forget we are a nation at war and are asking a great deal of the men and women in our Armed Forces as well as their families. Democrats want to ensure that all of our Nation's reservists have access to quality health care. Democrats will try to make certain that no veteran has to choose between his disability pay and his retirement pay. We will seek to provide additional resources to end the lengthy waits at VA hospitals that are a fact of life for too many of our veterans today.

It is also our hope that this session will allow us the opportunity early on to address a good energy bill. I have said on several occasions, should the MTBE liability immunity provisions be stricken from the provisions in the energy bill, there would be sufficient votes to pass it on the Senate floor. The decision is up to the majority.

It is also our goal this year to pass the Mental Health Parity Act, welfare reform reauthorization, and the legislation to outlaw hate crimes.

As I said, we hope we can do this and much more on a bipartisan basis.

It is with sadness that I note the way the last session ended. The majority didn't seek consensus or cooperation of the Democratic caucus on either the Medicare bill or the energy legislation. It was a process designed to find agreement among those who already agreed not to bridge the differences or broaden support. It was marked by procedural abuses.

Many Americans are still dismayed that the House kept the Medicare vote open for 3 hours while one Member actually admitted he was offered a bribe from another Member on the House floor to support the bill. That isn't how the American people expect us to do their work. We can do better. This year we must.

While I am on matters that cause Democrats very grave concern, I am compelled to note the onerous recess appointment of Judge Charles Pickering. The President could not have started off this session of Congress in a worse way. The Senate has repeatedly rejected this nomination. The timing, during the Martin Luther King, Jr., weekend, also could not have been worse. It was a deplorable decision and one that is deeply regrettable on several levels.

As we begin this session, our first order of business will be the consideration of the Omnibus appropriations bill. The Omnibus appropriations bill was once a good bill. In the Senate we were able to work out compromises. We accomplished many things and the process worked. But the administration intervened at the eleventh hour and demanded changes, laid down an ultimatum, and even forced the conference to take positions in direct conflict with earlier positions taken on rollcall votes in both the House and the Senate.

Its insistence on provisions affecting the mad cow decision, overtime regulations, and media concentration made the bill unsupportable to many Senators. We should take the time to fix the bill's problems because they affect millions of American families. We owe it to them to take the time to do it right.

I take a moment for some additional comments on matters unrelated to our legislative agenda. First, I know I speak for all Senators in expressing praise for our troops in Iraq for their inspiring demonstration of bravery and patriotism. Nearly 500 soldiers have died and 3,000 have been wounded since the war began. Our country owes them our debt of gratitude. I am particularly mindful of the sacrifices made by thousands of South Dakotans, including 800 who departed for Iraq during the recent holiday season.

Recently, I attended a funeral for Chris Soelzer, a young man from Sturgis who lost his life in Iraq on Christmas Eve. He was a remarkable role model, a leader, and soldier. The agony felt by his family, friends, and his community is another poignant reminder of the horrific sacrifice that war demands.

We honor those who are there and express our heartfelt gratitude for the job they continue to do under the most difficult of circumstances. While we praise them for finding Saddam Hussein and for continuing the effort to ensure democracy for the 23 million people of Iraq, we remain concerned that our troops face violent attacks daily and our troops and our taxpayers are bearing a disproportionate share of the burden.

Second, I note the decision made by our colleague, Senator JOHN BREAUX, to retire at the end of this session. I have had the good fortune to work with Senator BREAUX now for 25 years, 17 in the Senate. I am proud to call him a close friend.

He will leave the Senate with many accomplishments, many admirers, and many good friends. He has earned our respect and affection by his manner, his work, and his never-ending desire to seek consensus and bipartisan achievement. For that reason, he will also leave a hole in this institution, one that will be very hard to fill. We thank JOHN BREAUX for his service to his country, his remarkable leadership, and his friendship. I wish Lois and JOHN well in the months and years ahead.

In the spirit of JOHN BREAUX, let me close by reiterating our desire to work in a constructive, bipartisan way for legislation that will truly create an ''opportunity society'' for all Americans. I look forward to the coming months and the challenges that we will confront as they unfold.

I yield the floor.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A conference report to accompany H.R. 2673 to make appropriations for agriculture, rural development, Food and Drug Administration, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

RECESS

Mr. REID. Mr. President, with the two leaders having spoken, I ask unanimous consent we recess now for our luncheons.

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

Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:24 p.m., recessed until 2:16 p.m and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. Under the previous order, the time between 2:15 p.m. and 2:50 p.m. shall be equally divided for debate only.

Who yields time?

The Senator from Alaska.

Mr. STEVENS. Mr. President, the time is equally divided between now and 2:50; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, if the Senator would yield, why 2:50? I have missed something. That is fine. That means we have about 15 minutes.

Mr. STEVENS. Seventeen minutes apiece.

Mr. REID. On this side, if it is OK, I will yield 5 minutes to Senator KENNEDY, 5 minutes to Senator JACK REED, and 5 minutes to Senator JOHNSON.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I apologize for my voice. I hope I can keep it long enough to make this statement.

Republicans and Democrats worked together to adopt this omnibus conference report that is before the Senate today. It contains seven appropriations bills. It was my hope that the Senate would pass this bill last December, and it was a great disappointment to me that we did not pass it then.

Now, however, we still have the opportunity to send this report to the President, and I do urge all Senators to vote for cloture now.

The Senate should pass 13 separate appropriations bills each session. Senator BYRD also favors that approach. An omnibus bill is an option of last resort. Unfortunately, once again this fiscal year, this was our only way to do our duty to provide funding for essential services of our national Government.

Throughout his life, Ben Franklin reminded his colleagues that compromise was an essential part of government. He said:

Both sides must part with some of their demands.

That spirit is important when we must join the work product of several Appropriations subcommittees in an omnibus bill like the one before us now.

Are there provisions in this bill to which either the majority or the minority object? Yes. Does the White House endorse each of the provisions in this bill? Absolutely not. Are there parts of this bill I would rather not support at this time? Yes.

But the conference has concluded. The conference no longer exists, and a majority of the members on the conference agreed to this compromise that is before the Senate now.

The report before the Senate funds critical programs and services. Countless Americans have already been affected adversely because it has been delayed so far.

Already the Department of Housing and Urban Development has had to suspend all activities related to the FHA General Insurance and Special Risk Insurance Funds. Since January 14, HUD has been unable to fund programs related to the construction and rehabilitation of multifamily apartment projects, health care facilities, Hawaiian homelands mortgages under section 247, and home equity conversion loans that benefit elderly homeowners.

Our failure to pass this bill prevented key Government programs and agencies from fully responding to our Nation's crises and challenges. The recent bovine spongiform encephalopathy, BSE—mad cow—diagnosis will require a significant increase in animal health surveillance and food safety inspections. This bill contains $29.5 million over the fiscal year 2003 budget for the Animal and Plant Health Inspection Service and an additional $36.6 million for the safety inspection service.

That funding will go a long way in helping these agencies respond to this recent crisis.

The impact of this delay has been felt throughout the country in a wide range of programs and services. This report includes a $38 million funding increase for the Health and Human Service Department's domestic AIDS drug assistance program and $2.4 billion to combat AIDS, tuberculosis, and malaria around the world. That money is needed right now to purchase medications for people suffering with AIDS, but instead, because this report is stalled here on the Senate floor, many human beings continue to go without our humanitarian aid.

Our veterans have also suffered from the delay because new funding, not previously available, has been withheld. Because we are operating under a continuing resolution the VA was forced to curtail the hiring of new physicians and nurses. It has been unable to open 48 high priority community-based outpatient clinics. As pharmacy costs continued to rise, the VA was forced to strip funds from other priority areas because it could not meet the increasing demand for prescription drugs without new funds.

Several important new education programs do not have the funds needed. This bill includes $1.26 billion in new funding for State programs to help children with learning disabilities and physical and mental challenges, $57 million in new funds for reading programs, $50 million for our Nation's colleges, and $148 million in additional funds to expand and improve Head Start programs. Those funds did not reach our Nation's children because this conference report was delayed.

There are many more programs that remain underfunded while operating under the continuing resolution. The continuing resolution provides funds we believed in fiscal year 2002 were sufficient for fiscal year 2003, but that does not mean they are sufficient for this year—fiscal year 2004. Many Americans will continue to be denied benefits needed in 2004 if we do not support this omnibus bill. I ask the Senate to come together to demonstrate we will respond to these needs now by voting for cloture and in favor of this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask to be notified when 4½ minutes are up. I am entitled to 5 minutes.

This bill shows the widening gulf between this administration's words and its deeds.

No doubt tonight, the President will talk about healthy families. But this bill weakens our clean air laws. And it postpones steps we need right now to protect our food supply from mad cow disease.

The President will talk about education. But this bill fails the test when it comes to funding for schools. And it diverts scarce public education dollars to private schools.

The President will talk about the safety of our communities. But this bill weakens our gun laws.

The President will talk about fairness. But there is nothing fair about giving away good jobs of dedicated government workers to the cheapest bidder that may even send those jobs abroad.

So it is a Dr. Jekyll, Mr. Hyde Presidency, where what you see is not what you get.

But the greatest outrage in this bill is that it denies the right to overtime pay to 8 million hard-working Americans.

We may be fighting a war in Iraq, but this President and this administration are also waging a war on workers here at home.

Majorities in both the Senate and the House agreed that the Bush administration was wrong to deny overtime protections to workers. By a vote in the U.S. Senate of 54 to 45 and the U.S. House of Representatives of 221 to 203, we said to the President, ''You are wrong.''

But here it is, in this bill.

I know who I am fighting for.

I am fighting for the nurse who burns the midnight oil day in and day out caring for our sick and elderly with no extra pay.

I am fighting for the firefighter and first responder, the heroes of homeland security, standing watch and working nights and weekends to protect our liberty. They are our generations Paul Reveres—prepared to act when called to arms. They deserve fair compensation.

I am fighting for our veterans and our men and women serving so bravely now in Iraq and across the world, who return to civilian life only to find that the training they earned in the military is cruelly used to deny them their right to overtime pay.

Under current regulations, workers can be denied overtime protection if they fall within the category of what they call professional employees, workers with a 4-year degree in a professional field. It is changed this year under the Bush administration. The plan would do away with the standard and allow equivalent training in the Armed Forces. You go and serve in Iraq and get the training to serve in Iraq, and come back here and you are ineligible, under these regulations, for overtime pay.

I ask unanimous consent that the relevant statute be printed in the RECORD.

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

SUBPART D, PROFESSIONAL EMPLOYEES, §§541.300–.304

The current regulations pertaining to the professional exemption contain four separate categories of exempt employees: learned professionals, artistic professionals, teachers, and computer professionals. As with the executive and administrative exemptions, the regulations contain both ''short'' and ''long'' duties tests, depending upon the salary level of the employee. The long test contains a separate primary duty requirement for each of the four categories of employees. The long test for learned professionals requires that the primary duty consist of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes. For creative professionals, the primary duty must consist of

work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee. For teachers, the primary duty must consist of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge by an employee who is employed and engaged in this activity as a teacher in the school system or educational establishment or institution by which the person is employed. The duties tests for computer employees are discussed in subpart E. The long test also requires that an exempt employee: Perform work requiring the consistent exercise of discretion and judgment; do work that is predominantly intellectual and varied in character, such that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and devote no more than 20 percent of work hours in a week to activities that are not an essential part of and necessarily incident to exempt work. The short test in the current regulations for both learned professionals and teachers contains the specific primary duty requirement discussed above, and requires that the employee perform work requiring the consistent exercise of discretion and judgment. For artistic professionals, the work must require invention, imagination or talent in a recognized field of artistic endeavor.

The proposed regulations pertaining to the professional employee exemption would make changes similar to those we propose for the executive and administrative exemptions. The goal is to clarify and simplify the regulations defining the professional employee exemption, while remaining consistent with the purposes of the FLSA. For ease of reference, and making no substantive changes, we propose to move the provisions pertaining to computer professionals to new subpart E, which will contain all information pertinent to such employees. We also propose to simplify the regulations by eliminating the separate short and long tests for each of the remaining three categories and substituting a single standard duties test for each. This restructuring and simplification would eliminate the percentage limitation on nonexempt work and the consistent exercise of discretion and judgment requirement. As discussed above in connection with similar proposed changes to the executive and administrative exemptions, we are proposing to eliminate these subsections because they have proven difficult standards to apply uniformly.

For learned professionals, the proposed new standard test in §541.301 would provide that employees qualify for exemption as a learned professional if they have a primary duty of performing office or non-manual work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction, but which also may be acquired by an equivalent combination of intellectual instruction and work experience. This proposed standard test for learned professionals would focus on the knowledge of the employee and how that knowledge is used in everyday work, not on the educational path followed to obtain that knowledge. Although some flexibility to focus on the worker's knowledge exists in the current regulation, it is very limited and rarely used. The clarified test reflects changes in the 21st century workplace in how some ''knowledge workers'' acquire specialized learning and skills: in the modern workplace, some employees acquire advanced knowledge through a combination of formal college-level education, training and work experience, even where other employees in that field customarily acquire advanced knowledge by obtaining a baccalaureate or advanced degree. The proposed changes would clarify that, so long as such an employee's level of advanced knowledge is equivalent to the knowledge possessed by an employee with the typical academic degree generally required by the profession, the employee may qualify as an exempt professional. Thus, for example, an employee who obtained advanced knowledge by completing college courses in a field such as engineering, and who worked in that field for a number of years, could qualify for exemption if the knowledge acquired was equivalent to that of an employee with a baccalaureate degree in engineering. We have not proposed any specific formula in the regulations for determining the equivalencies of intellectual instruction and qualifying work experience, although some examples from the current rule have been included and expanded. Public comments are invited on whether the regulations should specify such equivalencies.

The view that several years of specialized training plus intensive on-the-job training for a number of additional years may be equated with a college degree in certain fields has found support in reported judicial decisions. For example, the professional exemption has been applied to employees with a combination of training and academics in *Leslie* v. *Ingalls Shipbuilding, Inc.*, 899 F. Supp. 1578 (D. Miss. 1995). In Leslie, the court concluded that an employee who had completed three years of engineering study at a university and had many years of experience in the field of engineering was properly classified as a professional employee, even though the employee did not satisfy one of the usual minimum qualifications for an engineering position of having a bachelor's degree in an engineering discipline. The court considered the employee's combination of education and experience as satisfying the requirement for a prolonged course of specialized intellectual instruction and study.

For creative professionals, we propose to adopt the current short test, slightly modified, as the new standard test in proposed §541.302. This new standard test would apply the creative professional exemption to any employee with the primary duty of ''performing work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.'' This language, although simplified, is not intended to make any material changes from the existing regulations. This standard was applied in the case of *Freeman* v. *National Broadcasting Company, Inc.*, 80 F.3d 78 (2nd Cir. 1996), in which employees who researched facts, developed story elements, interviewed subjects, wrote scripts, and supervised the editing of videotape were deemed to have been correctly classified as artistic professional employees. On the other hand, employees of small news organizations who spent their time gathering facts about routine community events such as municipal, school board, and city council meetings, and gathering information from the police blotter and real estate transaction reports, and then reporting those facts in a standard format were deemed not to be artistic professional employees in *Reich* v. *Newspapers of New England*, 44 F.3d 1060 (1st Cir. 1995) and *Reich* v. *Gateway Press, Inc.*, 13 F.3d 685 (3d Cir. 1994).

The standard test for teachers in proposed section 541.303 would be unchanged from the current short test, with the exception of the deletion of the requirement that the employee's work require the consistent exercise of discretion and judgment, a requirement that, as discussed above, has engendered significant confusion. Provisions on teachers from current §§541.3, 541.301(g), and 541.314 have been consolidated into proposed new §541.303. The minor editorial changes are not intended to cause any substantive changes.

In addition, the proposed regulations utilize objective, plain language that can be easily understood by employees, small business owners and human resource professionals, and eliminate outdated and uninformative examples. The proposed regulations also would address a number of specific occupations that have been the subject of ambiguity and litigation. For example, we propose to update and clarify the circumstances under which employees working as newspaper journalists or as radio or television commentators are exempt, because the case law regarding such employees has been evolving over the years, and the existing regulations discussing such employees are outdated.

Provisions of the current regulations in §§541.3 and 541.314 that provide an exception to the salary or fee requirements for physicians and lawyers have been consolidated and moved to proposed §541.304. Current §541.307 entitled ''Essential part of and necessarily incident to'' has been combined with current §541.108 (''Work directly and closely related''), 541.202 (''Categories of work''), and §541.208 (''Directly and closely related''), and moved to proposed new §541.702 (''Directly and closely related''), for a streamlined discussion of the principles for distinguishing exempt and nonexempt work. Although these sections have been consolidated and simplified, we do not intend any substantive changes.

Finally, we propose to move sections that pertain to salary issues (§§541.311, 541.312 and 541.313) to subpart G, where all such issues will be consolidated. Other sections relevant to several or all of the exemption categories (such as the definition of primary duty, a section regarding application of the exemption to trainees, and a section discussing nonexempt work generally) would move to the proposed subpart H (Definitions and Miscellaneous Provisions) to eliminate unnecessary repetition. Current §541.305 entitled ''Discretion and judgment'' and current §541.309 entitled ''20-percent nonexempt work limitation'' have been deleted from the proposed regulations for the same reasons similar changes are being proposed in the executive and administrative exemptions as discussed above.

Mr. KENNEDY. The Senate should reject this bill and demand that the right to overtime pay be restored; we should demand that our schools be properly funded and that private school vouchers be rejected; we should demand that illegal guns be removed from our streets; and we should demand a food supply safe from mad cow disease.

Finally, Americans work more than workers in any other industrial society in the world. This chart shows that. We are working about 500 hours more than any other society in the world. American workers are working harder, and now this administration is trying to deny them at least the fairness of being compensated for it.

This chart shows what happens if you have overtime protection or if you don't have overtime protection. For all the overtime that is used in this country today, only 19 percent of it is applicable to those who get paid for the overtime while 44 percent for those

who don't get the overtime. That is 3 to 1 with regard to individuals who work 50 hours a week. We know what this is all about because the administration has given a guide to employers about how they can avoid paying overtime. I ask that those regulations be printed in the RECORD.

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

METHODOLOGY FOR ESTIMATING COSTS

The principal database used in the PRIA is the 2001 Current Population Survey (CPS). A complete description of the methodology used for determining the employees who are potentially exempt and nonexempt from the overtime requirements of the current and proposed rule is contained in the PRIA available by contacting the Wage and Hour Division at the address and telephone number provided above.

The economic impact of the proposed rule includes two components: One-time implementation costs; and recurring incremental payroll costs incurred by employers for those employees presently treated as exempt from overtime under the current rule, who become nonexempt.

The implementation costs contain two parts. The first part includes the amount of time employers would take to: (1) Read and understand the proposed rule; (2) update and formulate their overtime policies; (3) notify employees of any changes; and (4) all other time taken to implement the proposed rule. The second part of the implementation costs is the amount of time employers would take to review their job categories to determine (1) whether or not a particular job category is exempt or nonexempt under the proposed rule, and (2) how to adjust to the new salary levels and duties tests. To estimate the implementation costs of the proposed rule, the department contacted six human resource specialists from around the country to obtain information on the amount of time small and large businesses would take for each of these activities. High and low estimates of the implementation costs were estimated by varying the amount of time taken to review job categories and other time taken to implement the proposed rule.

The second component of the economic impact of the proposed rule is the recurring incremental payroll costs incurred by employers for those employees presently treated as exempt from overtime under the current rule, who become nonexempt as a result of raising the salary levels and revising the duties tests.

Affected employers would have four choices concerning potential payroll costs: (1) Adhering to a 40-hour work week; (2) paying statutory overtime premiums for affected workers' hours worked beyond 40 per week; (3) raising employees' salaries to levels required for exempt status by the proposed rule; or (4) converting salaried employees' basis of pay to an hourly rate (no less than the federal minimum wage) that results in virtually no (or only a minimal) changes to the total compensation paid to those workers. Employers could also change the duties of currently exempt and nonexempt workers to comply with the proposed rule.

For the second choice above, paying overtime premium pay, employers typically have two options, with differing cost implications, for meeting their statutory overtime obligations. For example, assume an employer paid an employee a fixed salary of $400 per week with no overtime premium pay, for which the employee worked 45 hours per week, and the employer must now begin to pay this employee overtime pay. As one option, the employer could assume that the former weekly salary of $400 represents compensation for a standard 40-hour workweek, and pay this employee in the future time-and-one-half the $10 hourly rate for any overtime hours worked beyond 40 per week. For a 45-hour workweek, total compensation due, including overtime, would equal $475 ((40 hours x $10/hour) + (5 hours x $15/hour) = $475), compared to $400 formerly. As a second option, the employer could pay the fixed salary of $400 per week as total straight time pay for all hours worked in the week (provided it equals or exceeds the federal minimum wage), and pay additional ''half-time'' for each hour worked beyond 40 in the week. This method of payment is known as a ''fixed salary for fluctuating hours'' (*see* 29 CFR 778.114). For a 45-hour workweek, total compensation due under this method, including overtime, would equal $422.22 ($400 + (($400 ÷ 45) x ½ x 5) = $422.22).

The third choice above is straightforward—an employer could simply raise the salary level for currently exempt salaried workers earning less than $22,100 to at least the new proposed salary level or more and have them remain exempt salaried workers.

Nothing in the FLSA would prohibit an employer affected by the proposed rule, or under the current rule, from implementing the fourth choice above that results in virtually no (or only a minimal) increase in labor costs. For example, to pay an hourly rate and time and one-half that rate for 5 hours of overtime in a 45-hour workweek and incur approximately the same total costs as the former $400 weekly salary, the regular hourly rate would compute to $8.421 ((40 hours x $8.421) + (5 hours x (1.5 x $8.421)) = $399.99).

Most employers affected by the proposed rule would be expected to choose the most cost-effective compensation adjustment method that maintains the stability of their work force, pay structure, and output levels. Given the range of options available to an employer confronted with paying overtime to employees previously treated as exempt, the actual payroll cost impact for individual employers could range from near zero to up to the maximum cost impacts estimated in the Department's PRIA. However, for the PRIA it is was assumed that, for any nonexempt employee who satisfies the pertinent duties test, the employer will choose to pay the smaller of either the additional weekly salary required to qualify the employee exemption or the usual weekly overtime payment for the employee.

The PRESIDING OFFICER. The Senator has used 4½ minutes.

Mr. KENNEDY. Finally, this is the list of the individuals who will be affected. Who are those individuals? Police officers, nurses, firefighters; those are the home guard personnel. You talk about safety and security in our communities and in our neighborhoods; these are the individuals who stand watch for all Americans. Why is this administration fighting decent fair pay for these hard-working Americans who represent the best of our country and are involved in homeland security? This legislation should be defeated.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, the Omnibus appropriations bill contains elements that contradict the express votes of this body and the other body, bipartisan votes that in fact protected workers against losing their overtime, that insisted upon country-of-origin labeling, that dealt with media ownership. And at the last moment, at the direction of the administration, these provisions were overridden and contradicted. There are other provisions that have been included in this measure that should not stand a fair vote on the Senate floor.

There is a provision, inserted in this bill by the House Republican leadership over the objection of the Republican subcommittee chairman of the Commerce-State-Justice and Judiciary Committee, that would require the FBI to destroy records of gun sales within 24 hours. They have now, under the law, the Brady bill, the authority to keep these records for 90 days to conduct audits of the system of instant checks.

A study analyzing just 6 months' activity conducted by the General Accounting Office showed that the FBI was able to retrieve 235 firearms that had been sold to illegal purchasers, prohibited purchasers, wife beaters, murderers, the whole parade of perpetrators. If this legislation passes and the 24-hour rule stands, then instead of recovering 235 of these weapons, 7,228 firearms will be in the hands of murderers, wife beaters, robbers, those people who endanger the American public.

This provision should not be allowed, without a vote, to become the law of the land. In the words of Los Angeles Police Chief William J. Bratton:

I'm very opposed to this effort to make the Brady law toothless, and I just don't understand how Members of Congress can even consider it. Obviously, they haven't shown up at the scene of enough officer shootings.

What we hear from the NRA and their allies is ''just enforce the laws.'' How can you enforce the law if you don't have the information on the sale?

This provision should be stricken. In addition to that, there are provisions about vouchers for public schools in the District of Columbia. We don't have enough resources to fix the public schools of this country, and diverting them to private schools is a mistake. It is passing out parachutes; it is not fixing the airplane. We can do better.

Indeed, these vouchers go to schools that don't have to stand up to the rigors of the No Child Left Behind Act. Those people who go about this country saying that critics of the No Child Left Behind Act—those people who will not embrace these provisions—are somehow undermining education reform but they say, let's give money to schools that don't even have to follow the No Child Left Behind Act. That is also wrong.

As my colleague Senator KENNEDY pointed out, this bill strips away overtime protections for Americans who work very hard. These workers depend on overtime to support their families. Costs go up, hours of work are going up, and still families find themselves stretched terribly thin. We are in a position now not only to override both the sense of the House and Senate but

the common sense of the American people. They understand that without adequate overtime people cannot support their families.

In addition to this provision that would strip away overtime pay for firefighters, nurses, and police officers, the Department of Labor had the audacity to suggest ways in which overtime can be prevented from applying to everyone. That is not a Department of Labor that is working in the best interest of the American workers.

We understand something else, too, which is that the great economic crisis of this country at this moment is the fact that we cannot produce jobs. Employers are not willing to hire, so they require more overtime. Well, if they have less incentives, less requirements to pay overtime pay, they will make the current workers work even harder, and there will not be the opportunity to hire more Americans for these jobs. This provision goes right to the heart of what we all should be about: getting more work for Americans, not penalizing workers by taking away their overtime pay.

These are just a handful of provisions that are not only contradictory to what we did on a bipartisan basis—Republicans and Democrats in both the House and Senate—but they are fundamentally against the interests of safe streets, opportunities to work, and opportunities to educate the children of this country.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. I yield myself 1 minute, Mr. President.

President Bush is supporting this bill that will be before us. He is going to sign it. I want to speak to my colleagues and any and all who are watching this debate. Understand with that signature 8 million Americans will lose their guarantee to overtime pay. Eight million Americans—those earning roughly over $24,000 a year in my State—just like that, with President Bush's signature, people will lose their overtime pay.

What does that mean? It means that an employer can work you harder and you don't get any more money; you are pulled away from your family and not getting fair pay. You could be spending more time with them, at a minimum.

This is a harmful bill. Not only does it do this, but it turns the clock back in many other areas.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I rise to voice my concern over secret riders that were jammed into the Omnibus appropriations bill behind closed doors, in the dark of night, that are contrary to the bipartisan wishes of the Senate and, in some instances, both the House and Senate. It is an abomination of a process that has taken place. It has very real negative consequences.

The bill, as a whole, does some good things. I commend Chairman STEVENS for his hard work in that regard. But there are these riders that were stuck in the bill that make no sense. Some have been alluded to already, such as the allowance of greater media concentration than this Senate wanted; the privatization of FAA air traffic control personnel; the question of vouchers, at a time when we are $9 billion short of funding No Child Left Behind as it is, and that funding is further undermined by subsidization of private schooling.

The question of overtime pay is perhaps the most outrageous of all. Eight million American workers are going to be denied overtime pay under this rider that was stuck into the bill. There was no conference in a meaningful sense. They were simply done behind closed doors. The deliberations were, frankly, the Republican leadership working with the White House, and they stuck the provisions in and came back to this body and said: Take it or leave it.

I believe we can have the merits of the larger portion of the Omnibus bill and simply have these provisions struck. It would be simple to do.

One of the provisions that is most troubling in my State of South Dakota, and in rural areas, is a provision that would delay country-of-origin meat labeling for 2 years—probably beyond that—at a time when we are struggling with BSE, mad cow disease.

Our consumers should understand that our Nation has the safest, highest quality meat in the world, bar none. Canada has struggled with the BSE issue. One of their cows showed up in the U.S. We need to see to it that we respond aggressively to make sure Americans have confidence in our meat supply, and that the world community also understands the quality product that comes from the United States.

Right now Japan, Korea, and the rest of the buyers of American beef abroad have told the United States: We like your beef, the meat products you produce, but we don't want to buy it if you cannot certify to us that it is, indeed, an American product.

We are one of the few industrialized democracies in the world not to have country-of-origin labeling. We don't have it. It is long overdue that we join the rest of the industrialized world in allowing our consumers to know the origin of the meat products they buy so they can buy an American product if they choose, and when it comes time to exporting our product, that the Japanese, Koreans, and the rest of the world will know it is an American product they are buying, as opposed to being a mingling of U.S., Canadian, and Heaven knows what else that goes through the U.S. into the export market.

So for the sake of our domestic confidence and of our export markets, the time is overdue that we join the rest of the world—the EU and the Canadians—in identifying the origins of these meat products.

What has happened is that this 2-year delay, which would lead to still further delay, ironically at a time when the USDA is telling us they want to implement an electronic tracking system for every animal in the U.S., which is a far more expensive, far-reaching proposal than country-of-origin labeling ever was; every country has been able to do it without expense, without bureaucracy, or any problem for the producers. There is no reason the U.S. cannot do it as well.

So what we have is a convergence of those who are profiting by not allowing American consumers to know the difference in what they are buying, along with those in the White House who have a philosophy of a global agricultural market with no borders whatever, which leads, of course, to that race to the bottom, where whoever can sell the product for the cheapest price wins. American producers deserve better. This Congress deserves a better bill than what we have before us.

I yield the floor.

The PRESIDING OFFICER. The minority's time has expired.

Mr. REID. Mr. President, the President pro tempore of the Senate has agreed to allow Senator HARKIN 3 minutes of his time. I ask unanimous consent that that be the case.

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

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. HARKIN. Mr. President, 5 months ago the Senate voted in support of my amendment to block the administration's effort to kill overtime pay for millions of American workers. The bipartisan vote of the Senate was 54 to 45. The House followed suit with a 221-to-203 vote.

The Congress spoke up clear as a bell and said: No, the administration must not strip overtime rights from 8 million American workers. But as we all know, the administration refused to accept the clear will of Congress. The administration ordered the conferees to strip this provision from the omnibus bill.

Senator SPECTER and I fought to keep it in, but the administration refused any cooperation or compromise. In the end, with a snap of its fingers, the administration nullified the clear will of both Houses of Congress and the American people.

This is just another example of the brazen abuse of power by the administration. The administration seems to believe in Government by one branch: the executive branch. Time and again, we see this administration running roughshod over the will of Congress.

The administration's new overtime rule is a stealth attack on the 40-hour workweek, pushed by the White House without a single public hearing.

There was one positive part of the proposal that would raise the basic income that guarantees overtime pay for low-income workers from $8,000 to

$22,100. My amendment did not touch that part of the proposal. But now we find that the Labor Department is advising employers on how to get around it.

The Labor Department example suggests cutting workers' hourly wages and making them work longer. That means there will be no net gain by the worker. This is disgraceful.

Here is what they have done: ''How to Avoid Paying Your Employees Overtime,'' courtesy of the Department of Labor. Lower existing wages so when workers accrue overtime, their net pay will not grow. In other words, pay them less; work them longer.

Change workers' duties so they are exempt from the overtime rules.

Raise workers' wages to levels required to be exempt, $22,100.

Don't let them work more than 40 hours a week.

This is what is in the Bush proposal. This is like the IRS giving advice to tax cheats on how to avoid paying their taxes. This is a direct violation of the Fair Labor Standards Act of 1938 that established the 40-hour workweek for American workers.

Right now, Americans work longer hours than workers in other industrialized nations. This is a slap in the face to workers who give up their premium time with their families to work overtime, and we are not talking about spare change here. We are talking about taking away some 25 percent of the income of many American workers.

Congress did the right thing in voting to block this new rule.

The PRESIDING OFFICER. The Senator has used his 3 minutes.

Mr. HARKIN. But Congress voice and vote were nullified.

Mr. President, I ask unanimous consent that a New York Times article dated January 20, 2004, and a letter to the President signed by several Senators dated January 16, 2004, be printed in the RECORD.

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

[From the New York Times, Jan. 20, 2004]

GAMING OVERTIME

Some ominous fine print has turned up in the Bush administration's promise to help long-suffering low-wage workers get the overtime pay they have long been denied. As initially presented, the White House estimated that its new rules governing nonunion workers would mean $895 million in guaranteed time-and-a-half pay for 1.3 million of the nation's poorest-paid workers. That inviting proposal was coupled with a far more controversial plan to allow employers greater leeway to close out overtime pay for a midrange of white-collar professionals by designating them as managers.

That part was questionable enough—critics warned that it could cut earnings and force unpaid overtime on millions of workers, and even the Republican-led Congress became leery. But now, in delving into the sweetener half of the plan covering the lowest-paid, The Associated Press has discovered that the Labor Department's advisory includes suggestions to employers about ways they can keep their costs from actually going up.

One tip from those helpful bureaucrats theoretically protecting struggling breadwinners is that an employer could consider ''the most cost-effective compensation adjustment method.'' This translates into cutting a worker's hourly wage so the new overtime requirement will produce the old net salary, not an actual boon.

To be fair, the Labor Department also suggests that employers are free to raise workers' salaries to the new higher threshold of $22,100 a year, the level at which eligibility for time and a half ends. Still, those helpful hints to anxious employers only compound suspicions about the plan.

U.S. SENATE,
Washington, DC, January 16, 2004.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you know, bipartisan majorities in both the House and Senate voted to oppose the Department of Labor's proposal to deny overtime protections to more than 8 million hard-working men and women—regulations that actually provided instructions on ways for employers to avoid paying overtime to their workers. This is shocking, given that the Department of Labor's mission is to promote ''the welfare of the job seekers, wage earners, and retirees of the United States.''

Instead of accepting the clear will of bipartisan majorities in the Congress and the American people on this issue, your Administration used its leverage to threaten vital funding for cancer research, fighting AIDS, job training for millions of out-of-work Americans, and financial aid for children to attend college unless the provision protecting workers was removed. We believe that protecting workers' pay should not come at the expense of funding these vital programs.

We call on you to rescind the overtime regulation and instruct your Labor Department to require all employers to meet their obligations to pay workers for the overtime they have earned. At a minimum, we ask you to call on the Republican leadership to reinstate the Senate-passed and House-endorsed provision to protect overtime.

Sincerely,

EDWARD M. KENNEDY,
TOM HARKIN,
TOM DASCHLE.

Ms. COLLINS. Mr. President, I rise today to discuss a provision that was added to the omnibus appropriations bill at my request. The provision is designed to halt temporarily the implementation of amendment 13 to the Northeast groundfish fishery management plan. With this 5-month delay, which will be in effect for the remainder of the fiscal year, a more equitable form of amendment 13 can be developed. Without this delay, amendment 13 would devastate the fishing industry of my home State. Amendment 13 would deny at least a quarter of Maine's fishermen their traditional access to fish stocks, and would jeopardize the ability of many related small businesses to survive financially.

Amendment 13 would impose a series of regulatory changes to New England's groundfish management system. These new regulations would reduce the number of fishing days allocated to most Maine fishermen. The average Maine fishing vessel that received any fishing days would be allocated roughly 52 fishing days each year that they could use off Maine's shores. These, of course, are the most fortunate of Maine's fishermen, as many would receive smaller allocations of fishing days under amendment 13. Imagine trying to make ends meet practicing your profession only 1 day per week.

There are further problems with amendment 13 in its current form. The plan relies on targeting healthy fish stocks in order to mitigate economic impacts while less abundant fish stocks rebuild. This has led to the creation of two classes of fishing days: A and B days. On ''A'' days, a fisherman may target any fish stock. On ''B'' days, fishing is restricted to a handful of healthy species in designated areas.

Unfortunately, Maine's small boats will have difficulty using any of their B days due to safety concerns. These B fisheries are restricted to areas far out to sea that small boats cannot fish safely. There is simply no B fishery that Maine's smaller fishing boats can access.

Further, Maine's large boats will penalized under amendment 13 because they are forced to lose valuable fishing time in transit to fish stocks located far to the south of Maine. Groundfish regulations would count transit time, ''steaming time,'' as fishing time, putting Maine's fishermen at a severe disadvantage to fishermen located in southern New England. Fishermen based in southern New England could operate at a considerable competitive advantage, as they are able to spend more time fishing and less time steaming to and from fertile grounds, such as the Georges Bank. The result could well be the migration of Maine's fishing industry south to Massachusetts. In fact, we have already seen some large boats relocate from Portland to Gloucester.

Under amendment 13, Maine's larger fishing boats will continue to experience problems with steaming time. Fishermen from Portland, ME, who chose to take part in the cod exemption program and fish on stocks located on Georges Bank must travel 18 hours before they can put their nets in the water. In contrast, fishermen leaving from Gloucester, MA, can begin fishing after traveling for only 3 hours. Therefore, it makes perfect economic sense for vessels to relocate to southern ports, and some already have and more will do so. Maine suffers as these landings of fish and the revenues generated from these fish move south.

Furthermore, Maine's small-boat fishermen took drastic cuts in days-at-sea allocations. In fact, amendment 13 would allocate zero days-at-sea to 57 Maine groundfish fishermen; this is over 30 percent of Maine's groundfishing fleet that would be denied access to this resource. Maine's share of the groundfish resource has only diminished in recent years, and denying 30 percent of our fleet access to groundfish will only accelerate this trend. A larger portion of Maine's fleet

will be denied access to groundfish than in any other New England State.

Amendment 13 would also harm Maine's fishing-related businesses such as gear manufacturers, ice suppliers, and small boat repair shops. Maine's fishing infrastructure, which already is at a critical minimum, would lose revenue due to restricted access to the resource and due to the southward migration of Maine's groundfish fleet. If the current form of amendment 13 were implemented, Maine's working waterfront could vanish, to be replaced by coastal development. These regulations may well mean that Maine would have neither the fishermen nor the fishing infrastructure needed for a healthy groundfish fishery.

In response to concerns regarding loss of fishing infrastructure, inequities in steaming time, and the immense social and economic costs of amendment 13, the Portland City Council unanimously passed a resolution addressing amendment 13 on September 15, 2003. This resolution called on Maine's congressional delegation to ''root out all provisions of regional groundfish management which discriminate against vessels fishing from the State of Maine in general and, in particular, from the Port of Portland.'' Amendment 13, in its current form, discriminates against Maine's fishermen. The delay in implementation will provide the time needed to ''root out'' the unfair aspects of amendment 13.

Anyone who has followed the amendment 13 process has been confronted with a litany of bad news; bad for New England, and especially bad for my home State of Maine. Newspapers throughout the State of Maine have detailed how amendment 13 would devastate Maine's fishermen and related businesses.

Maine's groundfishing industry has already suffered in recent years. Since 1995, Maine's groundfishing fleet has shrunk by roughly 40 percent. In the past two decades, Maine has lost nearly 50 processing companies. Amendment 13 would only accelerate this trend. In fact, analysis by the National Marine Fisheries Service shows that amendment 13 would allocate so few days-at-sea to Maine's fishermen, that few, if any, of Maine's boats would be able to break even.

I want the New England groundfish fishery to be sustainable. But that goes for fish and fishermen alike. If fishermen cannot make a living at sea, they will have no choice but to turn to other businesses.

As part of the National Marine Fisheries Service's economic analysis of amendment 13, a break-even analysis is performed. This analysis makes a number of assumptions. First, this break-even analysis assumes a boat owner makes no profit, a grim prospect for any business. Second, this analysis assumes standard overhead and crew costs that must be overcome for a vessel to break even. By paying crew members the bare minimum pay of $25,000, most boats will need well over 60 days-at-sea to break even. Unfortunately, the average Maine fishermen will be allocated only 52 days-at-sea that they can actually use. Only a very small portion of Maine's fleet will be able to break even under amendment 13.

Amendment 13 is fundamentally unfair to Maine's fishing community. Yet, it was scheduled to be implemented by May 1, 2004, which marks the start of the next fishing season. Surely, we need a better, fairer approach. The amendment I included in the omnibus spending bill is meant to halt implementation of amendment 13 in the current fiscal year in order to provide an opportunity for the council to reconvene to find a management plan that is fair to all New England States; not a plan that ties the laboring oar of rebuilding the fisheries to the hands of just one State, Maine.

I have also sought this delay because we need time to make sure we do develop an equitable management plan before one is put into place. The groundfish fishery is recovering. Fish stocks have tripled in recent years; more important, they continue to rebuild under current regulations. This delay is not irresponsible; fish stocks are not declining. The condition of the fishery will continue to improve while a fair set of regulations are developed. The strict regulations that are currently in place, and that will stay in place because of my funding restriction, are undeniably working.

Because this matter is so important to so many people in Maine and throughout New England, I want to take a moment to make my intent in drafting this amendment perfectly clear.

My amendment prohibits funds in the omnibus from being used to implement a fisheries management plan for New England other than the final emergency rule published by the Department of Commerce in the Federal Register on June 27, 2003, at page 38234. According to the Department of Commerce, the final emergency rule was promulgated ''to ensure that there exist measures to reduce overfishing until implementation of amendment 13.'' This is still the goal under my amendment—the timeframe has just been extended.

I intend, through my amendment, to keep the final emergency rule in place through the end of the fiscal year. This is the case in spite of any provisions of law—including, but not limited to, 16 U.S.C. §1855(c)—that might otherwise limit the duration of the provisions of the final emergency rule. Indeed, my amendment is intended to suspend the application of provisions such as 16 U.S.C. §1855(c) to the final emergency rule. And, in any event, my amendment would not prohibit the terms of the final emergency rule from being implemented, again, were they found by the court to have expired.

My amendment restricts the use of funds appropriated in the omnibus. Hence, the restrictions apply only through fiscal year 2004. Practically speaking, this means that no new management plan for New England can be implemented by the Department of Commerce before October 1, 2004. My amendment imposes this delay in order to provide time for the council to develop a plan that, unlike amendment 13, is fair to each of the New England States. The court, of course, is free to set a new implementation date that falls later than October 1, 2004, and might consider setting the new date at May 1, 2005, to coincide with the start of the fishing season.

In addition, my amendment in no way prevents the National Marine Fisheries Service from implementing regulations to allow the east coast scallop fleet and tuna purse seine fleet to access special management areas. I encourage the National Marine Fisheries Service to move forward and address these issues separate from the overfishing and rebuilding requirements in amendment 13.

It is my expectation that the New England Fishery Management Council will use the additional time my amendment will provide to develop a plan that all States can support. It is particularly encouraging that, after I announced that I would be pursuing this amendment, the New England Fishery Management Council's Groundfish Committee agreed to convene an emergency meeting in January to examine the concerns that I have raised. The Groundfish Committee did, indeed, address some of the issues that are important to Maine's fishermen, and I encourage the full council to follow the committee's lead and take positive steps toward resolving these critical issues.

The delay afforded by my amendment is so important because it provides time for the council to correct the inequities of amendment 13. The council was under severe, and in many ways artificial, time pressure to develop a new management plan. Moreover, much of what has been included in amendment 13 was brought to the council at a very late hour.

My amendment will provide time for the council to consider necessary changes that must be made to amendment 13. I do not expect the council to go back to the drawing board entirely. I believe that amendment 13 can be altered so that it is fair to all New England States. Problems with steaming time must be addressed by the council. Also, the council must deal with minimum days-at-sea allocations in a fair manner. There is room to improve the conservation tax on days-at-sea transfer to make this program viable, and the Groundfish Committee has forwarded a recommendation to the council that provides welcome relief. Finally, I believe that the leasing program should be extended to provide a measure of certainty to New England fishermen.

I am very pleased that, just last week, the Groundfish Committee forwarded several positive recommendations to the council for its consideration. The recommendations address many of the issues I have raised on behalf of Maine fishermen; issues that caused me to seek a delay in the implementation of amendment 13 in the first place. The council is scheduled to consider these recommendations next week. If the council makes similar, positive progress, I will happily reconsider the need for my amendment, and act accordingly.

In the end, I believe that the council can come up with a consensus product. That is not to say it will be a product that fishermen applaud. No one appreciates the Government taking away the livelihood families have relied upon for generations. But, until the inadequacies of our fisheries laws are addressed head on, we owe it to our fishermen to administer them, such as they are, with an even hand. That is precisely the goal of my amendment.

Ms. SNOWE. Mr. President, I rise today in opposition to the omnibus. This bill contains several objectionable items that deeply concern me, as chair of the Ocean, Fisheries and Coast Guard Subcommittee, because the language drastically and fundamentally changes U.S. fisheries policy, including authorization language for Individual Processor Quotas, a prohibition on implementing a groundfish management plan, and other new fishing quota authorizations. These provisions have serious consequences for our National fisheries policy and the natural resources upon which America's fishermen depend.

Allow me to explain my concerns in detail. I have many concerns about the language in this bill that would authorize what is being called the ''Crab Plan'' for the Bering Sea/Aleutian Island crab fishery. This plan contains provisions for establishing a system of Individual Processor Quotas, or IPQs, which would allocate the right to process crab among a group of predetermined processors. IPQs are not allowed under current law—without express authorization IPQs would violate our antitrust laws—and that is why this plan has come before Congress in an appropriations bill.

I must make it perfectly clear, up front, that I have worked consistently and forcefully, to reach an agreement with the advocates for IPQs. Twice I scheduled a markup in June for a comprehensive bill which would have created uniform national standards for fishing quotas. The bill was withdrawn from the first markup the evening before it was scheduled to occur because, regrettably the prior existing agreement on the bill fell through. I withdrew the bill from the second markup after I was not able to reach consensus to preserve the original intent of uniform national standards for fishing quota plans in the hopes of finding a future agreement.

As chair of the Subcommittee on Oceans, Fisheries and Coast Guard, I have worked hard to address fisheries policy in a consistent basis that is national in scope but flexible enough to allow for regional differences, which is the underlying tenet of the Magnuson-Stevens Act. Therefore I am adamantly opposed to another circumvention of the authorization and fishery management process.

This provision circumvents the Magnuson-Stevens Act and provides North Pacific processors and fishermen special treatment under the law. If we allow this provision to proceed, we will set a national precedent that has the potential to further undermine the regional fishery management system established under the Magnuson-Stevens Act. This provision will send us further down the road of having Congress directly managing fisheries—something Congress expressly decided not to do under the landmark 1976 law. Why should we have an established fishery management system if we only follow it in part of the country?

Under existing law, if a Fisheries Management Council wants to create a safer fishery with fishing quotas, they already have the option of doing so. However, it appears this legislation will only allow fishing quotas if processors get a separate quota system. Because of my great interest in encouraging fishermen's safety, I find it deeply disturbing to make a fishing quota plan approval contingent on a processor quota plan. Essentially, these fishermen are being told that they must continue to fish in the current, unsafe, derby-style manner unless Congress approves this processor quota plan.

The processor quota system proposed in the omnibus would work by requiring that crab fishermen deliver 90 percent of all future catch, indefinitely, to predetermined processors. This effectively divides market share so that processors are guaranteed a certain amount of crabs to process, thereby removing competition from the dock-side price setting process. Would we tell any other business that they had to sell 9 out of every 10 products to only one buyer, regardless of what price is offered? Not in this country.

Another effect of the processor quota program is that it would constrain new businesses from entering and competing in the processing sector. Technically, under this plan a new processor could try to start a business by buying another company's share of processing quota, but at what price? What processor would want to sell their guaranteed market share?

The greatest concern I have, however, is that processor quotas do not improve fishermen's safety or conservation. Fishing quotas can help achieve these goals, but the only purpose of processor quotas is to channel market share and bargaining power into processing companies. We must not forget that the whole point of fishery management is to promote a safe and orderly fishery, and processor quotas do nothing to make a fishery safer or better conserve their fishing stocks. It just lets the big processing companies get richer.

Nevertheless, those who want IPQs often claim that my attempts to simply question this plan is preventing a safer plan from ever happening. This could not be further from the truth. To suggest that IPQ opponents are putting fishermen at risk is completely unacceptable and inaccurate. As long as IPQs remain part of the crab plan, however, Congress must properly address the very serious economic and public policy questions they present.

So let's get to the heart of the matter. The Congress is being asked to grant individual companies a guaranteed share of the crab market, in perpetuity. Should Congress also put similar limits on to whom processors can sell their product? Shall we legislate to which fish markets and restaurants this seafood can then go?

Those who want IPQs claim that processors need these quotas to protect their investment if a fishing quota system is allowed. They think that their processing plants would sit unused if a fishing quota system brings fish in at different times, and that they would lose money. The problem is, all these claims are based on speculation. How do we know what economic harm would occur? Even if processors were to lose money, how do we know that IPQs are the best or only answer?

The fact is, the in-depth studies needed to answer these questions have not been done. The sensitive economic data necessary for these studies have not even been released by processors. What has been offered as the ''analysis'' for this plan is incomplete and its accuracy cannot be verified through independent reviewers. In short, processor quotas are a very broad and costly response to a speculated problem.

Clearly, I have a lot of questions about this plan, as do fishermen around the country, several branches of the Federal Government, and the editorial boards of at least 11 major newspapers. I have been seeking answers for more than a year, and I have yet to receive satisfactory responses. As chair of the Subcommittee on Oceans, Fisheries, and Coast Guard, I take my fisheries oversight and authorization responsibility very seriously. Proper oversight demands answers to these very basic questions.

Make no mistake—the proposed IPQ plan is indeed precedent setting. Because of this, processors and fishermen around the country are watching our actions in the Senate very carefully. Already processors are pursuing an IPQ system for other west coast fisheries, and some are even advocating processor quotas for the entire country.

Fishermen's concerns about IPQs are justified, according to the Department of Justice. As chart I shows, on August 27, 2003, the Assistant Attorney General's Antitrust Division wrote a letter

to the Department of Commerce General Counsel, stating that the IPQ plan would, and I quote, ''likely reduce beneficial competition among processors with no countervailing efficiency benefit.'' They also said that the National Oceanic and Atmospheric Administration, which manages our fisheries, should oppose IPQs. This is a very strong condemnation of the proposed IPQ plan and validates many of the fishermen's concerns.

In addition, as two other charts illustrate, the National Research Council and the General Accounting Office studied the impacts of fishing quota systems on the processing sector in other fisheries, and they found that impacts of other fishing quota plans on processors was inconclusive; some processors were adversely impacted while other processors clearly benefited. As such, these studies determined that there is no compelling reason to authorize a processor quota system. They recommend that if a fishing quota system does result in economic damage for processors, then more directed remedial action should be pursued based on what harms actually occur.

Most notably, however, the administration has gone on record as saying that they do not support IPQs as proposed for the crab plan. Dr. Bill Hogarth, NOAA's Assistant Administrator for Fisheries, testified at the October 22 fisheries management hearing which I chaired, and he stated that the administration only supports the idea that processors could buy fishing quota—not processing quota—if a fishery management council deemed it appropriate. It is clear that the administration does not support the IPQ system.

Beyond my grave concerns with this language, I also have many concerns about the language added only days before the House voted on this package, that threatens to send New England groundfish management into a tailspin. This is a fishery that has existed for more than 400 years, and has struggled to survive through years of significant reductions in fishing.

In 2001, several environmental groups sued the administration for not following the rebuilding requirements of the 1996 Sustainable Fisheries Act. They won this suit, and ever since this ruling the U.S. District Court for the District of Columbia has been overseeing the creation of a new groundfish management plan that adheres to the law and will help this fishery—which has already made substantial recovery in the last several years—be further restored. On November 6, 2003, the New England Fishery Management Council proposed a new plan, known as ''amendment 13,'' for this fishery. The Secretary of Commerce is now in the final phases of improving this plan before it is approved and implemented this coming May.

This plan, as proposed, incorporates a great deal of input from fishermen and fishing communities throughout New England, and many members of the industry support the key elements of this plan. It is true that, as originally proposed, the plan would have shifted much of the effort toward Massachusetts and have drastic economic impacts on Maine, and that is why I have secured commitments from the Secretary of Commerce to ameliorate these impacts in the final version of the plan.

For these reasons, New England groundfish managers have made progress in moving fisheries management out of the courtroom. This whole process, however, would likely be derailed by the language in this bill. Instead of allowing the Secretary to complete work on a plan that follows the law and helps fish and fishermen, this language would prevent the administration from spending any money on implementing the new plan.

In fact, this language would outlaw any plan from being implemented, other than a specific set of interim regulations that were put in place while the new plan was being developed. The problem is, these interim regulations do not follow the conservation requirements of the Magnuson-Stevens Act, they unfairly keep the small-boat groundfishing fleet throughout New England at an economic disadvantage, and they expire in a few short months.

If this language passes, it will be illegal for the Secretary of Commerce to follow the very requirements of the Magnuson-Stevens Act. This language does not lift the requirements that this Federal fisheries law be followed, but it simply makes it impossible for the law to be followed and makes it impossible for the Secretary to assist in its implementation even if it is to ensure the law is being followed. If this passes, Secretary Evans could be held in contempt of court, and the future of the New England groundfishery may revert to court order, indefinitely.

Moreover, according to this language, the only regulations that could be implemented maintain crippling cuts on the small boat, inshore groundfishing fleet. This sector of the groundfishery forms the economic backbone of small coastal communities throughout New England, and many of these fishermen have worked diligently to contribute to the new management plan that the Secretary is now refining. The small-boat sector employs thousands of independent fishermen and fishing-related businesses throughout New England, and most of them do not support this language—and for good reason.

Proponents of the rider try to make a compelling case that the Secretary's proposed rebuilding plan is flawed because it relies on unreasonably high fish population rebuilding goals and that the groundfish stocks are already rebuilding, so a new plan is not needed. Both of these statements are true, and that is why I have been working with the administration to refine the council's plan in ways that better take these facts into account and asked it to conduct an independent socioeconomic analysis of the potential impacts of the new regulations. Also, as chair of the subcommittee with oversight of fisheries I am actively working to address the problems with the underlying law and change fisheries management so our nation truly benefits. I will be pushing a reauthorization of the act during this session of Congress that will address the existing problems in fisheries management.

The bill language in question does nothing to change these facts, and it does nothing to factor them into a more reasonable rebuilding plan or change the underlying law. The fishing rules that this language would in fact allow simply try to ignore the reality that rebuilding targets do exist. This language will not lead to any management system that complies with the law, and it will not change the reality facing our small-boat groundfishermen. Let me be clear: this language risks putting the management of the New England groundfish industry back before the court, allowing the judge to make any and all subsequent management decisions.

In short, this language undercuts years of hard work, sacrifice, and compromise that have gotten the New England groundfishery back on track. It forces the Secretary of Commerce to break the law, and it risks further damaging the hardworking men and women who want to continue to move forward on groundfish sustainability. This language risks harming Maine, New England, and our entire Nation's fisheries policy. If this provision becomes law it has the potential to lead to the downfall of the council-based fishery management process, and risks ending a way of life that has sustained New England fishermen for centuries.

The omnibus contains other undesirable fisheries policy changes, such as authorization language for Alaskan rockfish processor quotas and Aleut corporation quotas. These other two quota programs have never been presented to the authorizing committee in any form—nor have they gone through the Fisheries Management Council process—so I must object to fisheries policy authorization language that has circumvented all proper review channels.

Because of these highly objectionable authorizations, I see no other choice than to oppose any bill that contains these provisions. I urge those of my colleagues who have an interest in proper fisheries management and sound economic policy to oppose this as well. We, in Congress, are entrusted with the great responsibility to thoughtfully review such policy matters; we owe no less to our fisheries constituents. Those that support this bill would be responsible for creating a cartel that would effectively control an entire market, and for undermining the basis of council-based fisheries management

in the United States as well as the very foundation of our Nation's free market system.

I ask unanimous consent to print the above-referenced charts in the RECORD.

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

EXECUTIVE SUMMARY

The Department supports implementation of a new fishery management plan that would end the ''race to fish'' inherent in the current derby-style management plan. Under the current derby-style program, the season ends as soon as the total allowable catch has been fished, producing an undesirable ''race to fish'' among harvesters. The race to fish is economically inefficient for both harvesting and processing and likely dangerous to the participants. The Department therefore recommends that NOAA support individual fishing quotas (''IFQ'') for harvesters, a reform that will end the race to fish. Provided that IFQ are easily transferable, the gains in efficiency from ending the race to fish—reducing overcapitalization and improving safety—are likely to outweigh the harm of any loss of competition among harvesters. The Department recommends that the plan allow easy transferability of IFQ shares; otherwise the incentive for market participants to make efficient investment decisions will be reduced.

The Department further recommends that NOAA oppose individual processor quotas (''IPQ''), because IPQ will likely reduce beneficial competition among processors with no countervailing efficiency benefit. This lost competition could deter the development of new processed crab products, reduce the incentives for processors to make efficient investment decisions and reduce welfare for consumers of processed crab products. While harvester quotas should eliminate the harmful race to fish, processor quotas are not justified by any such beneficial competitive purpose.

If the goal of using IPQ is to compensate processors for overcapitalization, we urge NOAA to consider advocating more direct solutions, such as a program to buy excess processor equipment. We also understand that there are concerns with social goals such as preserving jobs in historic fishing villages. To the extent NOAA agrees with these goals, we recommend it consider advocating more direct solutions.

The Department also urges NOAA to oppose any form of sanctioned price arbitration. Allowing an arbitrator, rather than the market, to set price may distort the incentive of processors and harvesters to make efficient investments. Further, processors and harvesters must be cautious not to use the arbitration program as a way to agree on price with their competitors, which could violate the antitrust laws.

Mr. FEINGOLD. Mr. President, I will oppose the omnibus appropriations bill that the Senate is voting on today. It is the latest example of the annual breakdown in the congressional appropriations process. Once again, instead of considering appropriations bills individually, the Senate today is voting on a massive spending bill that includes many—in this case, seven—of the annual appropriations bills.

This process just invites the kind of problems—unauthorized spending, special interest provisions and legislative riders that go against the will of a majority in Congress—that we see in this Omnibus bill. Take, for example, the Bush administration's proposed sweeping changes to regulations governing overtime pay for white-collar workers. These proposed changes would weaken overtime protections for these workers by changing the way that eligibility for overtime is determined. Both the House and the Senate are on record in favor of a provision that would block these changes from going into effect. Nonetheless, that provision was dropped in conference after the administration exerted tremendous pressure on those negotiating the final bill.

Similarly, language that would have prevented the Federal Communications Commission from moving forward with its plan to loosen the national cap on television ownership was badly weakened. And, of course, there are numerous bad provisions in the bill, including one that would create a voucher program in Washington, DC, public schools and another that would prevent country of origin labeling on many agricultural products.

I wish I could support this bill as there are a few worthy things in it, such as funding for global AIDS programs and for the rural AED Act, a program I created with Senator SUSAN COLLINS to increase access to defibrillators in rural areas. I am pleased that the bill contains language I fought for that would require Federal agencies to report on their purchases of foreign-made goods. As manufacturing jobs continue to disappear across the country, particularly in my home State of Wisconsin, the Federal Government should be doing everything it can to support American manufacturers. I am also pleased that the bill includes a provision I fought for to prohibit the Department of Veterans Affairs from enforcing its policy of prohibiting VA employees from taking proactive steps to let veterans know about the health care benefits for which they may be eligible.

Those provisions do not outweigh the many bad ones in this bill, however. This is simply no way to fund the Federal Government. I regret that this ''must-pass'' bill is being used as a platform for bad funding decisions and for bad policy decisions, many of which override the will of a bipartisan majority of Congress. We need to go back to taking up and passing appropriations bills one by one, rather than throwing everything but the kitchen sink into a single, bloated piece of legislation.

I am deeply disturbed that the Omnibus appropriations bill that is before the Senate today does not include a provision previously approved by the Senate that would have prevented the Bush administration from rewriting Federal labor law to roll back regulations that guarantee millions of workers overtime pay.

I am dismayed that a small number of Members of Congress and the administration were able to run roughshod over the will of a bipartisan majority of the Senate and the House to resuscitate the administration's ill-conceived overtime proposal. And I regret that the administration resorted to veto threats and backroom negotiations to save a proposal that will rob millions of workers of badly needed overtime pay.

This is the latest in a series of assaults on working Americans that have been perpetrated by this administration. Right out of the gate, the President made it his first legislative priority to overturn a Federal ergonomics standard that was more than 10 years in the making. In addition, this administration has launched a campaign to aggressively contract out Federal jobs, systematically dismantle the Federal civil service system, gut worker protections, and undermine collective bargaining rights.

In March of last year, the Bush administration proposed a regulation that builds upon these efforts to tear down worker protections by denying millions of Americans vital overtime pay.

This proposed rule would change the process by which a worker can be declared to be exempt from the wage and hour protections of the Fair Labor Standards Act—FLSA, thus opening the door to denial of overtime benefits to more than 8 million workers who currently are entitled to this extra pay for working more than 40 hours per week.

In essence, this rule, that apparently will move forward despite broad opposition from the Senate and the House, will create a larger force of employees who can be required to work longer hours for less pay. This could also mean fewer opportunities for paid overtime for the workers who would remain eligible for it, and fewer new jobs for those looking for employment.

I am deeply disturbed that, in its attempts to sell its new rule, the administration actually provided tips to employers who wanted to get around paying overtime to 1.3 million employees who would become eligible for benefits under the new rule. The administration advised employers to require employees to strictly adhere to a 40-hour work week, to raise employees' salaries to the $22,100 annual threshold to make them ineligible for overtime pay, or to decrease hourly wages so that those plus overtime wages equal the employee's original salary.

Time and again, the administration has said that this rule is about modernizing overtime regulations and not about taking overtime away from workers. But the administration's actions run counter to their words. The administration has fought tooth and nail to block the Harkin language, which simply states that any new overtime rule cannot take overtime away from workers who are currently eligible for it. And the Administration is offering advice to employers on how to avoid paying overtime. From these actions, it is pretty clear to me, and to millions of workers, that the goal of this proposed rule is to make fewer

workers eligible for overtime benefits and to require more employees to work longer hours for less pay.

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

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

I am deeply troubled that the administration would propose a rule that would deny overtime benefits to the people who put their lives on the line each and every day to protect our communities and to those who work in health care professions, which already face severe staffing shortages.

I am also troubled that the administration has pulled out all of the stops to make this rule a reality, despite broad opposition from members of both parties. I regret that the Omnibus appropriations bill—and the process in which it was drafted—has been used as a vehicle to move this rule forward. With so many long-term unemployed workers and with others working more than one job and depending on overtime just to make ends meet, it is unfortunate that the administration dug in its heels on a proposal to deny overtime to many of those who need it most.

Mr. AKAKA. Mr. President, I rise to speak on the conference report to the Omnibus appropriations bill that the Senate has been considering. Without question, we have a duty to ensure the continuing operations of our Government, and the package before us would enable this for a majority of the agencies and programs of the U.S. Government. I thank the appropriators on both sides of the aisle, including the senior Senator from Hawaii, Mr. INOUYE, for their efforts in crafting this massive funding package, and particularly for their agreement on several provisions significant to the people of Hawaii that will meet urgent needs in transportation, education, agriculture, and juvenile justice. For example, funds included for the Juvenile Justice Information System will significantly enhance efforts by law enforcement officials and child-serving agencies in Hawaii to address the root causes of juvenile criminal behavior. This promises to have a tremendous impact on Hawaii's efforts to address juvenile crime.

I am also pleased that this package includes $1.5 million to initiate programs under the Excellence in Economic Education Act, to increase financial and economic literacy in our country. I also am a strong proponent of the $100 million in funding for the Mentoring and Mentoring Children of Prisoners programs, to ensure that young people in Hawaii and the Nation have access to the support, guidance, and assistance they need to help them through life's difficult and varied situations. These are a couple of the many initiatives that I feel very strongly about and worked on with my colleagues during the fiscal year 2004 appropriations process.

However, on balance, the flaws in this Omnibus package overshadow its favorable provisions. It is important to remember that we are here to serve in the best interest of our Nation. While differences in philosophy will always exist, as Members of Congress, we still have an obligation to work together, to look beyond those differences and find solutions. I do not believe that the Omnibus contains solutions that best serve all who live in our great Nation.

For example, as the ranking member of the Senate Governmental Affairs Financial Management Subcommittee, and the Armed Services Readiness and Management Support Subcommittee, I object to the elimination of two key measures from the Senate-passed Transportation-Treasury-General Government appropriations bill that would have improved fairness and cost-efficiency in Federal contracting. The Omnibus deletes a provision which would promote equity by granting Federal workers the same rights as private contractors to appeal decisions to contract out Government jobs. The Omnibus also strikes a requirement for minimal cost savings before decisions are made to contract out Federal work. To ensure accountability and transparency, Government contracting policies must achieve the best return on the dollar and be fair to Federal workers. These two goals are complementary.

The measure before us today fails to ensure diversity of our airwaves and deprives millions of workers of their right to overtime pay. In both cases, the other body and the Senate were in agreement on how to rectify these matters. However, the conferees, in working with the administration, determined that there should be a limit on the Federal Communications Commission's ability to grant licenses to only those stations that reach more than 39 percent instead of 35 percent of a market. In addition, the package before us will allow the U.S. Department of Labor to continue working on and finalizing its proposed rule to modernize and redefine exemptions from the Fair Labor Standards Act, which many employees have said will take away their right to be fairly compensated for work performed above their normal work schedule. The majority in Congress rejected the DOL proposal and urged the leadership to maintain the Senate approved provision that would have prohibited the DOL from using funds to promulgate or implement its proposed rule.

The conference report fails not only in the case of worker's rights and consumer rights, but also in consumer safety. During consideration of the Agriculture appropriations bill, I offered an amendment that would have prohibited the U.S. Department of Agriculture from using any funds to approve for human consumption any meat products from downed animals. This amendment was agreed to in the Senate. While the other body defeated a similar amendment offered by Representative GARY ACKERMAN of New York, many of his colleagues later indicated that they were unable to vote that day and would have supported his amendment. The support would have been enough to accept the amendment. It is unfortunate that Congress, in earlier legislative vehicles, and the conferees in this package, chose not to be proactive in protecting our food supply. For more than 12 years, I have been working to address this matter, and my amendment was the most recent example of that. While the USDA is making some strides to now address mad cow disease in cattle, we need to codify their efforts and expand the ban to all downer livestock that may pose a risk to human health, the importance of which was highlighted recently with the discovery of a diseased downer cow in the Pacific northwest.

Related to the Commerce Department, the provisions funding ocean exploration activities, marine aquaculture development, and coral reef research are disappointing. At the proposed levels, our country will not be able to promote an economically viable and environmentally feasible aquaculture industry to address the $7 billion seafood trade deficit. Activities exploring the deep ocean, one of the last scientific frontiers on Earth, need to be a greater priority in order for us to properly manage and protect these fragile marine communities. I am also concerned that an estimated 25 percent of the world's coral reefs have been lost and at least 30 percent are threatened by human activities. Funding levels in this conference report are insufficient to support research and monitoring activities for coral reefs, one of the most biologically diverse ecosystems on Earth that is worth hundreds of billions of dollars in marine services for our country and is certainly very important for Hawaii.

Although important education priorities are provided for, this conference report continues to fall short on major programs, particularly those that help disadvantaged and special education students. Public schools in every State are struggling to comply with the No Child Left Behind Act. However, budget shortfalls at the State level resulting from a fragile economy have restricted the resources available to our

classrooms. Our failure to fully fund the Federal commitment Congress made when it enacted the No Child Left Behind Act further strains the situation and sets even more schools up for ''failure'' and more teachers unable to become ''highly qualified.'' The same goes for the commitment that we made even earlier in our history to fund the Federal portion of the Individuals with Disabilities Education Act. It may have been many years since I led a classroom as a teacher or a school as its principal, but I remember the support that we needed to ensure that all of our children receive a top-notch education.

Everything that I have recounted here—sentiments echoed by several of my colleagues—leads me to conclude that I am unable to support the package before us, in its current form. I urge the appropriators in both bodies of Congress to improve this package so that it can be something that all of us can support.

Mr. BIDEN. Mr. President, Americans believe in fair play: the right for everyone to have his say, the opportunity to get a job and make your own way in the world, a fair wage for a day's work.

This is not just idealism—we figure we are all better off if the system we live in is open and fair.

That belief in fair play is the foundation of this Senate and indeed of our constitutional system itself.

My father worked hard and he taught me that fairness is our most fundamental value. He taught me that we always have to stand up against the abuse of power at every level. Whenever someone uses their advantage, be it wealth, education, size, strength, whatever it may be, against someone else, it is wrong, and it goes against everything we stand for, everything we are as a nation and a people.

Not just the process is flawed. The product of that process, the Omnibus appropriations bill before us today, is flawed, too. It is unfair.

That back-room, unrepresentative process has produced legislation that deserves to be defeated, not just because of the way it was cobbled together, but because of what will happen if it becomes law.

Here is one result of that process: millions of men and women who will lose their right to time and a half overtime pay, a cornerstone of our workers' rights for over half a century.

Both the House and the Senate, with bipartisan majorities, voted last year to block new Labor Department rules that weaken overtime protections. But this bill cancels out that decision, allowing those rules to go forward.

The latest news from the jobs front—that hundreds of thousands of Americans have given up looking for work after we have gone through 3 years of job losses—sent a shock through financial markets. It should worry us all.

Now is not the time to be cutting the pay of those Americans who have jobs. But that is just what weakening overtime pay will do.

While recent economic news has been positive, there is little hope for sustained, healthy economic growth without solid, good-paying jobs. Consumer confidence and consumer spending—the keys to our economy—ultimately depend on Americans' confidence that they have a secure job, a job that pays a fair wage for a fair day's work.

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

Many workers often have no choice about working overtime—it is up to their boss. But if they have to work those extra hours, their employer is required to pay them time and a half. This has been a cornerstone of the social contract between labor and management, between workers and employers.

But despite the key role of the 40-hour workweek, despite the widespread reliance on time and a half pay for work past those 40 hours, this administration has proposed radical changes in the regulations governing overtime pay.

When I spoke here as a cosponsor of Senator HARKIN's amendment here on the floor of the Senate back in September, we heard from some supporters of the rule changes that they would not decrease the number of workers eligible for overtime pay.

But if there was any doubt about the real motivation behind these regulations, just look at the regulations themselves. They provide explicit instructions to employers on methods they could use to avoid increasing the pay of employees who, we are told, will become eligible for overtime pay.

So all of those workers we were told would benefit, who would ''automatically'' qualify for time-and-a-half overtime pay, if their pay is under $425 a week, could easily see not one dime of new pay.

Employers are coached on ways to avoid any new costs and still comply with the regulations. So don't tell me this is going to add to workers wages—that claim is refuted in the regulations themselves.

And for other workers, with pay over that threshold, the regulations clearly threaten to take away overtime protections. They want to make it easier for employers to reclassify as many as eight million hourly workers who now get overtime pay, to make them ineligible for overtime pay.

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

Hourly workers, on the other hand, who do not manage the conditions under which they work, who have less to say about how the workweek is organized, must be compensated if they work more than the basic 40 hours. That has been the definition of a fair day's work for a fair day's pay for more than half a century, and its basic fairness still makes sense today.

But the administration's new regulations would make it easier—would actually create an incentive—for employers to classify workers who have little advanced education and little or no authority, to classify those workers as white collar workers.

Overnight, under these new regulations, millions of workers could lose the right to overtime pay. These rules are designed not only to make it easier to reclassify workers, but to make it pay for employers who do so. They will save money, since they will no longer be required to pay workers the time and a half rate that they are now guaranteed.

No change in the number of hours they could be required to do, no change in their education, no change in their responsibilities—just a change in the regulations in Washington, and they are out overtime pay.

That is one of the many reasons this legislation should be defeated, but it is not the only one.

Right now we have a law on the books that makes sure everyone who buys a gun is checked to see if they have a criminal record—or if they are on our terrorist watch list.

Those records are kept for 90 days—long enough to find out if a gun was sold to a criminal or terrorist, someone who initially may have appeared to have no criminal record or other ''red flag'' that would signal he is a bad guy.

Ninety-seven percent of the times that the reporting system discovered that a bad guy—a terrorist, a wife-beater, whatever—had mistakenly been sold—a weapon, it took more than 24 hours to figure it out. Destroying those records in 24 hours will destroy our chances of catching bad guys.

The change in this legislation will mean that 97 percent of the criminals or others who are mistakenly sold a weapon will go undetected by a system that was supposed to make us safer. Does the public know about this? I don't think so. That is because of the closed-door, backroom deal making that cobbled this massive bill together. This provision has never previously been considered by the House or the Senate.

Bad process, bad product.

And that is true for what the leadership did with the issue of media ownership.

Last year, the FCC decided to abandon its long-standing limitation that said no company or person could own television stations reaching more than

35 percent of the Nation's viewing audience. The FCC raised that limit to 45 percent, threatening harmful consolidation among media outlets that could undermine competition and diversity among broadcast voices.

The FCC's actions were met with consternation from all sides of the political spectrum, and both the House and Senate voted with bipartisan majorities to forestall this change. But the will of the Congress was cast aside.

The leadership of the Congress—mind you, not the Members of the House and Senate—under pressure from an administration eager to take care of large corporate interests, removed the 1-year restriction on the FCC's changes and replaced it with a new permanent 39 percent cap.

The list of bad provisions goes on. When we wrote the farm bill in the last Congress, with the support of both parties, we included a requirement that when we shop at the grocery store, we know what country our produce and meats come from.

That rule—requiring labeling that indicates the country of origin—was to go into effect this year. But this legislation delays that rule for 2 years.

It rewrites the farm bill to delay that rule—something neither the House nor the Senate voted to do.

Since that change was put into this bill, we have now found out that mad cow disease made its way into our country from Canada. Not a major cause for alarm, but certainly a lot of folks would now want to know where their beef comes from. But it will be 2 years before they get that information, if this bill passes.

There is one other thing that has to be mentioned here today. We have come through the last 3 years, including several months of strong economic growth, but we are still not creating new jobs.

For the first time since the Great Depression, we have gone 3 straight years without creating a single new job. Not one. The unemployment rate has come down recently, but that is because the job picture is so bleak that over 300,000 people just stopped looking.

Long-term unemployment is a much bigger problem these days, especially in our hard-hit manufacturing sector.

The kinds of changes we have gone through in recent years means that many of those jobs just won't be coming back. Those that will come back will return slowly. That leaves hundreds of thousands of Americans running out of their long-term unemployment benefits.

But we went out of session last fall and let the extended unemployment compensation program just expire, at the worst possible time. And we come back today with this appropriations bill, leaving that program expired and those Americans without benefits.

There are now 2.4 million fewer jobs overall than there were when the last recession began. Every month, about 100,000 more workers exhaust their existing benefits. The most recent report of people dropping out of the job hunt altogether is all the proof we need that long-term unemployment is a key feature of this economy right now.

This is not the time to let the program expire, but this bill, which covers so many programs and so many policies in so many parts of our Government, fails to address this problem.

That is unacceptable.

For the bad policies that are in it, and for the good policies that have been dropped from it or simply ignored, I urge my colleagues to join me in voting against cloture on this bill.

This conference report continues the administration's attempt to undo the equation we put in place when I wrote the 1994 Crime Bill: more police equals less crime. The conference report cuts COPS by 24 percent, and cuts the Local Law Enforcement Block Grant program almost in half. These are proven programs that help local police departments beef up their staffs and modernize their equipment, and the cuts couldn't be coming at a worse time.

There is only $756 million for COPS in the conference report, a drastic cut from the fiscal year 2003 level of $978 million. COPS' core program—the initiative that helps local police departments hire new community police officers—is funded at just $120 million, a 30-percent cut from last year and a far cry from the late nineties when the hiring program regularly received over a billion dollars per year.

These cuts are shortsighted, ill-conceived, and I fear they will significantly hurt local law enforcement's ability to fight crime. In a time of color-coded alerts, a rising murder rate, and an FBI increasingly focused on counterterrorism and away from violent crime, we are inexplicably asking the men and women of law enforcement to do much more with much less.

When asked to justify this approach, the administration responds that Federal resources for ''first responders'' are way up. Respectfully, that simply is not an adequate answer, and it reflects a fundamental misunderstanding of the needs of local law enforcement. Defending the homeland against a terrorist attack and preventing a woman from being raped are simply two different problems that require different solutions and different sets of contributions from the Federal Government.

I think Massachusetts Public Safety Secretary Edward Flynn is on the right track when he says, ''terrorism is the monster that ate criminal justice''.

We need to dedicate sufficient resources to fight international terrorism and local crime at the same time, but this conference report falls far short in this regard.

I recently received a letter from the International Association of Chiefs of Police where they express ''grave concern'' over the funding levels for COPS and the Local Law Enforcement Block Grant contained in this conference report. In their letter, the IACP states their ''belief that at this crucial time in our history, we cannot afford to reduce the effectiveness of our nation's state and local law enforcement agencies by cutting vital federal assistance programs.''

The Nation's police chiefs are not alone in their concern. According to the U.S. Conference of Mayors:

> too many families are still being ravaged by illegal drugs, too many citizens and law enforcement officers are put in danger due to drug and gun related crimes, and property and violent crimes are still a major issue in too many communities.

They also strongly oppose the cuts in this conference report.

The National Association of Police Organizations wrote me to say that this conference report ''does not sufficiently address the needs of America's police officers in their dual fight against terrorist threats and domestic crime.'' I cannot support the cuts this conference report proposes, and I encourage my colleagues to listen to their mayors and police officers before casting their vote.

Mr. MCCAIN. Mr. President, because of time constraints, my comments will be brief. I will, however, make extensive remarks about the omnibus bill at a later time.

We are nearly 4 full months into fiscal year 2004 and we are still without 7 of the 13 annual appropriations bills. For the second time in less than a year, we are considering a massive omnibus appropriations bill, with this one totaling a whopping $820 billion. Sadly, this conference report is loaded with over $11 billion in special interest pork-barrel projects and legislative riders that have no business in this or any other spending bill.

This omnibus appropriations bill has received considerable and justifiable criticism in the press and it should serve as an alarming wake up call. We are facing a $500 billion deficit. That's half of a trillion dollars—the largest ever. And what do we do when faced with such a problem? We spend even more. An article in Sunday's Washington Post pointed out what really drives the agenda here on Capitol Hill. The article states:

> Today, the country still faces serious problems—oil dependence, child poverty, new gaps in health care coverage, deteriorating rural communities and failing public schools. One doesn't have to be an advocate of big government to believe Congress has a role in crafting pragmatic solutions to these problems. Yet as Congress returns this week, none of these issues is on the agenda. What is on the agenda? Why, things Congress has always excelled in: dispensing pork barrel projects and using taxpayer's money to reward supportive lobbies.

Additionally, an editorial in today's Wall Street Journal states:

> The bottom line is truly shocking. Passage of the omnibus would raise total discretionary spending to more than $900 billion in 2004. The editorial goes on to note that this increase should not be blamed on the war. It states that, At 18.6 percent, the increase in non-defense discretionary spending under the 107th Congress, 2002–2003, is far and away the

biggest in decades. In 2003, total Federal spending topped an inflation-adjusted $20,000 per household for the first time since World War II. Let me point out just a few of the things that are included in this bill: $450,000 for the Johnny Appleseed Heritage Center in Ohio; $200,000 to the Rock and Roll Hall of Fame and Museum in Cleveland, OH for the Rockin' the Schools education program; $175,000 to paint a mural on a flood wall in a city in Missouri; $325,000 for construction of a swimming pool in Salinas, CA.

In addition to literally thousands of earmarks, this conference report contains major policy changes. Some of these provisions include legislative language authorizing the Bering Sea and Aleutian Islands crab fisheries rationalization plan, which would divide 90 percent of that crab market among just a small group of processors. Fishermen could only sell to those processors and only those processors would sell to consumers. This proposal has not been considered by the authorizing committees of jurisdiction, nor requested by the Administration.

Another legislative item included in this bill include media ownership provisions to undo a June 2 FCC regulation. Further, language is included mandating that the background check approval records issued after the purchase of a firearm be destroyed within 24 hours instead of the current policy of 90 days. This omnibus legislation also contains an environmental rider meant to benefit Briggs and Stratton, a major manufacturer of small engines. There is also language that redirects $40 million for construction of a cargo terminal at the Port of Philadelphia that is designed to support high speed cargo vessels for a private venture. Today, not only do the vessels not exit, but their design is based on unproven technology.

We have to change the way we do business around here. Through our wasteful spending practices, we have succeeded in tying a millstone of debt around the necks of future generations of Americans. Today, we have on opportunity to make serious and substantial change in the way we treat the American taxpayer. Let's rise to the challenge. Let's not squander this opportunity. I urge my colleagues to vote against cloture on this horrendous piece of legislation.

CONSTRUCTION OF A PORT OF PHILADELPHIA MARINE CARGO TERMINAL

Mr. SPECTER. Mr. President, I rise today to engage in a brief colloquy with the distinguished chairman of the Appropriations Committee regarding the designation and use of funds from the National Defense Sealift Fund for the construction of a marine cargo terminal in the Port of Philadelphia. These funds were previously made available through prior appropriations bills. Specifically, these funds are to be used to complement funds being made available by State and local authorities in Pennsylvania and New Jersey for the construction of a new, dedicated, state-of-the-art marine cargo terminal for use by FastShip, Inc., in Philadelphia.

These funds were originally designed to provide for vessel loan guarantees for the construction of high-speed vessels capable of providing additional sealift capacity consistent with the existing vessel Title XI loan guarantee program of the Maritime Administration. As part of this program, certain equipment and infrastructure items can also be included in the scope of the loan guarantee that would enhance and facilitate the use of the vessels to be constructed. Some of the funds were to be used for equipment needed to load and unload the vessels and for state-of-the-art information technology and container and terminal security at FastShip's marine cargo terminal.

Specifically, these funds were intended to be used to support guarantees for the construction in a U.S. shipyard of vessels for FastShip to establish a high-speed cargo service operating out of a new, state-of-the-art terminal in the Port of Philadelphia. These vessels will now be constructed without the benefit of this loan guarantee program, leaving a funding shortfall for infrastructure improvements. Since the amounts to be made available through the vessel loan guarantee program for infrastructure improvements needed to complement state and local funding for the terminal are now not forthcoming, the reallocation of these previously appropriated funds specifically for infrastructure at the FastShip marine cargo terminal is consistent with, and is a replacement for, the source of funding that is no longer available. The Department of Defense should direct these funds through the Philadelphia Regional Port Authority to ensure that these funds are made available for this purpose.

Mr. SANTORUM. Mr. President, I rise to join the senior Senator from Pennsylvania, Mr. SPECTER, to reinforce the importance of this program. The development of high-speed sealift capacity is critical to national security and efforts like the one you have described are key to attaining this important objective.

I would inquire of the Senator if my understanding of the use of these funds is correct and that the reallocation of these previously appropriated funds specifically for infrastructure at the FastShip marine cargo terminal is to be directed through the Philadelphia Regional Port Authority to ensure that these funds are made available for this purpose.

Mr. SPECTER. I thank my colleague for his inquiry and would respond that his understanding is correct. Further, I thank my distinguished colleague for his support of this important project for the Port of Philadelphia and indeed for the development of enhanced sealift capability that will provide the necessary support for our service personnel who serve our country overseas.

Mr. SANTORUM. Mr. President, thank you for the clarification regarding the purpose and use of these funds for a state-of-the-art marine cargo terminal in Philadelphia. I reiterate, this is an important project not only for the economic activity that will be generated for the Port of Philadelphia but also for the advancements in fast sealift in support of our national security interests.

Mrs. MURRAY. Mr. President, today I am voting to help Washington State restart our economy, create new jobs, and invest in our future by voting to move this Omnibus appropriations bill forward.

I am deeply angry that the White House and the Congressional Majority are trying to use this must-pass bill to sneak through some atrocious policies that the Senate has already rejected, but I know that this bill is not the last word.

Since the first days of this administration, I have fought attempts to threaten workers, undermine our environment and weaken consumer protections, and I'm not going to stop now.

While I continue my fight against the bad things that are in this bill, I will not let my State lose out on the many good things I worked to include. In fact, my experiences over the past few weeks have shown me just how big a difference these investments will make throughout my State.

I have spent the past month meeting with people in every corner of Washington—from teachers and students in Pasco, to farmers in the Skagit Valley, veterans in North Central Washington, and seniors in Aberdeen and Ballard. I sat down with the people who grow our produce, run our ports and operate our public utility districts. Together we celebrated our victory in landing the Boeing 7E7 and in opening new centers for research and tourism.

No matter where I went or with whom I met, one thing was clear. In every corner of Washington, neighbors are coming together to create jobs, rebuild our economy and create a better future. They are working to help our children, assist our seniors, and support our veterans and military families. They are working hard to turn things around, and they need the investments this bill will make in our schools, our infrastructure, our economy, and our people.

Washington State is talking about moving forward. We have been hit hard by the recession and lost 75,000 jobs over the last 3 years, but we are making progress. We had some great news in December when Boeing decided that Washington workers would build the 7E7, the next generation airliner. We are moving forward on transportation investments that will create jobs and improve our productivity, economy and quality of life. And we're moving forward with new growth industries from biotechnology to wine.

All across my State, I heard the message loud and clear. Washingtonians want to get our economy moving again and create new jobs. They're concerned about our men and women serving in

the Armed Forces in Iraq and Afghanistan and throughout the world, and want to make sure we provide for our veterans and military families. So, as we begin the second session of the 108th Congress, I'm working here in the Senate to help us move forward, and it starts with our economy.

I am not satisfied with the economy and particularly job creation in my State. I am disappointed that this administration's economic policy created just 1,000 jobs in the month of December while hundreds of thousands of unemployed workers abandoned job searches altogether.

I am outraged that the majority in Congress and the administration allowed 85,000 unemployed workers, including 7,500 in Washington State, to lose unemployment compensation just before the holidays. Over the next few weeks, an additional 37,000 unemployed workers in Washington State will lose their extended unemployment benefits.

I am not satisfied with the Omnibus Appropriations measure now before the Senate. The fiscal year started more than 3 months ago, and we still haven't finished the important business of passing appropriations bills to fund some of the most important functions of our Government.

We are unanimous in support of our troops fighting the war on terrorism, yet we haven't passed the VA–HUD bill with its critical increase in funding for veterans' health care.

The President travels the country celebrating the second anniversary of the No Child Left Behind legislation, but the funding we fought so hard to secure is still not at work on behalf of our kids. The money contained in this bill is not nearly enough to allow schools to make the reforms needed for our students to succeed.

Important transportation projects are stuck in neutral—jeopardizing their ability to move forward and create construction jobs now and to support long-term economic recovery. We should be talking about reauthorizing the 6-year highway bill rather than finally approving the long overdue funding measure for one fiscal year.

As a member of the Appropriations Committee, I am outraged that the hard work of the committee has been delayed and compromised by the Majority and the administration who are jamming Senators to force through bad policies.

I want to commend Chairman STEVENS and Senator BYRD for their hard work to pass the appropriations bill. We are here to debate an omnibus appropriations bill that the Appropriations Committee worked so hard to avoid.

I understand why many of my Democratic colleagues have chosen to oppose this bill. I share their anger at the administration's role in this process and our Republican colleagues' willingness to abandon issues like overtime protections that they voted for right here on the Senate floor. I seriously considered voting against this measure.

But I am a realist, and I am passionate about the needs of Washington State. People need jobs, transportation improvements need to move forward, veterans need health care, our students need support, and that is what I am voting for today.

As awful as some of the administration-backed provisions in this bill are, defeating the Omnibus appropriations bill will put our economy, our schools and our health care system at even greater risk.

It is a horrible choice the majority is forcing us to make. But today, I am voting for the jobs, security and growth that this bill will bring to the people of Washington State. I will vote for cloture and final passage of the Omnibus because I know my State needs the investments in this bill, and I do not want to deny or delay important Federal assistance to my State.

Before I close, I want to talk about some of the harmful and hurtful provisions that Republicans have inserted into this bill—particularly those targeting workers and consumers.

The only reason they attached them to this must-pass bill is because they know these horrible policies cannot stand on their own. In fact, with my support the Senate has defeated the administration's plans to erode overtime pay for workers and to increase media concentration. And we led the fight in the last Farm Bill to give consumers important country of origin information about our food supply. Despite the Republicans' maneuvers, this bill is not the last word on these policies. The fight is not over.

I am particularly outraged that the administration and the Republican leadership ignored the will of the majority of Members in both Chambers by removing the Harkin overtime amendment from the Labor/HHS Appropriations bill.

The Harkin amendment would have protected hard-working Americans who rely on overtime pay, like our first responders—our police, firefighters and nurses. One international police association estimates that 200,000 midlevel police officers will lose about $150 million in overtime pay if the new draft overtime regulations are implemented. The Bush administration will also prevent more than 230,000 licensed practical nurses from getting overtime pay.

According to the Economic Policy Institute, the Bush overtime rule will mean a pay cut for up to 10 million working Americans.

Even more astounding, the Bush administration had the gall to actually give employers detailed suggestions on how they could cut workers' pay. To me it is unbelievable that our Government would proactively look for ways to hurt American workers.

These families are working hard, they are playing by the rules, they are trying to make ends meet, but the Bush administration and the Republican majority in this Congress are squeezing them once again.

Apparently, it wasn't enough for this administration to preside over a dramatic loss of manufacturing jobs. It wasn't enough for this administration to let out-of-work Americans lose their unemployment benefits before the holidays. Now this White House is attacking the take-home pay of those Americans who are lucky enough to even have jobs. It's appalling, it's wrong, and I'm going to keep fighting this administration's attacks on working families.

I am deeply disappointed that this bill diverts taxpayer dollars away from struggling public schools and spends them on a vouchers scheme in the District of Columbia. I will continue my fight against vouchers and my efforts to give our public schools the resources our students need.

In the end, I am confident that we will win because these awful Republican policies cannot stand up to public scrutiny. We will have more votes on the overtime issue. We will have more votes on the country of origin labeling and important food safety issues, and we will have more votes on vouchers and media concentration.

I vote for this bill today because of the many programs funded in this Omnibus bill.

Throughout my State, people are working hard to get our economy moving, and I am voting for this bill to give them the Federal support they deserve.

Mr. KOHL. Mr. President, I rise today in strong opposition to cloture on the Omnibus appropriations bill. I cannot fathom why the Senate would agree today to cut off debate on a measure that is fundamentally flawed precisely because it was put together without the input of the full House and Senate. We have before us a bill that allocates billions of dollars through a plan clabbered together behind closed doors by the White House a very few Republican Members. It was a partisan, undemocratic process and the result is a bill that both thwarts the will of our constituents and makes a mockery of Congress's obligation to control this Nation's purse strings.

A vote for cloture today is a vote to rubberstamp the administration's wish list of policies and spending they couldn't get passed through the regular legislative process. And when you take a good look at what is in this bill—or what was forced out by the White House—you can understand why they had to put it together in a back room and why they want to push it through the Senate with little opportunity for debate.

The issues of concern in this massive bill are numerous—let me just highlight a few of the worst.

This Omnibus bill drops a provision to block a change in the rules that determine which workers are eligible for overtime pay. Both the House and the Senate voted in favor of maintaining the current rules. Both Houses agreed on a policy that would protect overtime for millions of working families—

but White House insisted on going ahead with their changes regardless of the bipartisan will of Congress.

Overtime is crucial to helping families make ends meet. In an economy that has lost 3 million jobs, those that have managed to hold onto their livelihood need the extra money that overtime provides more than ever. On average, workers who receive overtime receive almost 25 percent of their pay that way. And the President pushed for, and won, a policy of cutting that vital income for 8 million workers. Lowering wages for working people is not the way to stimulate this economy. Sending as many as 8 million people home with less money in their pocket is not going to spur investment and boost productivity.

And while the backroom negotiators chose to ignore the needs and concerns of workers with their overtime policy, they turned their backs on countless more consumers when they scuttled the country-of-origin labeling provisions passed by the Senate. If one thing comes through loud and clear from the BSE/mad cow experience, it's that consumers want basic information about the food they eat. To deny them such information takes from them a fundamental right to make decisions about their purchases, and their families' health.

I had hoped that we might discuss country-of-origin labeling—along with several other issues—during the conference on the Agriculture appropriations bill. Unfortunately, the conference didn't work that way. Rather than bridge the difference between the House and the Senate on labeling, the conference went behind closed doors and chose another direction entirely. It dismissed the Senate resolution in support of labeling, then went on to embrace and even expand on the House's ill-advised rider. The result, a public kept in the dark by the Government about where and how the food they eat is made.

The Omnibus also inappropriately compromises what Congress enacted regarding broadcast ownership rules. Both the House and Senate passed measures that would have reimposed the 35 percent national TV ownership cap, undoing a misguided FCC regulation that raised the cap to 45 percent. However, a deal with White House negotiators flouts Congressional intent and instead establishes a 39 percent limit—which seems less like a compromise and more like a favor to certain networks that currently own close to 39 percent of the Nation's broadcast stations.

Overtime pay, FCC rules, country-of-origin labeling—all policies inserted into this bill by the administration and against the will of Congress and numerous constituencies we were sent here to represent. Beyond these glaring flaws, there are many—too many—funding and policy decisions that are just plain wrong—and need further debate, further votes, further negotiation.

One obvious example is the administration's decision to slash funding for the Manufacturing Extension Partnership to a fraction of its past level. The Manufacturing Extension Partnership is one of the most successful Federal/State partnerships in Government. This program targets small and medium sized manufacturing firms, boosting productivity and increasing competitiveness as these firms face increasing pressure from global markets. The manufacturing sector has suffered devastating job losses during this past term, and the recent upturn in the economy left the manufacturing sector lagging far behind the rest of the country. MEP is a sound investment: MEP clients reported sales of $2.2 billion, nearly 24,500 new or retained workers during fiscal year 2001.

Manufacturing is vital to building a strong economy, creating good jobs that contribute to a better standard of living for American families and a critical rung on the ladder of opportunity for those working toward a better life. The MEP has a proven record of preserving jobs and stimulating productivity in those firms utilizing MEP services. This vital program will be unable to maintain its public mission to serve small manufacturers without adequate Federal support. MEP has enjoyed wide bipartisan support due to the effectiveness of its programs and fine record of achievement, and failure to adequately fund this program is a disservice to our struggling manufacturing industry.

I am also very disappointed that this bill includes inadequate funding for education. When we passed the No Child Left Behind Act, we made a deal with our State and local partners in education. We insisted on real reform and accountability for results from States, school districts and teachers. And we authorized large increases in Federal funding to help them succeed. This was a bipartisan bargain that acknowledged that reform and resources must go hand in hand if we expect our Nation's public schools to improve.

But once again the appropriations bill before us falls far short of Congress' commitment. It is $8 billion short of the authorized funding levels in No Child Left Behind. It provides only $12.4 billion for title I, which serves disadvantaged, low-income students and was authorized at $18.5 billion for fiscal year 2004. It provides only level funding for afterschool programs, which give students a safe and educational place to go during afterschool hours. The list goes on and on; this bill provides inadequate or reduced funding for many other programs under No Child Left Behind, leaving our schools—which are already struggling with budget shortfalls at the State and local level—with even greater challenges. In addition, while this bill provides an increase for Special Education, it is far short of meeting the Federal Government's promise to fund 40 percent of the costs.

This bill also shortchanges our most vulnerable youth by inadequately funding juvenile justice programs for the second straight year. The title V At-Risk Children's Program, which provides juvenile crime prevention funding to local communities, will only net $25 million in this bill—this program should be funded about three or four times that amount. Overall, juvenile justice funding will receive more than $100 million less in fiscal year 2004 than last year. This is unacceptable and we must do better.

If we are serious about our youth in this country, this bill certainly doesn't show it. We need to make their education and their well-being a top priority. Instead this bill cuts corners.

We can and should do better than this. We have done better than this in the bills and policies we put together on a bipartisan basis last year. I cannot support this bill or any motion to speed its passage. Not when it—against the will of Congress—steals necessary overtime income from over 8 million workers. Not when it—against the advice of the Senate—trashes a program that lets consumers make informed decision about the safety of the food they eat. Not when it overturns the clear decision of Congress to limit concentration in the media industry. Not when it violates common sense, common decency and the common good by slashing funding for programs that educate our children and nurture our manufacturing industries. I will vote against cloture today and against the bill if it comes to a vote. I urge my colleagues to do the same.

Mr. ENZI. Mr. President, I rise to speak about a specific provision in the Omnibus Appropriations bill. The bill before the Senate includes a 2-year delay in the implementation of country of origin labeling for all products except fish. I am highly frustrated with this delay because the conference committee went beyond the scope of its conference. The House bill only had a 1-year delay for implementation of country of origin labeling for meat and meat products. The Senate bill included an amendment indicating the strong support that country of origin labeling had in the Senate. The discovery of bovine spongiform encephalopathy, BSE, within our borders this holiday season was a wake-up call to the urgency of country of origin labeling implementation and the detriments of further delays.

After the announcement of a ''presumptive positive'' BSE cow in the U.S. domestic herd, the national and international response was immediate. Domestic markets plunged and our international trading partners slammed their doors shut to our meat products. Exports account for almost 10 percent of total U.S. beef production. Our largest export markets are refusing our product and bloating the domestic market. We've already lost a majority of our export market, a void that other beef exporting countries are

eager to fill. Unless we act now to restore the confidence of those markets, the relationships we have built for many years will be lost for good. In this situation, our trading partners need to be reassured that meat they purchase is ''born, raised, and slaughtered'' in the U.S. American consumers deserve this assurance, too. Country of origin labeling does this.

We have already paid for this lack of country of origin labeling. Exhaustive traceback and research by the U.S. Department of Agriculture has shown that the cow infected with BSE was imported from Canada. The rules that govern whether a country maintains ''BSE Free'' status are found in the Terrestrial Animal Health Code of 2003 generated by the Office of International Epizootics, OIE. The code say that a country can maintain its BSE-free status despite the discovery of a diseased animal if the animal was imported and all progency—calves—of the diseased animal are disposed of. With country or origin labeling in place, the United States could have begun the fight for ''BSE-free'' status immediately. Instead, we were forced to wait weeks until it was confirmed beyond doubt that the diseased cow was born Canada.

I understand that some people say that we don't need to have country of origin labeling with the USDA is already pursing a national animal identification program. This is simply not the case. A national ID program will be useful for health safety reasons. It will help pinpoint and track the spread of disease, but this informatin will not be passed on to the consumer. Tracking disease is not the only concern. Rebuilding consumer confidence should also be a high priority, and the only consumer-focused program is country of origin labeling.

Clearly, the answer to bolstering consumer confidence is country of origin labeling. We would do a great disservice to American consumers if the Senate suppressed country of origin labeling when the need for labeling is heightened.

The regulations for country of origin labeling were intended to be completed and implemented this year. I urge my colleagues to take the necessary steps to make sure this is the case. Now more than ever, we must stabilize the confidence of our consumers and let them enjoy the privilege of knowing that they are eating from the safest food supply in the world.

The PRESIDING OFFICER. Who yields time? The remaining time is controlled by the Senator from Alaska.

Mr. STEVENS. Mr. President, I say to my friends, I have no request for time, and there are 6 minutes remaining.

Mr. REID. Mr. President, we have no more requests for time. So for 5 minutes, I suggest the Senate be in a quorum call.

Mr. STEVENS. We will notify the two leaders. They still have reserved time, Mr. President.

Mr. REID. Until 10 till.

Mr. STEVENS. I suggest the absence of a quorum with the time coming out of our time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I will use my leader time to comment on the pending legislation.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, we are all eager to hear the President's agenda for the year. Before we move on, the Senate has some unfinished business from last year. This time last year Republicans promised a smooth appropriations process. In fact, it broke down to an unprecedented degree. It didn't have to be this way. Chairman STEVENS and Senator BYRD steered this process in an open, bipartisan fashion. Working together, they produced 12 appropriations bills that passed with broad, bipartisan support. As the majority leader noted this morning, we owe both of them a debt of thanks.

I am confident, had they been able to conclude the process they began, this debate would not have been needed. But because of the hubris of the White House and House Republican leadership, bipartisanship ended at the door to the conference negotiations. Hidden from the light of day, the White House hijacked the appropriations process, excluded Democrats, and wrote a bill to satisfy little more than special interest wish lists.

Today we are already 4 months into the fiscal year. We cannot undo the entire process, nor do we seek to. Democrats are united in our support for the vast majority of what is contained in this bill. But we should fix this bill before we finish it.

We want to give the majority a few days to work with the administration and the House to fix the most egregious provisions in this bill, provisions that have already been rejected by both Houses of Congress and bipartisan majorities. I have discussed our plans with Chairman STEVENS and the majority leader, and I believe they understand that we have no intention to block this bill. There is no reason to consider a full year continuing resolution and absolutely no risk of any interruption to the operation of the Government. The existing CR does not expire until January 31.

We could fix this bill with a simple correcting resolution and pass the Omnibus bill with broad, bipartisan support this very day. If we fail to do so today, all we ask is a few days to reconsider their actions. In doing so, we hope to salvage this process and begin this year on a note of bipartisanship, openness, and cooperation.

Three provisions demand particular attention.

American ranchers and farmers meet the highest safety standards in the world. But the discovery of mad cow disease in one imported Canadian cow has cast an unfair shadow of uncertainty over the American food industry.

There is a simple fix—implement the country of origin labeling law Congress has already passed.

This rule would put a ''100% American Beef'' sticker only on meat that was born, raised, and slaughtered in the United States.

Consumers want and deserve the right to make informed choices. In a recent poll, 85 percent said they would be more likely to buy food if it's American.

At a time when the rural community is struggling, the economic benefit of COOL to farmers and ranchers could be pivotal. That is why COOL is supported by 167 farm organizations representing 50 million Americans.

The Senate passed rule on two occasions with strong bipartisan support, in May 2002 as part of the farm bill, as well as in November.

It is time to enforce the will of the Senate and respond to the wishes of the American people.

The second issue is overtime. This bill would allow the White House to end overtime protection for American workers. This plan has already been rejected by the Senate by 54–45 and the House 221–203.

There is a simple reason why: It is bad for working families, bad for the economy. It would deliver a pay cut to 8 million workers, including emergency medical personnel, criminal investigators, nurses, physician assistants, teachers, agriculture inspectors, and more. Overtime pay accounts for nearly a quarter of take-home pay. For millions of families, it represents college savings, down payment for a house, medical bills.

At a time when manufacturing jobs continue to be shipped overseas and families are anxious about their finances, it would be cruel to end this vital protection that workers have depended upon for 70 years.

Finally, as to media ownership, when a few companies control the vast majority of media outlets in our country, our national discourse suffers and the vitality of our democracy is undermined.

There has been broad bipartisan support for maintaining limits. Last year, these limits won wide majorities in both the House and the Senate.

After first agreeing to retain language passed by the House and Senate to limit the number of stations a network can own, conferees bowed to White House pressure and included language that helps media conglomerates consolidate control over the airwaves.

This is special interest giveaway that directly harms the national interest, and it should be stopped.

There is more in this bill that could be improved. Provisions hidden within this 1,200 page bill would also threaten the education of Washington D.C. children through an untested vouchers scheme, undermine gun enforcement laws and allow more dangerous criminals to get their hands on guns, and contract out Federal jobs in key areas of government, leaving both Federal workers and citizens less safe and secure.

There are many more shortcomings. My colleagues could certainly point to other issues that deserve attention.

The Senate should not look the other way while a small minority overrides the will of the majority merely in order to reward one special interest after another.

We ask just a few days to improve this legislation. Let us fix this bill before we finish it. A few extra days of debate could prevent this bill from causing enduring damage to the Senate, our government, and our Nation.

Last year, with the White House and House Republican leadership at the controls, the appropriations process jumped the tracks. We have a chance to set things right and establish a tone of bipartisanship and cooperation for the coming year. I urge the Senate to make the most of this opportunity.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The majority leader is recognized.

Mr. FRIST. Mr. President, on leader time, I would like to make some closing statements on the importance of this bill, especially in light of the fact that although we have had 57 days for people to study the particular bill and what is in this bill, I want to put in a larger perspective why it is important to vote for cloture today and for us to bring to closure the unfinished business from several months ago so we can move ahead with the Nation's business this year.

I think first and foremost, every Senator has a real stake in passage of this legislation. Indeed, not just every Senator but the country has a stake in passage of this legislation. If we don't invoke cloture and subsequently pass this legislation, we will be shortchanging our diligent efforts and dedicated efforts in the fight against terrorism. We will be weakening funding for our food security and for our food safety system. We will be directly impacting in this vote millions of veterans. Those people who suffer from HIV/AIDS all over the world—our vote both today and subsequently for or against this appropriations package will affect them, whether it is in the prevention phase or in the treatment phase of HIV/AIDS. If we don't vote for cloture, if we don't vote for passage of this Omnibus bill—this collection of seven bills that addresses so many of the needs—we will be shortchanging the needs of schools in terms of Pell grants and in terms of Head Start. We will be shortchanging the lives of millions of Americans.

Many people have argued for a lot more spending in these bills, and many people have argued for a lot less spending. Whatever the merits of these arguments, again the whole process is a part of negotiations and, yes, compromise with the Senate, within the Senate, the House of Representatives, and the administration. But this is the product before us. Whatever the merits of those arguments for spending more or spending less, it is important that everyone understand the bill does abide by those spending limits that were agreed on between Congress and the executive branch, once you include the two emergency supplemental bills enacted last year, the ones enacted for the conflict in Iraq.

The appropriations spending authority will increase slightly—barely over 3 percent from 2003–2004—once this bill is enacted.

I spelled out briefly this morning the alternative to the bill. It is important for people to understand the alternative to passing this Omnibus appropriations bill. No Senator should be under any illusion, especially with regard to the fact that we are already one-quarter of the way through the fiscal year. One-quarter of it has already been completed. The alternative to a defeat of this appropriations package—this Omnibus package—is a full year of continuing resolution for the seven remaining appropriations bills.

I have to remind Senators because it has been a while since we have come back on the floor, and we haven't spent all day today going through all of the programs and what is in this bill in terms of education, title I, and special education programs, if we don't pass this package, will be cut by $2 billion. The National Institutes of Health, if we don't pass this bill, would be cut by $1 billion. Veterans health care—the health care for our veterans—would be reduced by $3.1 billion if we don't pass this bill; highway funding by $2.2 billion.

I mentioned global HIV/AIDS funding—people right now who are looking to America for that leadership—which would be reduced by nearly $1 billion.

States would not receive the $1.5 billion for the Help America Vote Act so we can increase funding for our election system.

The FBI's domestic terrorism fight would be curtailed by over $400 million.

AmeriCorps would not be fully funded at the $313 million level in this bill.

Agencies within the Department of Agriculture charged with animal health and food security would be reduced by $80 million.

I just close by showing this chart. I know it can't be read clearly by my colleagues. Here you see scores and scores of organizations that have let us know over the last 48 hours of their strong support for this Omnibus bill. Again, I will not go through the list, but in the list you will find everything from the Public Lands Council, to the Veterans of Foreign Wars of the United States, to the Disabled American Veterans, who say let's pass this bill, and let's pass this bill now. You see the Alzheimers Foundation, the American Foundation for AIDS Research, and you see the National Association for Biomedical Research. You see the International Association of Bridge, Structural, Incremental and Reinforcing Iron Works—again, scores of organizations that say pass this bill now.

What we all know is there is no perfect bill on this floor. All bills come as a product of compromise. That is a requirement of the legislative process.

It is now time to invoke cloture, to pass this bill, and to move on. I urge Senators to vote for cloture now—to vote for this bill and give children, veterans, schools, States, and needy Americans what they deserve.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk reads as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report to accompany H.R. 2673, a bill making appropriations for the Department of Agriculture and Related Agencies for fiscal year 2004, and for other purposes:

Bill Frist, Rick Santorum, George Allen, Robert F. Bennett, Jon Kyl, Ted Stevens, Kay Bailey Hutchison, Ben Nighthorse Campbell, Mitch McConnell, Judd Gregg, Orrin G. Hatch, John Cornyn, Christopher Bond, Saxby Chambliss, Sam Brownback, Larry E. Craig, Richard Shelby.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 2673, a bill making appropriations for the Department of Agriculture and related agencies for fiscal year 2004, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Minnesota (Mr. DAYTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

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

The yeas and nays resulted—yeas 48, nays 45, as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—48

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

NAYS—45

Akaka	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Ensign	McCain
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Nelson (FL)
Breaux	Frist	Nelson (NE)
Byrd	Graham (FL)	Pryor
Campbell	Harkin	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Snowe
Daschle	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NOT VOTING—7

Baucus	Edwards	Lieberman
Chambliss	Inouye	
Dayton	Kerry	

The PRESIDING OFFICER. On this vote the yeas are 48, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. FRIST. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion is entered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there be a period for morning business until the hour of 4:30 today, with the time equally divided between both sides, and that Senators be limited to 5 minutes each.

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

SCHEDULE

Mr. FRIST. Mr. President, for the information of Senators, it is my intent to close the Senate at about 4:30 today to allow for us to prepare for the events surrounding tonight's State of the Union Address. I will be talking to the Democratic leader about tomorrow's schedule. I will return in about 40 minutes to announce tomorrow's agenda.

PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 349, which is at the desk.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 349) providing for a joint session of Congress to receive the message from the President on the state of the Union.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 349) was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

COMMEMORATING THE LIFE OF FORMER SENATOR WILLIAM V. ROTH, JR.

Mr. BIDEN. Mr. President, TOM CARPER and I have a resolution at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 284) commemorating the life of William V. Roth, Jr., former Member of the United States Senate from the State of Delaware:

S. RES. 284

Whereas William V. Roth, Jr. was born on July 22, 1921 in Great Falls, Montana, was raised in Helena, Montana, graduated from the University of Oregon, and earned law and business degrees from Harvard University;

Whereas William V. Roth, Jr. was decorated with a Bronze Star for meritorious service with Army military intelligence in the South Pacific during World War II;

Whereas William V. Roth, Jr. moved to Delaware in 1955 and resided in Delaware until his death;

Whereas William V. Roth, Jr. was elected to the House of Representatives in 1966, and served the State of Delaware with distinction until his election to the United States Senate in 1970;

Whereas William V. Roth, Jr. continued to serve the State of Delaware and the United States in the Senate from 1971 to 2001, where he personified the title ''Honorable'';

Whereas William V. Roth, Jr. championed tax and savings reforms and deficit reduction as Chairman and a member of the Senate Committee on Finance;

Whereas William V. Roth, Jr. worked tirelessly to control government spending as Chairman and a member of the Senate Committee on Governmental Affairs and to shape foreign policy as president of the North Atlantic Treaty Organization (NATO) Parliament Assembly and chairman of the Senate NATO Observer Group;

Whereas William V. Roth, Jr. was a man of integrity, decency, and character who was committed to his family and to the people of Delaware; and

Whereas William V. Roth, Jr. was a trusted friend and colleague and a dedicated public servant: Now, therefore, be it

Resolved, That—

(1) the Senate has learned with profound sorrow and deep regret of the death of the Honorable William V. Roth, Jr., formerly a Senator from the State of Delaware;

(2) the Secretary of the Senate shall communicate this resolution to the House of Representatives and transmit an enrolled copy of this resolution to the family of William V. Roth, Jr.; and

(3) upon adjournment today, the Senate shall stand adjourned as a further mark of respect to the memory of William V. Roth, Jr.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I thank the Chair. I thank the clerk for reading the resolution in its entirety.

Mr. President, my friend, our colleague, Bill Roth, died while the Senate was out of session. Otherwise, I am certain there would have been a profuse outpouring of sentiment on the floor, as when any person of consequence dies.

Bill Roth was a man of the Senate and a man of consequence. He was also, even though we were on opposite sides of the aisle, one of my closest friends in the Senate. We had the honor, as my friend and colleague, Senator CARPER, and I do, of riding Amtrak together. In Bill's case and my case, we rode the train together almost every day for 28 years. Literally, for the first 24 years probably every day the Senate was in session.

You can't have that kind of proximity with a man or a woman without getting to know them pretty darn well. I got to know Bill very well. I got to know his family. I got to know his hopes, his dreams, his fears, and his concerns, as he did mine, my family, my hopes, dreams, and concerns.

An unusual thing developed: a bond of trust. I can and will say for the record that there is no person in public life I came to trust more than Bill Roth. I trusted him with my concerns. I trusted him with family issues. I trusted him with personal issues. And I trusted his judgment on political issues, even when he and I disagreed.

We would ask each other questions: What do you think would happen if I do the following? What do you think the consequence would be? Even though we were in opposing parties, neither hesitated to give our friend the best advice we could.

I once said that running against Bill Roth was like running against a wheat thrasher: big, gobbles up everything in his way, and he was very silent. Before it was all over, everything was harvested.

Bill Roth, I think, was the most underestimated man with whom I have served going into my sixth term as a Senator.

I might note for the record that Bill Roth's family is incredibly talented. His wife, Jane Roth, is one step away from the Supreme Court as a Third Circuit Court of Appeals judge. None of us