years.

Last month, the Congressional Budget Office announced that this year's budget deficit will hit around \$422 billion, a new record. What was the President's response? Let's cut some more taxes and run the deficit up even more. When it comes to fiscal policy, President Bush is simply out of control. He is driving this country the way he would be driving recklessly down a road.

For him, these tax cuts are practically theology, not ideology. Unfortunately, we don't have a prayer getting our economic house in order under his leadership.

Last year, the President's Council of Economic Advisers said that with the 2003 tax bill, the economy would create 306,000 jobs every month. In the past 4 months we have created jobs at a third of that rate.

We have suffered a net job loss of nearly a million since Mr. Bush took office, the only President since Herbert Hoover during his 4 years who has not created one net new job.

The unemployment rate, they will say, went down in September. Why? Not because people were getting jobs. According to the Bureau of Labor Statistics, the labor force shrunk by 152,000. Why? People gave up on looking for work. Therefore, conveniently they are no longer counted as unemployed.

Recent data released last month by the Census Bureau shows that since this President took office, real household income has fallen by \$1,535. That compares to a gain of \$5,498 during the Clinton years. Families were better off after Bill Clinton was President; with this President, a \$1,535 loss in household income.

How about what consumers are paying for gasoline now. I filled up my car yesterday. It was \$1.99 a gallon for regular. Today oil hit a new high—53-something dollars a barrel. I understand it may go as high as \$60 a barrel. Gasoline prices are going up. Families have to drive their cars to work. Rural Americans have to drive a long way. Farmers have to fill up their combines and tractors with diesel.

The farm prices have come down, corn prices are down, bean prices are down, wheat prices are down. Guess what. Their fuel prices are up. Our farmers are hurting.

The number of Americans living in poverty has risen by nearly 4.3 million people. That is the number of people newly living in poverty under this President. During the Clinton years, we reduced those who lived in poverty by 6 million. You were better off after 4 and 8 years of Bill Clinton.

Over the last 4 years, the cost that employers paid for health insurance has climbed an extraordinary 59 percent. We wonder why so many of our small businesses are no longer covering their employees' health insurance. They simply can't afford to.

But this administration demanded a provision in the new Medicare law that expressly forbids the Government from negotiating lower drug prices, even though virtually every other developed nation negotiates lower drug costs with the pharmaceutical companies. But we have one agency of our Government that is allowed to do so, and that is the Veterans Administration. Guess what. The veterans get the cheapest drugs in America. God bless them. I am all for them. But why don't we let Medicare do the same thing as VA is doing? This administration says no. They wouldn't let them do that. This administration won't do it because they are joined at the hip, like Siamese twins, with the big pharmaceutical companies.

As I mentioned earlier, they have turned the clock back more than 60 years in taking away overtime pay rights of 6 million American workers. The President keeps saying we turned the corner. Maybe we have turned the corner and we are headed back to the 1930s. We are going back to the 1930s.

Remember the Depression? There had been all of these tax breaks for upper income people. We got into the Depression. People were working 50, 60 hours a week to try to make ends meet, if they could even get a job. So we put in a 40-hour workweek. We raised salaries and wages of people.

This administration has turned the corner. Mr. Bush says we have turned the corner but in fact it is back to yesterday, back to the 1930s.

When Mr. Bush took office we had the largest budget surplus in American history. Think of that. The largest budget surplus in American history.

According to all estimates, we were working toward a cumulative surplus of \$5 trillion in this decade. Think

about what a strong position that would have put our country in as the baby boomers began to retire. In less than 4 years, all of that has been turned upside down. This year we are running the largest budget deficit in American history; as I said, \$422 billion.

What about this decade? We were going to have a \$5 trillion surplus. But we are now looking at a cumulative deficit of \$5 trillion. We went from a \$5 trillion surplus to a \$5 trillion deficit.

I am sorry. This President simply can't handle money. I don't think he could handle money when he was in the private sector either. But it is obvious this President can't handle our money either.

The Congressional Budget Office projects that by 2009 we will be paying roughly \$1,000 for every man, woman, and child just in interest on the public debt. That is \$4,000 for a family of four.

President Bush says he has cut your taxes. That is wrong. We are paying more in property taxes, sales taxes, and everything else.

But think about this: By 2009, every family of four will be paying about \$4,000 a year in taxes to pay the interest on the national debt. Guess what. You can't cut that tax. We have to pay the interest on the debt.

As soon as a baby is born in the year 2009, that baby owes that year's interest on the national debt. I don't know how that 1-year-old baby or her family is going to earn enough.

Some keep talking about a death tax around here, an estate tax as a death tax. How about the birth tax? That is going to hit in 2009. For every child born in America, \$1,000 that first year they will have to pay to cover interest on debt. Why? Because we took their money and we gave the tax breaks to the wealthiest in our society today. That is wrong. That is just simply wrong.

One last thing: As I said, those bonds must be paid, and that interest must be paid. Who is buying the bonds? Who will be paying interest? More and more foreign governments and their central banks.

Since Mr. Bush took office, Japan and China have more than doubled the U.S. debt that they own. Our Government now owes just those two countries \$854 billion. Pretty soon it will hit \$1 trillion.

We have all learned who pays the piper. It is called the consumer.

Just ask yourself. Would you rather be a creditor or a debtor? Which position would you like to be in, creditor or debtor? Think about our country being in debt to China and Japan to the tune of \$1 trillion. What happens if we want to negotiate a little trade deal that is better and more fair? Who is holding all the cards then? They are the creditors and we are the debtors.

These are the realities that we have today: Massive tax cuts, rapid increases in Federal spending, record budget deficits, record trade deficits,

skyrocketing public debt. But the credit card bill will come due. You can't repeal the laws of economics. Eventually, massive Government borrowing will squeeze out private investment and force interest rates up.

Eventually, massive indebtedness to foreign nations will cause the dollar to fall even more dramatically than it has so far on Mr. Bush's watch. Instead of making the needed adjustments to meet our responsibilities to retiring baby boomers and our children, this administration undercuts those responsibilities.

The President just does not get it. He continues on his reckless way, reckless and stubborn, cutting funding for veterans and public education and other domestic needs but he wants to send some people to Mars.

Priorities, priorities, reckless priorities. Reckless in economics and stubborn in continuing to do the same thing over and over again and expecting a different result.

The President seems to say as long as we keep cutting more and more taxes for the wealthy, as long as we continue on this reckless course in Iraq, as long as we continue this reckless deficit spending, well, then it will all work out. It will be different sometime down the road.

I am sorry, it is going to dig us deeper and deeper in the hole. Someone once described insanity as doing the same thing over and over and over again and expecting a different result. But we cannot keep doing the same thing over and over again and expect a different result. We know what the result will be.

Public opinion polls show the majority of Americans believe the country is headed in the wrong direction. They are right. We are headed in the wrong direction economically. We are headed in the wrong direction for our kids and our grandkids. It is time to end this reckless course that we are on, to get back to a sound fiscal and economic policy in this country. This President will not do it. He is just stubborn. He is going to continue his war policy. He is going to continue his policy in Iraq, and he is going to continue his domestic economic policy because he believes it is right. He may believe it is right, but the majority of Americans do not think so.

That is why we need to chart a new course for America. That is why, under a President JOHN KERRY we will turn this country around. We will turn around the mess in Iraq. We will save young American lives. We will set right our economic policies. We will invest in education and the health care of our people. We will do it in a sound manner and 4 years from now we will stand here and say truthfully: You are better off today than you were 4 years ago because JOHN KERRY has been President of the United States.

UNFINISHED BUSINESS OF THE 108TH CONGRESS

Mr. DASCHLE. Mr. President, as we set to adjourn, I think back to what I said earlier this year about the need to set aside bitter partisanship and move towards a new politics of common ground.

During campaigns, candidates and parties should be clear about where we stand on the issues and how we differ with our opponents so that voters can make a choice. That is an essential part of democracy. But we also have a responsibility to work together constructively, where we can, to find common ground.

It is not simple, but it is the essential ingredient to making Congress work for the American people.

By this measure, the record of the 108th Congress is mixed.

At times, we have been able to work across party lines and, as a result, we have been able to make meaningful progress on some of the issues and challenges that matter most to Americans.

There is no better example than the National Intelligence Reform Act. Senators from both parties worked together with the members of the 9/11 Commission and the families of the victims of 9/11 to pass real intelligence reform that will make our Government better able to deal with the new threats we face, and make Americans safer in the process.

This legislation passed 96-2. It demonstrated how much common cause we can find—and how much we can do—when we put the needs of Americans first.

There have been other examples through the course of the 108th Congress.

We passed commonsense tax relief for middle-class families, ending the marriage penalty and extending the child tax credits. Under this new law, the 70,000 families in South Dakota will benefit from a \$1,000 per child tax credit.

We passed legislation protecting the pensions of 35 million Americans.

Notwithstanding the majority's claims, the Senate confirmed 201 of the President's 211 judicial nominations—95 percent—and the judicial vacancy rate now stands at an historic low.

I am particularly pleased that Senator JOHNSON and I have been able to work with our colleagues to advance measures deeply important to the citizens of South Dakota.

We honored the service of our National Guard members and Reservists by extending their access to the military's TRICARE health care system.

We approved key incentives for the ethanol industry that will mean thousands of jobs for South Dakota and millions of dollars in revenue for South Dakota farmers.

And we have offered significant help to farmers and ranchers struggling to deal with the effects of the 5-year drought.

Each of these accomplishments was the product of bipartisan leadership. They testify to the fact that the Senate can make progress for the American people when we put aside partisanship and focus on the real challenges facing Americans.

We all agree, however, that those moments were far too rare.

On a number of occasions, the Republican leadership pursued an all-or-nothing strategy that can be poisonous to the legislative process.

One of the most regrettable instances was the Transportation bill. In February, we passed legislation to modernize our transportation infrastructure and create 2 million jobs by an overwhelming, bipartisan margin. But despite that, the White House and House blocked the Senate bill from becoming law.

The same process was at work with the Energy bill. The Senate passed a bipartisan bill that had few controversial provisions. But once the Republican leadership insisted on attaching poison pill provisions, this bill became impossible to pass.

The same all-or-nothing approach kept us from passing a bipartisan gun liability bill.

It doomed a bipartisan effort to bring down the cost of prescription drugs for America's seniors by enabling them to shop for better prices across the border.

It prevented us from raising the minimum wage at a time when millions of Americans work full time yet still live and raise their families in poverty.

And it kept the Senate from passing a mental health parity bill that has 77 cosponsors in the Senate and 249 in the House.

There is a long list of bipartisan legislation that has been left undone. That list exists solely because the leadership put the needs of American families behind those of insurance companies, drug companies, HMOs, and other special interests. Rather than listening to the voices of the American people, they have worked to advance rigid ideological theories.

Nowhere has that dogmatic stance been more damaging than to the budget and appropriations process.

The minimum requirement of any Congress, our most basic responsibility, is to pass the appropriations bills that enable our Government to continue working for the American people.

At the beginning of the 108th Congress in 2003, we were told that the White House and Republican leadership would ensure the budget and appropriations process ran more smoothly than ever before.

But each of the last 2 years, the process has broken down. Last year, the Republican leadership was forced to resort to an omnibus spending bill that combined seven different appropriations bills.

This year, we might return after the November elections to vote on a massive omnibus spending bill that sews