

of regulations to change the underlying overtime law. They did it without having one public hearing. Imagine that, changing something so fundamental to the American work ethic as the right to overtime pay without having a public hearing.

They put out the proposed regulations and the American public responded with thousands—I have heard maybe 60,000 to 70,000 comments. Then last summer, after a number of us had gotten wind of what they were trying to do and we started reading the proposed regulations, we offered an amendment on the Senate floor that would have basically denied that part of the overtime regulation that would take away this overtime right.

That amendment I offered last summer passed the Senate. It was bipartisan. I have heard a lot of references to the fact that this bill is a bipartisan bill. Well, the amendment I am offering is a bipartisan amendment because it was voted on last summer by both Republicans and Democrats and passed in the Senate, 54 to 46. Around here, that is pretty bipartisan.

Basically, what that amendment said is, no, we are not going to agree with the administration's proposed changes on overtime rules. If the administration wants to make fundamental changes in overtime rules, they ought to do it in the time-honored manner: work with Congress, have public hearings around the country, and then let Congress and the administration get together to revise, if revision is needed, overtime laws. But that is not the way the administration did it.

Again, if I hear correctly people on the other side say we are slowing down or stopping this bill, I am sorry; it does not ring true. This bill could have been brought up last fall, and it was not. We just spent a whole week in the Senate debating a gun bill that failed with over 90 votes against it. What was that all about? Why did we spend over a week doing that when we could have been doing this bill, if this bill is so important?

One has to raise some questions about what is going on because when one reads some of the publications around here—this was in Congressional Quarterly Today about this bill. According to the Congressional Quarterly, the chairman of the House committee, Congressman THOMAS:

... told the Tax Executive Institute, a group of corporate tax officials, on Monday that lobbyists seeking specific changes in international tax rules had effectively stymied his bill, according to the Associated Press.

So it is not us who are stymying this bill. Again, there are some corporate lobbyists downtown who are. Again, from CQ Today:

Meanwhile, House Ways and Means Chairman Bill Thomas, R-California, told a group of business tax officials on Monday that the current House version of the bill (H.R. 2896) was probably doomed.

So it is not us who are slowing this bill down, not at all. This Senator

would like to see this bill get through. I think there are some good things in this bill. That does not mean we should not be allowed to offer our amendments and have an up-or-down vote on those amendments.

A jobs bill? Well, fine, call it a jobs bill, but do not tell me this is a jobs bill and then say we cannot have a vote on our overtime amendment. That is about jobs. We know it is about jobs because we know, common sense dictates, if an employer can work a person longer than 40 hours a week and not have to pay overtime, why, it would be much better to work the person longer, pay them less, and then not hire any new workers.

At a time when we have 9 million Americans out of work, we have a jobless recovery in this country, why would we now be wanting to give employers another incentive not to hire new workers?

We had an agreement to consider my amendment. It was the fourth amendment in the series we agreed to prior to last week's recess, but no sooner was I able to offer my amendment last evening than the majority leadership decided to move to recommit the whole bill and to file cloture on that motion.

I am not sure how that meets our previous agreement to take up my amendment, but that is where we are now. A motion to recommit the bill is pending. I would like to talk about overtime. I would like to have an amendment about overtime and have a vote on it. As my parliamentary inquiries earlier this morning showed, we can go through this whole charade, motion to recommit, file a cloture, we can vote on that, and we can still come back with this amendment.

I suppose then they will file cloture on the bill. That is why it was wrong on the majority side to file cloture on this motion to recommit and why I hope we will oppose that cloture motion and deny cloture until we can get a right to offer our amendments and have a vote on our amendments.

We are not asking for unlimited debate. I would agree with the manager of the bill right now to a time limit on my amendment with an up-or-down vote. So it is not about us stalling this bill. Forget about that. Get that out of your head. That is not what is happening. What is happening is the majority side simply does not want to vote on overtime. Why? Because I think they are afraid, and the vote will be even stronger this time than it was last summer because more and more American workers, more and more people have found out what this administration downtown is trying to do to their overtime pay.

I will be on the floor waiting for every opportunity to offer this amendment and to get a vote on it. If the other side believes that somehow by going through this charade and slowing this bill down and somehow blaming us for it when we are not doing this is somehow going to get rid of this over-

time amendment, well, I am sorry to disappoint them. We are going to continue to debate and have a vote on this overtime amendment. It is that crucial, that important, to the American worker that this Senate express itself once again and say no to the administration, that we are not going to let them trample on the rights of American workers and take away their right to overtime pay if they work over 40 hours a week.

I see my time has expired. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Continued

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, the matter before the Senate is what?

The PRESIDING OFFICER. The second-degree amendment by Senator GRASSLEY.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, the Senator from Connecticut, Mr. DODD, wishes to speak for 15 minutes. I ask following that, the Senator from Massachusetts, Mr. KENNEDY, be recognized.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank the Senator from Nevada for securing the time. I may not need all of that time. I want to take a few minutes to express my deep concerns about the pending amendment. I am in favor of the pending amendment. My concern is that an effort will be made to somehow avoid having to vote on this critical issue, the issue of overtime pay.

First, let me commend Senator HARKIN of Iowa for being so tenacious and patient about this amendment. He has offered this proposal in the past. We carried the amendment, as I recall, in the Chamber, only to watch the matter be dispensed with and dropped in conference.

He has tried to bring up this matter before. In fact, prior to the recess period, Senator HARKIN was on the floor of this Chamber for a number of hours, trying to get a vote. I think he agreed

to a simple 20 minutes or 25 minutes of debate on whether we would be able to prohibit the administration from implementing a new regulation that would take overtime away from millions of working Americans.

I have no doubt about the outcome of the vote if we can actually get a vote. I have no doubt the overwhelming majority of our colleagues, if given the chance to express themselves on the proposed regulation by the administration, would support the Harkin amendment. We have done that already. I think that is where Members are, both Democrats and Republicans.

But a determined minority here will not allow us to have this vote. We will not get the chance to express whether we believe that hard-working Americans who work beyond their 40 hours ought to get paid for the overtime work they do.

I was stunned to learn not only is the administration proposing the regulation that would prohibit overtime pay for people, but actually, within administration documents, they instruct employers on how to craft their working relationships with their employees to avoid paying overtime pay, moving people into whole new classifications they had never held.

I am baffled that the administration has unveiled such an antiworker, antifamily proposed regulation. It is simply one more bad economic policy decision that I think is indefensible, and I think we would like a chance, both Democrats and Republicans, to express ourselves on this proposal.

I am determined, along with the Senator from Iowa and many others, to stay here and do whatever we have to do to get an up-or-down vote on whether we ought to ban people from collecting overtime pay when they work those hours.

Mr. KENNEDY. Will the Senator yield?

Mr. DODD. I will be happy to yield to my colleague from Massachusetts.

Mr. KENNEDY. Mr. President, I join the Senator in cosponsoring the Harkin amendment.

Is the Senator familiar with the fact that the Republican leadership has now done a parliamentary maneuver so there is absolutely no opportunity for this institution to act on the Harkin amendment dealing with overtime; that they have taken the rules of the Senate and are so unwilling to address the amendment of the Senator from Iowa that they have effectively foreclosed any opportunity for the Senate of the United States to act this afternoon, late afternoon, this evening, or at any time until after the cloture motion?

Can the Senator from Connecticut possibly tell us why the Republican leadership would want to deny the people's representatives in the Senate the opportunity to express their view on an issue that affects approximately 8 million workers in this country?

Mr. DODD. I thank the Senator. The Senator from Massachusetts has been a

Member of this Chamber for a number of years, and I have been here for almost a quarter of a century. I say to my colleague from Massachusetts, I was born at night but not last night.

You can use the rules of this institution for various purposes. It seems clear to this Member that the reason the Republican leadership—a determined minority within the majority—is engaging in these parliamentary sorts of gymnastics is because they know the outcome. I suspect a strong majority of us would speak with a resounding voice in saying no, you shouldn't implement a rule that would prohibit hard-working Americans from collecting overtime pay. This is particularly troublesome at a time when so many are out of work and where two incomes in a family may be necessary to keep up with the mortgage payments, or to pay college tuition, or make car payments. We cannot deprive 8 million Americans who today have the right to collect overtime. The only reason the Republican leadership is prohibiting a vote is because they know the outcome—the amendment would pass.

Mr. KENNEDY. Mr. President, as the Senator remembers, we had a vote on this measure on September 10, 2003. To substantiate what the Senator has pointed out, they voted 54 to 45 in the Senate to retain overtime, and in the House of Representatives it was 221 to 203. This was a matter of 7 or 8 months ago when we had this body speak in a bipartisan way and the House of Representatives speak in a bipartisan way. Still we find the Republicans are denying the Senate an opportunity to express its will.

Does the Senator not agree with me that this is sending a message to every working family in this country that we have Republican opposition to the increase in the minimum wage, Republican opposition to extending the unemployment compensation, and Republican opposition to halting the proposal that will eliminate overtime for some 8 million Americans; that one can conclude this administration is not on the side of working families?

Mr. DODD. Again, I thank my colleague for his question. I don't know how you can draw any other conclusion than my colleague from Massachusetts has.

As I recall—again, my colleague has a wonderful sense of history, and I think my memory is not bad but correct me if I am wrong—during the Reagan administration, during the Bush administration, the President's father, extended unemployment benefits in those years when people were out of work. I think during both Republican and Democratic administrations, they said we ought to extend those unemployment benefits and raise the minimum wage. But in this administration's case, the answer is a resounding no. Not only do they not allow us to vote on those matters and extend those benefits as every adminis-

tration has over time, but, of course, they are going a step further and proposing regulations.

Let me be clear so people understand. If you are among one of 250 current white-collar occupations, if you are a nurse, a firefighter, a police officer, emergency medical training personnel, health technician, clerical worker, surveyor, chef, if you are in those categories and many more, even though your work obligations don't change at all, it gives your employer the right to reclassify you as no longer someone who qualifies for overtime pay. Even though your work doesn't change, you will be deprived of overtime pay, no matter how many hours you work. I don't understand.

Mr. KENNEDY. Will the Senator yield?

Mr. DODD. I am happy to yield to my colleague.

Mr. KENNEDY. Will the Senator not agree with me that for the first time in the history of the overtime laws this administration has stated if individuals in the military—I am reading from their proposed regulation of March 31, 2003. They talk about training in the Armed Forces, stating if you are a member of the National Guard and are called up to go over to Iraq, you take a training program in order to try to provide greater protection and defense for the men and women in your unit, you come back here to the United States, you go back to your workplace, and you think you are entitled to overtime, under their proposal, make no mistake about it, you are excluded.

I draw the attention of the Senator to the comments of the very distinguished head of a veterans organization. The Senator has mentioned the categories of those who will be made ineligible for an increase in overtime. This is a letter to Secretary Chao from Thomas Corey, national president of the Vietnam Veterans of America, dated February 17, 2004:

[We] would like to make you aware that the proposed modification of the rules would give employers the ability to prohibit veterans from receiving overtime pay based on the training they received in the military. This legitimizes the already extensive problem of "vetism" or the discrimination against veterans.

There it is. That is what their proposal is all about. I don't blame the other side for not wanting to have a vote on it.

Has the Senator ever heard of such a time when we have American servicemen spread all over the world being called on—and the National Guard and Reserve—to get some training, and they come back and go back to work, and there comes the boss who says, Well, you have some training in the military, and you are out?

Mr. DODD. Mr. President, I had heard some reports about this. I had never seen this letter before, but I find it incredible. Like many of my colleagues, I have attended various meetings with the families of guardsmen and reservists who have deployed to Afghanistan

and Iraq over the last number of months. I have also been at armories in my State as the men and women have come back from their service there. I have even visited with our troops in Iraq for a few days in December. I cannot believe that these men and women, many of whom have spent a year boots-on-the-ground overseas would be treated in this way. These men and women have already had to put their jobs and families on hold as they go over for a year—maybe getting back for a week or so. It is hard enough to do that, hard enough to be away, hard enough to go through the perils of serving in a war zone as these young men and women are doing. But I find it stunning to also be told because of the training they may receive in order to help us rebuild Iraq and defend their fellow men and women in the uniform, that the training they got now deprives them of getting as much as 25 percent of their income. I am told that as much as 25 percent of the earning power of an average worker in this country comes from overtime pay. People coming back who just served their country, who put their life on the line, and been away for a year, are now being told if they got job training over there, they will no longer be eligible for overtime pay. That is incredible.

Mr. KENNEDY. I draw the attention of the Senator to the comments from the National Association of Manufacturers.

The NAM applauds the department for including this alternative means of establishing that an employee has the knowledge required for the exception [from the overtime protections] to apply . . . For example, many people who come out of the military . . .

There it is again, the National Association of Manufacturers praising that part of the Bush proposal.

We are talking about those who are serving in the Armed Forces now, and we know 40 percent of the combat arms in Iraq are National Guard reserve units. We find out that those individuals who get that extra training, which is essential in order to help protect the lives of their fellow servicemen, are told when they come back home, too bad, you are not going to get your overtime pay.

I ask the Senator if this has been his experience. I have a chart, as well, regarding workers without overtime protections being more than twice as likely to work longer hours.

The point I have heard the Senator from Connecticut and the Senator from Illinois make is, if you do not have the protections, some think you will have to work a little bit longer, but it will not make much difference.

This chart from the Labor Department shows what happens in the two cases: where workers are paid time and a half for overtime and where they are not.

The PRESIDING OFFICER (Mr. VOINOVICH). The time of the Senator from Connecticut has expired.

Mr. KENNEDY. I had requested to be recognized following the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized under the previous order.

Mr. KENNEDY. Mr. President, this is on my time.

This chart shows if you do not have overtime protections, you are twice as likely to work more than 40 hours a week and three times as likely to work more than 50 hours a week.

Without overtime protections, hold onto your seat, employers will make you work twice as hard after hours.

Does the Senator agree with me that the Bush Administration is not only denying fair compensation on a proposal that has been in effect since the 1930s, but the message ought to go out to workers across this country they are going to work a great deal longer, a great deal harder because without the overtime protection, that is the record. They will be exploited in the workplace.

Mr. DODD. I thank my colleague for the question. I see our friend from Illinois, as well, so I will not take much time.

I am glad the Senator pointed this out. It reinforces the argument I mentioned a moment ago that according to Labor Department studies, this elimination of overtime pay for 250 job classifications will reduce the earning power of the average working family by 25 percent. What the Senator from Massachusetts is saying is not only will you have less pay, but you will have to work longer hours, as well.

I am glad the Senator referenced the Fair Labor Standards Act of 1938. We went through World War II, we went through Korea, Vietnam, through economic downturns, and no administration ever suggested the kind of changes in overtime pay this Bush administration is advocating today.

I urge, as my colleague from Massachusetts has, give us a chance to vote. Give this body a chance to express its will on whether we think during these times of economic hardship people ought to be able to get overtime pay.

If you are a nurse, clerical worker, firefighter, a reporter, a paralegal, dental hygienist, graphic artist, the list goes on, those are the job classifications in which you will be denied overtime pay. Your work remains the same, you do not get the extra pay, you work longer hours.

Let's vote on the Harkin amendment. Let's have an up-or-down vote to determine whether this body believes overtime pay ought to still be the practice in this country.

Mr. KENNEDY. I ask a final two questions of my friend from Connecticut.

When we are talking about police officers and nurses and firefighters, they are the categories we rely on for homeland security. They are the backbone of homeland security. Here we are in the Senate effectively saying to those workers, we are going to take away

your overtime pay. The Republicans are saying that because they will not let us get a vote on it.

We have a lot of problems in this country, but I don't believe one of the problems is that we are paying our firefighters, our nurses, and our police officers who are on the front line of homeland security—I don't think the principal problem we have is we are paying them too much.

The Senator from Connecticut is the leader in this body with regard to children and children's issues. I have a chart that looks at the number of children hungry in this country. We are seeing an expansion of hunger in this country. We do not talk about it a great deal in this body, but it is a direct result of the fact working families are having a hard time making ends meet. They have not gotten an increase in the minimum wage, unemployment compensation has been denied, they are facing the threat of loss of overtime. We have 13 million hungry children. I ask the Senator, we have the other problem with 8 million unemployed, 8 million workers who will lose overtime, the low minimum wage for 7 million, 3 million more Americans are living in poverty because of the economic policies of the last 3 years, and 90,000 workers a week are losing their unemployment benefits. Regarding the impact of all these economic policies on children, I am wondering if the Senator would address this issue briefly. It is important when we are talking about these issues, we are not just talking about technical questions of overtime; we are talking about real people with real lives and people who are facing some very challenging times.

Mr. DODD. Mr. President, again I thank my colleague from Massachusetts. He has in a sense answered the question himself with these numbers. It is hard to believe, given the times, the hardship, 90,000 people a week are exhausting their unemployment insurance benefits.

We know of the pressures that exist on families already. We know how hard it is today economically. It is not an uncommon story to hear, whether you are in the home State of the Presiding Officer in Ohio, or Massachusetts, Illinois or Connecticut, to have families where two, three, and four jobs are held in order to make ends meet and how critically important it is to have that income coming in.

When we read about jobs being outsourced across the country, being shipped off to India and China, and the administration is saying that that is a good thing for the economy, when 2.6 million manufacturing jobs have been lost, many of which have left the country, we have to be concerned about the future of America's families. These are all pressure points on these families who are living on the margins. We are not talking about families who are necessarily in poverty but families who are struggling to provide for their basic needs, trying to prepare for children

going on to college, seeing to it they get a good education, keeping them properly clothed, and in good health.

Forty-four million Americans do not have health care. The overwhelming majority of that 44 million are working people with two incomes. That is the average. Over 80 percent of the 44 million people without health care are working families. Now you take up to 25 percent of their income away and make them work longer hours. How is that balancing work and family?

This body took 7 years to pass the Family and Medical Leave Act with the help of my good friend from Massachusetts. We tried to make it possible for people to balance their needs, but now, this administration is depriving these families and their children from receiving basic necessities.

I am glad my colleague from Massachusetts has raised the issue beyond just the numbers and statistics we cite.

These are real people and real lives out there struggling to make ends meet. And now the Republican leadership is depriving this body a chance to vote on this amendment which would prohibit the administration from moving forward with their overtime proposal. I am glad my colleague made the point about the firefighters, about the EMT services, about the police officers. These are the first responders on homeland security. This administration is not only turning their back on veterans and people in uniform who are going to be shoved into the class of not getting overtime pay, but even our first responders now are going to be asked to pay a price as well.

Let's vote on the Harkin amendment. Let's have an up-and-down vote to determine whether or not this body believes overtime pay ought to still be the law of the land and not relegated to a handful of people.

So, Mr. President, I thank my colleague for his efforts. I am glad to join with him as a cosponsor of the Harkin amendment.

Mr. KENNEDY. Mr. President, I underline once again what the Senator from Connecticut has been saying about the average wage in 2001. The average wage of the jobs we lost in 2001 was \$44,570, according to the Bureau of Labor Statistics. The average wage of the jobs we are gaining today is \$35,000, down 21 percent. This is outside of the overtime. These are the new jobs. This is the average wage today of the new jobs being created, \$35,000; \$44,000 of the jobs we lost in 2001.

This is what is happening, and we are saying to these workers: Well, that is not bad enough. We are going to deny you overtime pay. We have been denying you an increase in the minimum wage for 7 years. We are going to deny you unemployment compensation—90,000 people a week. These are the facts. The average wage of jobs lost was \$44,570 but only \$35,410 for the jobs gained.

As this chart shows you, American workers are working longer and harder

than workers in any other industrial nation in the world. Look at this line right over here. The United States is right at the top. Americans are working longer, they are working harder, and they are falling further and further and further and further behind. And what is the answer of this administration? Cut overtime. We can do better. What is the answer of the Republican leadership? Deny us a chance to do something about it. That is what we are faced with.

Well, it seems to me that hopefully Americans will have their answer sometime soon. If we are not able to on this bill, I know the Senators from Connecticut and Illinois share my view. I know the Senator from Iowa does. This is just the beginning. This is the opening shot. I tell our Republican friends, this issue is coming at you again and again and again. Make no mistake about it. You don't like to vote on it? Too bad. These families are suffering out there, and we are going to keep bringing this up, again and again and again and again, until you do vote on it.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KENNEDY. I am glad to yield.

Mr. DURBIN. I thank the Senator from Massachusetts and the Senator from Connecticut. I think what we hear in this discussion should be described in simple terms to those following this debate. We are asking, on the floor of the Senate, for an up-or-down vote for Members to be counted on the question of whether the Bush administration will, for the first time in the history of the law, restrict overtime pay to American workers.

Since the law was created in 1938 establishing overtime, each successive administration that has changed the law—Democrat and Republican—has expanded the class of workers eligible for overtime.

But this time, this administration, which has witnessed almost 3 million jobs eliminated in America, has now suggested that we should reduce and eliminate overtime for 8 million American workers.

I say to the Senator from Massachusetts, it is part of a pattern. The Bush administration is not sensitive to the real needs of working families. They have resisted the efforts of the Senator from Massachusetts to increase the minimum wage for 7 years. Think about how many people are working one, two, and three jobs to try to put enough money together to keep their families in a good home, to pay their basic bills. Yet they resist increases in the minimum wage.

Then, when you ask them about these jobs going overseas, the Bush administration's economic adviser says the outsourcing of jobs to India and China is a good thing. Where does he live? Where does he get his advice? This man is trapped in a textbook. He should get out on Main Street and talk to real families. The outsourcing of

jobs overseas is not a good thing. It is costing us jobs in America.

When the Senators from Massachusetts and Connecticut stand up and say, well, for goodness' sake, at least take pity on unemployed Americans, help them keep their families together, pay for their health insurance now that they have lost their jobs, consistently, on the floor of the Senate, the other party—the Republican Party—votes against the extension of unemployment benefits.

In my State we have thousands of people unemployed who have no benefits coming in. How do you keep it together under those circumstances?

And the last point—an important one we are discussing—is the idea that we would eliminate overtime pay for 8 million workers. I think the Senator has made such a positive and important point. Who are these workers? They are firefighters; they are policemen; they are nurses.

I do not know about the State of Massachusetts. In the State of Illinois, we have a serious shortage of nurses. Hospitals come to me and say: Can you help us bring nurses in from the Philippines and overseas? We don't have enough nurses. And this administration says we are going to eliminate overtime pay for nurses? What will that do to us? Fewer and fewer health care professionals in hospitals cannot make America healthier or safer, and that is what they are proposing.

But today I believe the Senator from Massachusetts has brought to us the icing on the cake. Now we have this administration saying, when it comes to overtime, if you happen to be a soldier in the military or an activated guardsman or reservist, and you serve your country, and are trained in service, pick up skills, when you come home, because of this Bush administration proposal, you will be disqualified from overtime pay.

It is almost incredible to say those words: That men and women leave their families with the 233rd unit of the Illinois National Guard, military police, and are gone for a year over in Iraq—who are coming home in a few weeks, thank God; their families have waited patiently—but if they made the mistake of picking up a new skill while they were activated, they could be disqualified from overtime pay when they return to their job. That is exactly what the Bush administration is proposing.

We hear so many speeches about how Members of the Senate are going to stand up for fighting soldiers, stand up for the vets. I ask the Senator from Massachusetts, when it comes to the Bush proposal to eliminate overtime for those vets who have been trained in the military, how can this possibly be a demonstration of our support and admiration for the men and women in uniform?

Mr. KENNEDY. Well, it is beyond comprehension, I say to the Senator,

that in this proposal the administration has yielded to the recommendation of the National Association of Manufacturers, that those who get special skills in the military would not qualify for overtime. And I read that particular provision in the proposed regulation.

I ask unanimous consent to print the paragraph in the RECORD, dated March 31, of the proposed rules that talk about training in the Armed Forces.

[From the Federal Register Mar. 31, 2003]

(d) The phrase "customarily acquired by a prolonged course of specialized intellectual instruction" generally restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word "customarily" means that the exemption is also available to employees in such professions who have substantially the same knowledge level as the degreed employees, but who attained such knowledge through a combination of work experience, training in the armed forces, attending a technical school, attending a community college or other intellectual instruction.

Mr. KENNEDY. It is right in there. And it was requested by the National Association of Manufacturers. They made a comment about how happy they are it is in there. It is one of the most offensive proposals this administration has made.

I want to just make a final comment and respond to what the Senator has mentioned with regard to the nurses because this is so important, as I know the Senator is concerned about the issue of the quality of health care.

This is from Cathy Stoddard of Mingo Junction, OH, a nurse at the Allegheny Regional Hospital in Pittsburgh:

... President Bush and the Republican members of the House and Senate are trying to take away the one thing that discouraged hospital administrators from forcing nurses to work overtime. If you think nurses are running away now, just wait until their employers start telling them they have to work a 20 hour shift and aren't getting overtime pay for a single minute of it!

This proposal affects the quality of health care. We talked about the standard of living for working families and the challenges they are facing over a lack of an increase in the minimum wage, over the lack of unemployment compensation, and now there is the overtime proposal. This is going to have a dramatic impact and adverse effect on the quality of health care in this country. And for what? And that is because of the urging of the National Association of Manufacturers, the Chamber of Commerce urging the administration to find a way to cut back on overtime for 8 million workers in this country.

I thank the Senator from Illinois for raising not only what this issue is going to mean for working families, but what the impact is going to be on, in this case, health care and other vital services.

We have talked about veterans. In that regard, I bring to the attention of

the Senator Randy Fleming, who writes:

I am also proud to say that I am a military veteran. I have worked for Boeing for 23 years. The training I received in the Air Force qualified me for a good civilian job. The second thing is overtime pay. With the overtime, I have paid for my kid's college education. The changes this administration is trying to make in the overtime regulations would break the government's bargain with the men and women in the military, close down the opportunities that working vets and their families thought they could count on.

When I signed up back in 1973, the Air Force and I made a deal that I thought was fair. They got a chunk of my time and I got training to help me build the rest of my life. There was no part of the deal that said I would have to give up my right to overtime pay. You have heard of the marriage penalty. I think what these new rules do is create a military penalty. If you get your training in the military, no matter what your white-collar profession is, your employer can make you work as many hours as they want and not pay an extra dime. If that is not a bait and switch, I don't know what is.

I have no doubt employers will take advantage of this new opportunity to cut our overtime pay. They will say if they can't take out our overtime pay, they will have to eliminate the jobs. It won't be just the bad employers because these rules will make it very hard for companies to do the right thing. The veterans and other working people will be stuck with less time, less money, and a broken deal.

There it is, in real life, Randy Fleming, a veteran who looks down the road in the eyes of his children, hard working, played by the rules, served our country, acquired some skills, and he is looking to the future.

This is a lousy proposal. It doesn't deserve to be favorably considered. But our Republican friends are refusing us, denying us the opportunity to get a vote on it. I know the Senator from Iowa would be willing to agree to an hour of debate, a half hour of debate, 15 minutes of debate—we know what the issues are—to get a vote. The idea to use the rules of the Senate to deny the Senate the ability to express its will on this issue is an enormous insult to working families all across the country and one they will not forget easily.

Mr. HARKIN. Will the Senator yield?

Mr. KENNEDY. I am glad to yield.

Mr. HARKIN. I thank the Senator from Massachusetts for his continued strong support of our working families, especially on the issues of the minimum wage and overtime. I was listening to the Senator talk about the issue dealing with training in the armed services. I ask the Senator, is it not true that since 1938, when we have gone through World War II, the Korean War, the cold war, the Vietnam War, Gulf War, everything else, during that time

our young men and women who served in the military who got training and then later got out were still eligible for overtime pay regardless of the kind of training they got?

Mr. KENNEDY. The Senator is absolutely correct. I welcome his historical memory on this issue. We have been involved in conflicts—Vietnam, Korean War, World War II—with Republican and Democratic administrations, and at no time during those conflicts did we ever say the skills that were developed in the military were going to effectively preclude you from receiving overtime. This is the first time with this administration. The Senator is correct.

Mr. HARKIN. I ask the Senator further, would this not then set up the oddest kind of circumstance with a veteran and a nonveteran? Let's say two young people just got out of high school. They see these ads on television that say join the Army, be all you can be, get all this training to help you out. One friend decides to go in the Army. The other doesn't. It is a volunteer force. The person who goes in the Army gets training as an aerospace mechanic on engines or something like that, and comes out. The other person has not gone in the military, has different jobs, gets some kind of on-the-job training. Could this not set up a circumstance where if both of them were working for the same company, the person who entered the military and got that training, because of the way it is written in the rules, could be classified exempt from overtime, and the person who didn't go in the military would still get the overtime for the same exact job? Wouldn't this be the kind of situation that could arise?

Mr. KENNEDY. The overtime rule is unfair. As the Senator knows, particularly today, when so much of the combat arms are National Guard—probably 40 percent of the combat arms in Iraq today are National Guard and Reserve—these are people getting these skills, going back home, and getting the jobs. They are not staying in there 5, 7, 10 years. They are receiving these skills now, and these skills are necessary in terms of protecting the members of their squad or unit, to ensure that the military mission is going to be advanced.

I would be interested in the Senator's reaction. I mentioned Randy Fleming, who is a military veteran and served in the Air Force from 1973 to 1979, got training in the military, and used overtime to pay for the tuition of his children. He says: When I went in the service, I went in the service to get that training. No one told me that after I served 6 years in the Air Force and got my training, that in the twilight period of my life, because I received that training 20 years ago, I am going to be denied the overtime pay I had planned to put aside to educate my daughter. No one told me, he said in his letter. You talk about a marriage penalty. Here it is, a penalty against us. Where

is the fairness? Where is the justice? Isn't the word of the United States good on this?

I commend the Senator for bringing up this historical background because we have never done that to the veterans.

I mentioned earlier the letter to Secretary Chao from Thomas Corey: We would like to make you aware that the modification of the rules would give the employers the ability to prohibit veterans from receiving overtime pay based on the training they received. This legitimizes the already extensive problem of vetism, discrimination against veterans.

This is it. I put the section in the RECORD of the proposal. I think there are many reasons to be against this proposal, but the signal it sends to the families of our servicemen couldn't be more unfortunate.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was listening with interest to my colleagues from Massachusetts and Iowa talk about the overtime issue. I was thinking about this in the context of jobs.

One of the great debates we have is an economy that apparently is growing but producing really no new jobs. We are about 2.5 million jobs down from 3 years ago. Last month's jobs numbers were pretty anemic—I think 12,000 jobs, almost all of them government jobs.

I was thinking about the announcement 2 weeks ago that scheduled to create this manufacturing jobs czar that had been promised last fall. The administration is going to create a jobs czar because they are concerned about jobs, so they announced a ceremony that was going to be held to introduce their jobs czar. And then just before it happens, it is called off because the jobs czar is in China visiting his manufacturing plant he has moved from Nebraska to China. Everybody in the Administration was embarrassed about that. They are going to have a jobs czar that actually moved some of his American jobs to China. He was over there visiting his employees when the President was prepared to announce a new jobs czar for U.S. jobs.

It seems to me that the 40-hour workweek has always been about creating jobs, because if you can work employees 50 hours, 60 hours, 70 hours, and there is no consequence to it, then you don't have to create new jobs.

You just work your current employees overtime, on and on. But for 60 or 70 years in this country we have decided if you are required to work more than 40 hours a week, you have a right to be paid overtime. That is incentive to create jobs for the amount of work that is available or necessary for that amount over 40 hours. So at a time when we are losing jobs, and when jobs are the issue, I ask my colleague from Iowa, isn't it the case this overtime proposal actually retards the creation

of new jobs, and to keep the 40-hour workweek and to get rid of this goofy proposal from the Department of Labor would actually be job creating?

Mr. HARKIN. Mr. President, the Senator has put his finger on it. This proposal by the administration to take away the rights of up to 8 million Americans on overtime is what I call a job-killing proposal. The Senator is absolutely right. It is common sense.

Look, if you have people working and you can work them over 40 hours and not pay them time and a half, but regular pay, why would you hire anybody else? You would just work them longer. In fact, I say to the Senator—and he may well be aware of this—when they put out the proposed rules, they put out certain examples on how employers could get around paying overtime. One of the proposals—I will read it into the RECORD later; I have done it previously—was to say, look, what you do is simply reclassify your workers; you then pay them a little bit less, but work them longer so your out-of-pocket expenses are the same, but you work them over 40 hours a week. What a deal.

This is like the IRS telling people how to cheat on their taxes and giving them information on how to get around the IRS Code. At a time when we need jobs in this country, this is another disincentive to creating jobs. Not only do they want to outsource jobs to other countries, I say to my friend; they now want to tell the American worker to work longer every week and don't expect to get paid any more for it.

Mr. DORGAN. As I walked over to the Chamber a few moments ago, it occurred to me there is almost never someone walking around this building, or standing out in front of the building who is advocating on behalf of working families, saying my job is to be here to make sure the voice of working families is heard in the Halls of Congress. There are a lot of people with shiny shoes, suspenders, and Cohiba cigars here and they are paid well to look after the big interests of this country, and they do a great job, God bless them. But the fact is working families don't have so much influence, regrettably, in Washington, DC. They don't have people here looking after their interests.

I am talking about those families in this country who know about second jobs. Why? Because they work second jobs. They know about second shifts. Why? Because they have the second-shift job. They know about second-hand, they know about second mortgages, and about second everything. Now they are worried about job security and about whether they will keep their jobs, about whether their jobs will be exported to China because they cannot compete with 33-cent labor. Now they have to worry about a proposal that says, for 70 years we have had a 40-hour workweek, and we are thinking of changing that so the big employers have the opportunity to

work you 50 hours a week or 60 hours a week if we choose.

We go to bed at night in this country feeling good and safe. Why? Because the men and women from our police forces are driving up and down the streets to keep us safe. We go to bed not worrying about fires because we have firefighters out there who are awake all night. Many of them work extra hours and are paid overtime for it. That is an important part of their family's income.

Now we are told by the Department of Labor we would like to change all that after almost 70 years; we don't think employers ought to pay overtime. My colleague had it right. In fact, the sole job of some consulting companies it is to say to corporations, we are going to find a way with these rules to allow you not to have to pay overtime to your employees. I don't understand it.

I watched this morning when my colleague from Iowa was on the floor. I don't understand why we are not voting on this amendment. We voted on it before. The Senate already expressed itself. We said we support this amendment. I don't have the foggiest idea what those who are now scheduling this place think they are accomplishing. This isn't going away. This is going to be voted on. Perhaps not 5 minutes from now, maybe not 5 hours from now, but the Senate will vote. When the Senate votes on this, the Senate is going to say the Department of Labor should not be allowed to promulgate those rules. Why? Because the Senate, by and large, has a sense of fairness about this. The only way the leadership can stop this is to prevent a vote.

That is why we are here today, trying to force a vote. But those who have their foot in the door are doing it for one reason. They would lose a vote if they had it. They are going to have it and lose it. It will probably be tomorrow or next week, but this vote will happen and they are going to lose it. Why? Because there is a basic sense of fairness, in my judgment.

Finally, I come back to the proposition I started with. This kind of rule at this point is a way of saying we don't need more jobs in this country. Eliminating overtime for 6 or 8 million people is a way of saying we don't care about creating jobs. If you cannot work people overtime, over 40 hours, without paying time and a half—if you cannot do that, you have to create jobs to do the extra work. That is the way the system works. That is what has allowed the economy to grow. That is what produces new jobs.

Those who now support this proposition—the administration, Department of Labor, the majority party in Congress—that these overtime rules ought to be changed after 60-some years and prevent overtime payments to 6 million or 8 million people, they are the ones who are saying, apparently, we don't need new jobs in this

country. They don't stand for creating new jobs. I cannot think of a worse position to take at this point than, in the face of diminishing jobs and jobs moving overseas and outsourcing and those issues, for somebody to come to this floor and say, by the way, let's cut down even more on jobs by forcing people to work longer without paying them overtime. This makes no sense to me at all.

Again, my colleague is doing a service to the Senate by standing here and saying we are going to vote on this.

Mr. HARKIN. If the Senator will yield. Again, I thank the Senator from North Dakota for not forgetting his populace roots of North Dakota. When the Senator speaks on the floor, as he just has, he speaks with clarity, common sense, and the wisdom of the common man and woman. That is why I have always admired the Senator from North Dakota.

What he has just said strikes right at the heart of what the common man and woman in this country feel—that their rights to at least overtime pay, if they are working over 40 hours, are being taken away without their having anything to say about it.

As the Senator pointed out very clearly, we are not being allowed our right to represent the common man and woman—his constituents in North Dakota, my constituents in Iowa, or anywhere else in this country—in getting a vote on the Senate floor as to whether we will permit the administration to take away those overtime rights.

I say to the Senator this is something that should not be allowed to happen on the Senate floor. I thank the Senator for his stalwart support for our working men and women and for insisting we have a vote on this Senate floor. The Senator is absolutely right that we are having all kinds of games being played, all kinds of little parliamentary tricks, so we will not vote on this.

There is one other thing I want to ask the Senator from North Dakota, who also has a keen insight and judgment on issues dealing with fairness and taxation and jobs going overseas.

This morning, the senior Senator from Iowa, who is the chairman of the Finance Committee, went on to talk about how if we do not pass this bill there are going to be tariffs because the WTO said we are in violation, and so therefore we have to change the law or we are going to have to start paying tariffs.

I am reading from what basically he said this morning: The sanctions began on March 1, 5 percent. The Senator from Iowa said: It is like a 5-percent sales tax on everything we are going to sell overseas or stuff we are going to sell overseas. He said by March it would be 5 percent; 6 percent in April; 7 percent in May; 8 percent in June; 9 percent in July; 10 percent in August; 11 percent in September; 12 percent by November.

So will the Senator from North Dakota help me clear up my thinking on

this? I hear now that the Republicans, since they do not want to vote on the overtime amendment, may actually pull the bill, kill this bill, which means then we will have to pay tariffs to Europe, we will have to pay a penalty, that may amount, according to the Senator from Iowa, up to \$4 billion a year. Am I correct, I ask the Senator from North Dakota, that they would rather pay tariffs to Europe than overtime to our workers?

That is what they are saying. If they pull this bill, we will have to pay these tariffs; we will be paying money to Europe but we will not be paying overtime. Does the Senator from North Dakota see it that way, that somehow because they do not want to vote on overtime they will pay tariffs to Europe but not overtime to our people? I ask the Senator from North Dakota what kind of fairness is there to our working people in that?

Mr. DORGAN. That is an interesting construct of the debate, and I think a reasonably accurate one. This underlying bill, while it has some flaws, would pass the Senate, in my judgment, and will pass the Senate. Those who are the architects of the bill and bring it to the floor want to bring it in a circumstance where they say, oh, by the way, this is our idea and you cannot add any of your ideas to it.

What the Senator from Iowa is doing is using the only alternative available to him to try to stop something that diminishes and destroys jobs in this country and destroys the opportunity to create more jobs.

The Senator from Iowa is perfectly within his rights to offer this amendment. The Senate already expressed itself on this amendment. Republicans and Democrats have said: We believe we ought to stop the Department of Labor from issuing these rules on overtime. It is not a radical position. The Senate has already taken this position. It had the vote.

I conclude by trying to put this in some perspective. I find it interesting that there are people in our political system who like organized labor as long as it is overseas. I will describe a story of something that happened. My colleague was perhaps there at the time. There was a joint session of Congress held in Washington, DC. As joint sessions are in almost all cases, it was a majestic situation. The House and Senate come together in the House Chamber. It is normally when the President gives a State of the Union Address, but sometimes a foreign leader is invited to speak to a joint session of Congress.

On this day, at the backdoor of the House of Representatives, a man was introduced to a joint session as Lech Walesa from Poland. I will never forget the day because this man, probably 5'8" tall, kind of chubby cheeks, red cheeks and a handlebar mustache, walked to the front of the room of the House and the applause began. It went on and on and on and on.

Then this man, no politician, no diplomat, no scholar, no intellectual, no military hero, told his story. I will never forget the speech he gave that day. The story briefly was this: He was a worker in a shipyard in Gdansk, Poland. He had been fired from his job as an electrician because he was leading a strike to organize workers. He was fired by the Communist government. On a Saturday morning, he was back in the shipyard in Gdansk, Poland, leading a strike of workers in that shipyard once again against the Communist government. He told us that the Communist secret police grabbed him and beat him severely. They took him to the edge of the shipyard and they hoisted him up unceremoniously over the barbed wire fence and threw him on the other side of the fence in this shipyard in Gdansk, Poland.

He told us that he lay there face down bleeding. Remember, this is an unemployed electrician who was leading a strike for a free labor movement against a Communist government. He lay there on that Saturday morning, bleeding face down in the dirt, wondering what to do next. The history books, of course, tell us what he did next. He pulled himself back up, climbed right back over the fence into that shipyard, and then 10 years later he was introduced in the House of Representatives to a joint session of the Congress as the President of the country of Poland.

This is what he said to us: We did not have any guns. The Communist government had all the guns. We did not have any bullets. The Communist government had all the bullets. We were only armed with an idea, and that is workers ought to be free to choose their own destiny. He said: My friends, ideas are more powerful than guns.

This man was no intellectual, no politician or diplomat, he was an unemployed electrician. And 10 years later he walked into this building as the President of his country, saying that workers have rights.

Our country embraced him. Our country embraced the effort and the sacrifice by Lech Walesa and so many others in the country of Poland in support of workers rights, in support of labor unions, in support of the very things we are talking about today.

It is interesting that it was Lech Walesa and Poland that lit the fuse that created a free Eastern Europe. In country after country, he lit the fuse that started it all and changed the world—the power of one and the power of an idea.

My colleague from Iowa is talking about the power of an idea, and this is not a new idea; it is a timeless truth. Yes, there are some timeless truths, and that is working people have a right to expect to be treated fairly. This country is not just about people at the top; this is about people at the top and the bottom and everything in between.

In my part of the country, we understood a century and a half ago, as the

wagon trains moved across the landscape in North Dakota heading west, that one does not move a wagon train ahead by leaving some wagons behind. We understood that long ago. The same is true with respect to policies in this country, especially economic policies.

The things that represented the root and the core of belief for Lech Walesa of Poland was represented on the streets of America 75 to 100 years ago about the rights of workers.

Business has rights, workers have rights, investors have rights. I understand all of that. Now we are talking about the right of people who for 60 years have understood the rules, and the rules are that if one's employer wants to work a person more than 40 hours a week, they have a right to expect to be paid overtime.

All of a sudden, for millions of families, law enforcement folks, firefighters and others, this administration wants to say: We are changing that rule; we believe employers have a right to tell you to work 50 or 60 hours and they do not need to pay you overtime.

As I said before, that is a quick way to say we do not need to create new jobs. We will just overwork existing workers. It is not fair. There is a basic sense of fairness in this Congress. That is why when this is voted on, as it was before, it will pass.

The basic contention of Senator HARKIN is that this is, at its root, unfair. It changes the rules of the game.

You can talk a lot about this country of ours. I suppose in political campaigns there is way too much negative talk about our country. But there is a lot right about our country, and much of what has been right about our country has been manifested by people who have gone to the streets and gone to the ballot boxes and effected positive change that has improved the lives of working people and raised an entire middle class in this country which did not previously exist.

This is a big issue and an important issue. It is probably not as big or important to anybody in this Senate who doesn't get paid overtime. But there are millions of families who rely on overtime, who work hard every day to get the extra hours and get the overtime pay because that is the way they send their kids to school and buy their schoolbooks and send their kids to college or buy the spring clothing—to those families, it is important. I come back again to say those are the families who know about second: Second choice, second mortgage, second shift, second job, and too often, in my judgment, they get shortchanged here in Congress.

But they will not, I repeat not, be shortchanged if the Senator from Iowa and I and others who demand a vote on this provision get a vote because we will win that vote. We won it before in the Senate. We will win it again. When we win that vote, we will stop the Department of Labor from doing this, and we will, in my judgment, have ad-

vanced two things: No. 1, the respect for the rights of American workers; and, No. 2, we will have forced the creation of additional jobs in this country, something that is desperately needed at a time when we see far too many jobs going overseas.

I don't know what the time situation is of the Senator from Iowa, but I want to make one more comment. I talk about jobs overseas because it is the core of this issue about jobs that brings me to the floor to talk about overtime. I have spoken a good number of times about this issue and I am going to talk one more time for a minute.

The symbol of outsourcing of jobs is for me Huff bicycle. We all know about Huff bicycles. They are 20 percent of the American marketplace. Buy a good Huff bicycle, buy it at Sears, Kmart, buy it at Wal-Mart. It used to be made in Ohio by American workers. I am sure they were proud of their jobs. I don't know any of them. Eleven dollars an hour they were paid to make Huff bicycles.

Between the handlebar and the fender they put a little decal on Huff bicycles and the decal was the American flag. But Huff bicycles are not made there anymore. They are made in China. The decal isn't an American flag anymore. They changed the decal. In fact, I was told it was the last job the workers in Ohio had to do, was replace on existing inventory the American flag decal with a decal of the globe. Huff bicycles are made in China by people making 33 cents an hour, working 7 days a week, 12 to 14 hours a day. The workers in Ohio can't compete with 33 cents an hour. That is the struggle of American workers these days. It is a big struggle. We have big questions to answer. We have trade policies we must try to set right. We have to deal with all these issues. We have to find some way to stand up for the interests of American jobs and American workers.

This overtime issue is just one piece of that, just one piece. But to some families it is everything. It is the way they send their kids to school; it is the way they help pay their mortgage; it is the way they help provide the income to raise their families. So this is a big deal to many families in this country.

For the 6 to 8 million families, workers who are affected by this, I think they owe a great debt of gratitude to my friend, Senator HARKIN from Iowa. I will stand with him as will many of my colleagues to say he has a right to get this vote. When we get this vote we are going to win. We are going to do it not because we want to have a political argument with anybody; we are going to do it because this is very important to millions of Americans families who, all too often, are left behind in public policy here in this Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank my friend and colleague from North

Dakota for the eloquence of his statement and I thank Senator DORGAN for his unwavering support through all the years I have been privileged to know him and be his friend, his unwavering support for the common man and woman in this country, for working families, for our farmers and ranchers out in the West and the Midwest.

Senator DORGAN is always eloquent in his remarks. As you listen to Senator DORGAN speak, you can hear the voice of that average man and that average woman out there who are not big time lobbyists down here on K Street; as Senator DORGAN said, they don't have the shiny shoes and suspenders and whatever else. They are out there working every day, feeding and clothing their families. They have a decent life. They give their kids a good education. They do what they can to make sure their kids have a little bit better life than they have had. It is called the American dream. And no one has been a stronger supporter of ensuring that American dream for our working families than the Senator from North Dakota, Mr. DORGAN.

I thank him for all that support through all the years and for carrying on the fight for overtime and making sure our workers are paid the overtime that is due them when they work over 40 hours a week.

Earlier today I pointed out the chairman of the House Ways and Means Committee, Congressman THOMAS from California, according to the Congressional Quarterly, told a business group yesterday he thinks this foreign tax bill we have before us is doomed. Those were his words. He pointed the finger at the business community, according to today's issue of the national journal Congress Daily. Mr. THOMAS, in other words, was blaming K Street lobbyists for this bill's likely demise in the House.

It seems to me what we have is a bill that is already being slow-walked by some of the majority leadership in the Senate because the leaders on the other side don't want to vote on overtime. I hope we don't hear anything from the other side saying somehow we are to blame for slowing down this bill. We had a unanimous consent agreement. My amendment was in line to be offered. I offered the amendment in good faith. I was even asking if we could have a time agreement. Imagine that. I offered the amendment. I offered a time agreement. I couldn't even be given a time agreement by the other side.

Then the Republican side goes ahead and files this motion to recommit with an amendment on it and then they filed cloture and all this gobbledygook parliamentary stuff. What it means is we will not vote today. We will have a cloture vote tomorrow. They will not get cloture. Then I hear rumors the leadership on the Republican side will then pull the bill and somehow blame Democrats, blame Democrats, us, our side, for not getting this bill through.

I will tell you, talk about chutzpah. That is like the person who went before the judge for having killed his parents and then threw himself on the mercy of the court because he was an orphan.

The other side is responsible for killing this bill. Have no doubt. Make no bones about it. They are responsible because they don't want to vote on overtime. They don't want to vote. They get kind of wobbly in the knees. Their ankles get weak. They break out in a cold sweat when they think they might have to vote on whether to uphold the administration's proposed rules that will take overtime pay away from hard-working American families. They have to vote against the administration.

Sometimes we are called upon to represent our constituents. As hard as that may be to believe by some, sometimes we are called upon to represent our constituents, not the administration but to represent our people.

The administration may want to take away overtime pay. That may be their position. But at least we ought to have the right to vote on whether we ought to uphold that decision.

I know it may come as a shock to many Americans, but sometimes we are not allowed to vote in the Senate. We are not allowed to vote on an amendment. I have my amendment pending. They won't let us vote on it because they filed this cloture motion, this parliamentary device.

As the Senator from North Dakota said, I don't care how many times we have to be here. We will be back, we will be back, we will be back to vote on whether we are going to take overtime pay away from American workers.

If we don't vote on it tomorrow, we will vote on it some other time, or my friends on the other side will continue to pull bill after bill after bill because they don't want to vote on it. Maybe they think they can just go ahead and issue the final regulations. Then it will be sort of a fait accompli. Evidently, we will not do anything.

I am sorry, Mr. President. If that is the case, we will be back with an amendment to say they will not go into effect until we have had open and public hearings on these regulations.

We will have a vote on it. My friends on the other side of the aisle are just putting off the inevitable. Maybe for one reason or another they don't want this bill to go through anyway. That is kind of an odd position, as I said to the Senator from North Dakota. As the chairman of the committee said this morning, under the international agreements we have on trade, the World Trade Organization rules that our pretax policy is an illegal export subsidy, and consequently the WTO has authorized Europe to go up to \$4 billion a year against certain U.S. exports. The sanctions began on March 1. They started at 5 percent. Then they go up 1 percent a month, all the way up to 17 percent over the course of a year. I don't want to pay those tariffs. I don't want to pay those penalties.

I would like to get this bill through. The other side, though, simply because they do not want a vote on overtime, is saying they are going to go ahead and pay these tariffs. It seems to me what they are saying is they would rather pay tariffs to Europe than overtime to workers. That is exactly what is happening. Pay the tariffs to Europe but don't pay overtime to our workers.

A lot has been said about the American worker and working families. I wonder how many people know that right now American workers work longer per year than anyone else in the industrialized world. This chart shows it. For the years 2002 and 2003, American workers are working in the United States almost 2,000 hours a year—more than Australia, Japan, Spain, Canada, the United Kingdom, Italy, Sweden, or Germany. Not only are we working longer hours per year, we are now being told if we work overtime we will not get paid for it.

Do you know what is going to happen if these rules go into effect? This bar will go way up because then employers will work their employees longer because they don't have to pay them overtime. We already work longer.

What is the history of this bill? This kind of gets to the crux again of what is happening here with the proposed rules on overtime. I said last summer when I offered this amendment and it was adopted by the Senate, the biggest impact of taking away overtime pay protection would be on women. People wondered why I said that. Why would women be impacted most? For two reasons: One, because the annual hours worked by middle-income wives with children in 1979 were 895 hours a year. By the year 2000, that had gone to 1,308 hours a year. Women with children are working more—not quite double but almost—than what they were a mere 21 years ago.

Most of these jobs are in certain types of clerical positions in which women have been engaged. Some of them are in positions which are going to be reclassified under the proposed rules as "professions." These are the kinds of jobs that are mostly held by working women, and mostly by working mothers. The biggest impact will be on working women. The initial wave of impact will be on working women.

I have a statement from Susan Moore of Chicago. She said:

I am currently entitled to time and a half under Federal law. I know for a fact that is the reason I am not required to work long hours like the project managers who are not entitled to overtime pay. My supervisor has to think hard about whether to assign overtime to me because he has to pay for my time. That means more time for my family and that time is important to me. If the law changes and I lose my right to overtime pay, I will be faced with the impossible choice of losing time with my family or losing my job.

This is a statement from Sheila Perez of Bremerton, WA. She said:

I began my career as a supply clerk earning \$3.10 an hour in 1976. I entered an upward mobility program and received training to

become an engineer technician with a career ladder that gave me a yearly boost in income. It seemed, though, that even with a decent raise every year, I really relied on overtime income to help make ends meet.

I am a working single parent. There are many more single parents today with the same problem. How does one pay for the car that broke down or the braces for the children's teeth? Overtime income has been the lifesaver to many of us.

When I as a working mother leave my 8-hour day job and go home, my second shift begins. There is dinner to cook, dishes to wash, laundry and all the other housework that must be done which adds another 3 to 4 hours to your workday. When one has to put in extra hours at work, it takes away from the time needed to take care of our personal needs.

Listen to Sheila Perez who is from Bremerton, WA, a single parent. She says:

It only seems fair that one should be compensated for that extra effort of working overtime. Overtime is a sacrifice of one's time, energy, physical and mental well-being. Compensation should be commensurate in the form of premium pay as it is a premium of one's personal time, energy and expertise that is being used.

If I might interpret what Sheila Perez is saying, she says: I am a single parent. I work hard. I rely on overtime. When I get home from work, I have another job taking care of my kids, doing all of my laundry. My time with my kids at home on the weekends is my premium time. If I am being asked to give up my premium time to work on the job, I ought to be given premium pay.

I can't say it any better than Sheila Perez. Again, it is another example why this is going to hit working women the hardest.

I am just notified that CongressDaily, as of 3 p.m., which was only about 40 minutes ago, had this statement. CongressDaily comes out during the day, and at 3 p.m. said:

A senior GOP leadership aide reiterated today that GOP leaders will refuse a floor vote on the amendment from Senator Tom Harkin, D-Iowa, to strike a labor provision involving overtime pay for white-collar workers.

I don't know if that is true. It is being reported in CongressDaily at 3 p.m. that they will refuse a floor vote on my amendment; refuse it. Why is it they get so wobbly in the knees, with weak ankles, and break out in a cold sweat? Maybe they are just afraid of George Bush. Maybe they are afraid of the administration downtown.

I say to my friends on the other side of the aisle, don't be afraid of them; be afraid of the people you represent. They are the ones who pay your salary. They are the ones who vote to send you here. They are the ones whose overtime is being assaulted, not the President and the people down at the White House.

Last summer in August, Peter Hart Research Associates, a well-known national pollster, did a poll. This was the question: There is now a proposal to change the Federal law that determines which employees have the legal

right to overtime pay. This proposal would eliminate the right to overtime pay for 7 million employees who now have that right. Do you favor or oppose this proposal? In favor, 14 percent; oppose, 74 percent.

That is not even close. I can understand why the other side would not want to vote on this. Maybe they feel dutybound, politically bound, party bound to support their President. Therefore, they would not want to vote because they know 74 percent of the American people are opposed to this proposal to take away their overtime pay, the right to overtime pay.

This is an issue that strikes, as so many before me have said, at the heart of fairness and equity to American workers. What could be more fair than if you have to work over 40 hours a week, you have to be paid time-and-a-half overtime? That is the Fair Labor Standards Act, 1938.

What is a little known fact is that a debate raged in this country for a long period of time—I would say almost 40 years from the end of the 19th century to the middle of the 20th century, at least until 1938—on restricting the number of hours that an American worker had to work without getting some kind of extra pay. Remember, in those days we even had child labor; we got rid of that. The American workers were working 50, 60, 70 hours a week with no protection by labor unions, no rights whatever. Finally, slowly but surely, organized labor grew, more and more rights were attained by our workers, and then the debate ensued about how many hours a week should a worker work without being paid overtime.

A little known fact: In 1937, this Senate, in this very Chamber in which we find ourselves today, right here in this Chamber, the Senate, in 1937, voted to establish a 30-hour workweek. Imagine, right here in the Senate where we are standing, the Senate, in 1937, voted for a 30-hour workweek. The debate ensued, and finally, by 1938 they compromised. The compromise was a 40-hour week with time-and-a-half overtime. Think about that: the Senate, in 1937, actually voted to establish a 30-hour workweek. Today, we cannot even get a vote in the Senate on whether we will pay people overtime to work over 40 hours a week. We cannot get a vote on it.

That says something about the difference of the Senate in 1937 from the Senate in 2004. I wonder how many votes the Senate would get today if someone offered a vote to establish a 30-hour workweek. Do you think it would get 10 votes? In 1937 they got a majority of the votes, right here in the Senate. Yet now they are working longer and longer hours every year. More and more people are being made to work over 40 hours a week and not being paid for it.

The reason I hear so much is we need to reclassify workers. The reclassification they are talking about basically would hit women the hardest, would re-

classify them as being professional and therefore exempt from overtime. Again, they have done this without having one public hearing. I think they thought they could get by with it; just issue these rules and that would be the end of it. The American people have spoken loudly and strongly, saying they are not going to sit down and let their rights to overtime pay be taken away.

Congress Daily, today at 3 p.m. says, quoting a senior GOP leadership aide, GOP leaders will refuse a floor vote on my amendment.

As I said a week or so ago—and I see my colleague from California—and I am not in the habit of quoting the present Governor of California, the movie actor, but I will quote him in saying “I’ll be back.” We’ll be back. This is not going to go away. If the other side thinks by doing these parliamentary tricks that somehow we will give up, they are wrong.

Mrs. BOXER. Will the Senator yield?

Mr. HARKIN. We will not give up because we are fighting for the rights of American workers to have justice and fairness in their working conditions. As Sheila Perez said, from Bremerton, WA, if she is forced to give up her premium time, her time with her family, she ought to get premium pay.

We will continue to fight for this.

Mrs. BOXER. Will the Senator yield?

Mr. HARKIN. I am delighted to yield.

Mrs. BOXER. I was hoping my friend would stay. I would like to ask a series of questions and give him some information. Does the Senator have the time to stay?

Mr. HARKIN. Why don’t I yield the floor so the Senator can be recognized.

Before I do, let me thank my colleague from California, Senator BOXER, for her longtime unyielding support for our working families. No one has fought harder, more consistently, and with such eloquence than the Senator from California. I know the people of California recognize in Senator BOXER they have a fighter who will not give up and who will not back down in fighting for their families’ rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank my friend, Senator HARKIN, for his wonderful words. It means so much to me coming from him, someone who has been in this Senate for so many years, a voice of the working people. By the way, that is most of the people in this country who have to work for a living. In many families, as we know, two people are working, and in many families they work overtime to be able to pay the bills and college tuition and health care, and on and on. This issue is crucial.

I also thank Senator BAUCUS for being so strong in his support of allowing a vote on this amendment.

It is very important because, as my friend said today at lunch—I had the honor of listening to Senator HARKIN

speak as he made the point—how can you do a jobs bill and not look at the issue of overtime, which if the administration has its way will be taken away from probably 8 million people? As my friend, Senator HARKIN, relayed the history, it is a stunning situation that we find ourselves refighting the issue of overtime in the 21st century.

I wish to share with my colleague something that is very interesting, a bit of correspondence that has gone back and forth. When I saw Secretary Chao—by the way, I find her to be a very nice person. I like her. We have a very nice personal relationship. This is not personal. I asked her about the regulation. I said: My people at home are very afraid of this regulation because they think they will be denied overtime.

She said: Oh, it’s hardly going to affect anybody.

I said: All right. Instead of asking you about every category, let me tell you that my police men and women, my firefighters, and my paramedics—my first responders—are very concerned about losing their overtime.

She said: Senator BOXER, not a chance. This is not even going to happen.

So I wrote her a letter, and I said: Secretary Chao, you know I oppose this. I am very worried about it. Can you please explain to me why I should not be worried? So she writes back a letter. I wrote her on February 9, and on February 26 I was very pleased that she answered the letter, and she explains why, in her opinion, firefighters and first responders and policemen will not be impacted.

Mr. President, I ask unanimous consent to have printed in the RECORD my letter to Secretary Chao and her response.

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

U.S. SENATE,
HART SENATE OFFICE BUILDING,
Washington, DC, February 9, 2004.
Secretary ELAINE L. CHAO,
U.S. Department of Labor,
Washington, DC.

DEAR SECRETARY CHAO: As you know, I object to the Department’s proposed regulations on “white collar” overtime exemptions to the Fair Labor Standards Act. The proposed changes threaten overtime pay protections for millions of Americans. I oppose any proposal that threatens overtime pay for vast numbers of hardworking Americans.

I have heard from a variety of professionals with concerns about this rule. I am particularly concerned that the International Union of Police Associations (IUPA) estimates that 50% of police officers would lose overtime protection under the current DOL proposal. And, according to the American Nurses Association, “this proposed rule could virtually eliminate every registered nurse in an ‘administrative position’ from overtime pay.” According to the Economic Policy Institute, 234,000 licensed practical nurses would lose their overtime protection under your proposal.

I know that you disagree with that conclusion. You testified before the Senate in January that the Department’s overtime reform

proposal "will not eliminate protections for police officers, firefighters, paramedics, and other first responders." You went on to add other professions that would not be affected including nurses.

First responders themselves disagree with your claim. I write to ask you to explicitly exclude these categories of workers from your final rule. That would provide the certainty our first responders need to ease their fears of losing overtime pay. They stand ready to respond to another crisis resulting from everything from the spread of a deadly virus to a terrorist attack. As they stand prepared to protect us, the least we can do is protect the overtime pay they deserve.

Sincerely,

BARBARA BOXER
U.S. Senator.

SECRETARY OF LABOR
Washington, DC, Feb 26, 2004.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: Thank you for your letter dated February 9, 2004, regarding the Department of Labor's proposal to update Part 541 of the Fair Labor Standards Act regulations, known as the "white collar exemptions." You expressed particular concern about the impact of the proposed regulations on police officers, fire fighters, paramedics, and nurses. I appreciate the opportunity to respond.

As I testified on January 20, in a hearing before the Senate Labor-HHS Appropriations Subcommittee, we take strong issue with the claim that these reforms—even as proposed—would take away overtime pay from rank and file public safety employees.

First, police officers, fire fighters, paramedics, and other first responders are not white collar employees. They do not perform office or non-manual work. By definition, they are not covered by Part 541.

Second, a large number of such employees—such as those represented by the International Union of Police Associations—are covered by collective bargaining agreements, which are not affected by the current or proposed regulations. We also believe it is unrealistic for unions to claim that overtime pay granted under a current collective bargaining agreement is likely to be revoked during a new negotiation. That would imply that the union could not obtain any wage or benefit for members outside of what is required by law. For example, that is clearly not the case for registered nurses represented by a union.

Third, many public safety employees, as well as nurses, are paid on an hourly basis. Hourly workers are not affected by Part 541 under either the current or proposed rules.

Moreover, those public safety employees who are paid on a salary basis and may be earning less than \$22,100 a year will immediately gain overtime protection under our proposed rule. They would be among the estimated 1.3 million low-salaried workers who would gain overtime protection who do not have it today. The Fraternal Order of Police (FOP), the nation's largest police union, and the International Association of Fire Fighters (IAFF) have stated that they do not oppose the Department's rule. They believe many of their members would benefit by it.

Registered nurses (RNs) can already be classified as exempt professionals under current law, based on their education and duties. The proposed regulation makes no change in this regard for registered nurses. The fact is, however, that many RNs are paid on an hourly basis, or are covered by a collective bargaining agreement, and therefore would be entitled to overtime pay under current law. You may be interested to know that the Department of Labor recently col-

lected over \$200,000 in back wages for RNs in New Jersey who had been wrongly denied overtime pay.

We disagree with the Economic Policy Institute's estimate that 234,000 licensed practical nurses (LPNs) would lose their right to overtime pay. LPNs, with all due respect for their skills and service, would not meet the test for exempt professional under either current law or the proposed regulation.

The final regulations are still in development. I can assure you, however, that it is not our intention to deny overtime pay to police officers, fire fighters, paramedics, or LPNs, or to change the current rules with respect to RNs. You and many others have recommended that we make this intent explicit; and, of course, we will take this and all the other comments and opinions that have been put forward into careful consideration.

Sincerely,

ELAINE L. CHAO.

Mrs. BOXER. Well, it did not end there, I say to my friend from Iowa. I got a visit from police officers in my office here in Washington, and what is on their agenda, the first thing? Overtime. I said: Well, look, I am going to do everything I can to protect you. I raised this issue with Secretary Chao. She answered my letter. She says you have nothing to worry about. Will you please go over her answers, and can you please comment back to me as to what you think of her opinion on whether you will lose overtime?

So I have blown up for you to see, I say to Senator HARKIN and Senator BAUCUS, something you might be interested in. These quotes go side by side.

Secretary Chao says in her letter to me:

First, police officers, firefighters, paramedics, and other first responders are not white collar employees. They do not perform office or non-manual work.

So, therefore, she is essentially saying they will not fit into this revision of the rules because they are not white-collar employees. This is what she says about police officers.

This is what my police officers write back:

Many police officers do not drive black and white patrol vehicles and perform only enforcement/patrol duties. Police officers also serve in investigative and other capacities. As such they do not wear uniforms and a great deal of their work is performed in an office.

So here she is saying they are not white-collar employees and they say many times their work is in the office.

In cold case units—

You know what a cold case is: an old case. They call it a cold case. They just put it aside—

The vast preponderance of their duties entail reviewing files and records in the office.

With the increased use of technology many officers are spending more and more of their time performing office, non-manual type work to facilitate the detection and basis for apprehension of criminal suspects.

Without an explicit non-exempt status—

This is the key point—

Local agencies interpreting the regulation may well determine that those employees are white collar and perform office work—and then exclude them from overtime coverage. If this were to occur, many of the

most talented officers would choose not to be promoted (to the detriment of the Department) due to monetary concerns.

So with all due respect to Secretary Chao, who is, as I say, a friend, her comment that they are not white-collar employees is not at all clear. So that is one difference.

Now let's go on to the other differences. This is why my police officers are absolutely in favor of what Senator HARKIN wants to do, which is to reverse the move of the administration.

Secretary Chao's letter says:

Second, a large number of such employees—such as those represented by the International Union of Police Associations—are covered by collective bargaining agreements, which are not affected by the current or proposed regulations. We also believe it is unrealistic for unions to claim that overtime pay granted under a current collective bargaining agreement is likely to be revoked during a new negotiation.

So that is her second point. First, they say they never do white-collar work. Wrong. Now she says their collective bargaining agreements could never be overturned.

Let's see what the California police officers say:

The clout of independent police associations varies widely. Some would be able to protect their contract-required overtime, others would not. Many overtime provisions in collective bargaining agreements refer to the regulations or statutory requirements. Those overtime provisions would end with statutory or regulatory changes and would not even extend to the next negotiations.

To assume that it is "unrealistic" that contract provisions once granted would not be revoked is simply ignorant.

Those are strong statements.

Contract provisions are frequently revoked during the collective bargaining process. The regulatory or statutory requirements currently in place have held at bay any attack of the overtime agreement.

Regulatory and statutory requirements have been a major contributing factor in the successful recovery of moneys owed and withheld by employers in violation of respective collective bargaining agreements.

Mr. HARKIN. Will my colleague yield?

Mrs. BOXER. Yes, I yield to my friend.

Mr. HARKIN. I thank my colleague for pointing this out. I think this does clarify it. Because who better to respond than the people being affected, the police officers?

Mrs. BOXER. Exactly.

Mr. HARKIN. I say to my friend from California that this, right here, is very instructive:

We also believe it is unrealistic for unions to claim that overtime pay granted under a current collective bargaining agreement is likely to be revoked during a new negotiation.

I ask the Senator, am I correct that what she is actually saying is, however, now overtime pay will be a negotiable item?

Mrs. BOXER. Exactly.

Mr. HARKIN. See, now it is nonnegotiable.

Mrs. BOXER. Exactly the point.

Mr. HARKIN. Am I right on that?

Mrs. BOXER. Right. They say right here:

If it was such a foregone conclusion that represented employees could negotiate and maintain overtime protections absent statutory and regulatory requirements, the law and regulations would never have been made applicable to any workers under a collective bargaining agreement.

Mr. HARKIN. I thank the Senator from California. This really does point out what is very important.

Again, I ask the Senator if I am correct in my interpretation, because I want to make sure I am clear on this, that right now, for these certain classes that are not being reclassified as it exists, if you work over 40 hours a week, you have a contract negotiation that is not even negotiable because you are covered by overtime law.

Mrs. BOXER. That is right. You have the statutory protection, which they are now going to take away from these workers. They are taking it away and saying: Well, you can fix it with your collective bargaining.

Mr. HARKIN. See, that is it.

Mrs. BOXER. And she says, you have it anyway in your collective bargaining, which is not always the case. I think what the police officers have done, in dissecting this, is to be the truth tellers here.

There is one more chart. Secretary Chao says in her letter:

Third, many public safety employees, as well as nurses, are paid on an hourly basis. Hourly workers are not affected by Part 541 under either the current or proposed rules.

This is what the California police officers say:

Employers have made determinations on who is exempt based on the totality of the regulatory requirements. Some will view any modification as a basis to reconsider exempt status. Collective bargaining agreements generally do not state that employees are "hourly" employees. Employers would challenge that assertion.

So that is another point.

Then Secretary Chao says:

Moreover, those public safety employees who are paid on a salary basis and may be earning less than \$22,100 a year will immediately gain overtime protection under our proposed rule.

They say:

Fine. But this does not apply to and will not affect any California public safety officers.

Thank God we pay them more than \$22,100 to protect our lives and our children's lives. So that is a useless deal in this category of workers.

Lastly, she writes:

I can assure you, however, that it is not our intention to deny overtime pay to police officers, fire fighters, paramedics, or LPNs, or to change the current rules with respect to RNs.

Here is what the police officers say:

We in police work subscribe to a common rule: Say what you mean, mean what you say and memorialize it in print. If the intent is not to deny overtime, then put it in writing.

By the way, that was in my first letter I sent to Secretary Chao. I said:

You keep saying they are not affected. Why don't you change your rule and simply exempt first responders, and then at least my police and firefighters and nurses and paramedics will not be so upset.

Mr. HARKIN. The Senator has done something of great value to all of us by bringing this out. A lot of the time we hear these things, but this puts it in focus.

The Secretary says:

Hourly workers not affected by part 541 under either the current or proposed rules.

But is there anything in the proposed rules that would prevent an employer from saying: OK, you were an hourly worker. We have now reclassified you. You are now a professional. Don't you feel good? You are now a professional. And guess what. You don't get overtime.

There is nothing to stop them from doing that.

Mrs. BOXER. Even more to the point, collective bargaining agreements generally do not state that employees are hourly. So it is very easy for an employer to say: Show me in your contract where it says you are hourly, even if you formally are. So people are going to be stuck, and they are not going to get their overtime pay.

At the end of the day we have to get back to this bottom line. The Secretary says:

I can assure you, however, it is not our intention to deny overtime pay to police officers, fire fighters, paramedics. . .

I say to my friend, put it in writing. I think that is pretty obvious. They will not put it in writing.

I am so happy that my friend brought this up. When I first approached Secretary Chao, we had a very friendly conversation. It was right out here.

I said to her: My people are up in arms. Talk to me. What are you doing?

Well, it is hardly going to affect anybody, she said.

I said: Well, if it is going to affect hardly anybody, why bother? That doesn't make any sense.

Then I said: My policemen, my firemen, my first responders are really over the top on this.

And she said: They are not affected.

That is why I wrote to her and said put it in writing. She said: It is not necessary, they are exempt because they are not white collar, and all the rest.

Here we find out from the police officers themselves how silly the Department of Labor position is because of the fact that many of our criminal cases are solved now on computers in the office, doing investigatory work.

I don't know exactly what is going on except an effort to undermine working conditions and pay for millions of people.

I want to read one more letter and then I will leave the floor. This is from SGT Mark Nichols, President of the Santa Ana Police Officers Association in Orange County:

Public safety in California is facing a major crisis as we try to get back on our feet

fiscally. To eliminate the Federal non-exempt provision at this time when dollars are scarce would be akin to placing a huge bull's eye on the already beleaguered morale of our members. We are currently stretched further than is prudent. To give our employers the opportunity possibly of stretching us even further to save an extra buck or two could be devastating to a profession already facing recruitment and retention problems.

We are a profession that works 24 hours a day, seven days a week, 365 days a year. I personally left a salaried position to join police work. Being compensated for extra work at the overtime rate was a big factor in my decision. We are continually required to extend our workday or return to work from off duty time. This is a difficult enough job, with its disruptions and hardships placed on our members and our families. To even allow for the possibility that police officers could lose their non-exempt status and overtime provisions is irresponsible.

I thank my friend. I know he has to go to other Senate business. I will ask for a quorum call in a moment. But I will yield to him for one more comment. I just say thank you on behalf of my police officers, my nurses, my first responders. I can't thank you enough.

Mr. HARKIN. The Senator, basically, is thanking the wrong person. The Senator should look in the mirror if she wants to thank someone. The people of California are privileged to have a fighter like BARBARA BOXER representing them in the Senate. I mean that. Not only is the Senator a personal friend of mine but someone I admire so much because she never backs down. When Senator BOXER speaks, you hear clearly the voices of the common man and woman, the person who doesn't have a voice here, individuals who will never set foot on the Senate floor, who never will be privileged to speak in this hallowed Chamber. The Senator from California speaks for them.

Mrs. BOXER. I thank the Senator. He made my day. I am so privileged that he would say such words to me. On this issue, we will not back down. We will stand together with many of our colleagues. Interestingly, a majority of the Senate already voted with the Senator. All we are asking is give us a vote on behalf of the policemen, the policewomen, the first responders, the firefighters, the nurses, the paramedics. Let us make sure we do not take away their overtime pay because to do so would be an enormous hardship on them and on their families at a time when we should be elevating them in status and saying to them, thank you, not only in pictures that we love to show with our arms around them—and we all do that—but in deeds. We really mean what we say, and we say you will not lose your overtime pay.

I hope we can get a vote on this important amendment and move on to the rest of the bill which is quite important.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, last week, I was in Nevada and I visited a number of police stations and fire stations. Let me direct our attention to the Henderson Police Department that I met with. The chief, the deputy chief, and a number of police officers were there. It was time for a shift change. A number of hard-working police officers were there. I expected them to talk about homeland security and their obligations as first responders. They wanted to talk about that, of course, about the unfunded mandate passed on to police departments in Nevada and all over the country. Henderson, NV, is the second largest city in Nevada. By most standards, it is not really large—about 250,000 people. It is a suburb of Las Vegas, where I went to high school.

They didn't want to talk about homeland security and first responders initially; they wanted to know what is happening to their overtime. That is what is on the minds of firefighters and police officers all over America. As has been established on the Senate floor in the last 2 days during the pendency of the Harkin amendment and efforts to deprive us of a vote on that, people in our country are very concerned about what this administration is doing regarding overtime. This affects about 8 million working men and women in this country. Specifically, it is directed to police officers, who I talked about; firefighters, who I have talked about; and nurses.

A group of young people visited me today in my office upstairs. They were here representing a group of young Jewish leaders from Las Vegas. I asked them what they were going to do and what they were doing. One young lady said she was a student studying to be a nurse. She had less than 2 years to go to complete her degree. I didn't say anything, but what I wanted to say is, Do you know what has happened with this administration? They are trying to take away your overtime. They are trying to make it so that if you are working in a hospital and there is work that needs to be done, you can do it, but you won't get paid for it. I didn't say that to her, but that is what I felt like saying.

Being a chef now is very in vogue. When I was younger, to have somebody say they were going to go to school to be a cook, you didn't hear much about that. Now there are a lot of young men and women who go to school to learn to be a chef. That is the thing to do; it is one of the things to do. They work very hard. People don't realize how hard they work. As their jobs require, especially when big things are going on in the restaurants and they get a convention or some kind of a wedding or anniversary, they are required, because they have a lot of work to do, to work more than 8 hours a day, 40 hours a

week. Under the proposal we have from the President, they won't be able to get their overtime. Anyone making more than \$22,000 a year is, in effect, prevented from getting overtime.

Clerical workers: Why would you want to take the ability of somebody required by virtue of their work to put in extra time and not be paid for it?

Mr. President, the Fair Labor Standards Act, more than 50 years ago, said if a person works more than 8 hours a day, more than 40 hours a week, except under contractor situations, and some other exemptions—few in number—they are to be paid extra, time and a half, and for working holidays, double time, meaning they work 1 day and get paid as if they worked 2.

Physical therapists, reporters—that is a strange way to punish reporters, but I guess you can do it that way. If you are in the middle of something big, you can just say “stop” because you are not going to get paid.

Paralegals, dental hygienists, graphic artists, bookkeepers, lab technicians, and social workers—these are the people included in the 8 million Americans who would lose overtime protection under the proposal of President Bush. That is a shame. It is too bad and it is not fair.

When these police officers and firefighters ask me about overtime—when you go to these kinds of meetings, you don't want to be partisan. That takes away the purpose of your being there. What was I to say? I could only respond that our President has suggested—I should not say suggested—he has directed this. There is now, of course, a rule in effect, which is working its way through the process, to take away the ability of people who make more than \$21,000 a year to make overtime pay. I told them that.

They are worried about their overtime pay. Families depend on overtime. It is not just the firefighters I saw in Reno or the police officers I met at Henderson whom I spoke about. It is families all over the country who depend on overtime.

As I have indicated, it is not only the firefighters, not only the police officers, nurses, flight attendants, preschool teachers, cooks, secretaries, fast-food shift managers, but 8 million others will lose their right to overtime pay under the new rules the administration wants to adopt.

We hear speeches on this floor, we hear speeches at high school graduations, we hear lectures given to us from the time we are kids until the time we pass on that this country is built upon hard work, that hard work has enabled generations of Americans to own a home, buy a car, do things to make a stronger community and give their children a good education. They say if one works hard in America, that is all it takes.

Americans have been willing to work hard and reach their goals. We are working longer now than we ever have before. Almost one-third of the labor

force in our country regularly works longer than a 40-hour week. Twenty percent, 2 out of every 10 workers in America, work up to 50 hours a week. The Fair Labor Standards Act recognized employers would take advantage of employees if they were not required to pay overtime. That is why the Fair Labor Standards Act was passed.

The principle of overtime pay for those who work more than 40 hours a week was part of that act. It was the main purpose of that act. This legislation recognized hard work rewarded those who worked the hardest. Families who work hard depend on overtime pay. In fact, families that work overtime earn 25 percent of their pay in overtime. The administration's proposal would cut their pay by 25 percent.

It would also mean fewer jobs. Why? Of course it would be fewer jobs, because why would an employer bother hiring somebody else when they can just have whoever is working—a nurse, a clerical worker, a reporter, a graphic artist, a social worker—why hire another one? Just make them work more hours. They may not have to work a full shift, just have them work 2 or 3 hours a day. That way they will not have to hire a new person.

Of course, it would mean fewer jobs because companies would simply force their employees to work longer hours instead of hiring new workers. In the current economic condition, when millions of Americans are out of work during this administration, the last 3 years, there have been almost 3 million jobs lost. It does not make sense to do something that will stifle the creation of new jobs when in the private sector we have already lost almost 3 million jobs. Even for the workers who would still qualify for overtime, this is a bad rule, because some by contract would allow people to be paid overtime. Why? Because big companies would force overtime-exempt workers to put in longer hours and cut the hours of those qualified for overtime.

This rule is bad for so many reasons. It punishes working families by cutting their pay. It prevents the creation of new jobs and dishonors hard work, which is one of the things I have talked about, one of those things that has made this country great. Well, these are strong, convincing arguments, not because I made them, but because they are common sense. That is what has been said on this floor during the last 2 days.

Last night, I asked, why are my colleagues going to try to invoke cloture? I heard they were going to file a petition for cloture. I asked that question when we were doing our closing, when the distinguished majority whip said he was sending a petition to the desk to invoke cloture. I asked, why would he do that?

I cannot understand why he would do that. I asked why, because the House overwhelmingly said they wanted to have this overtime rule rescinded, and

in the Senate we voted to rescind this rule.

My distinguished friend, the senior Senator from Kentucky, said we voted on it once. Why do we need to vote on it again?

Let me show my colleagues what we are talking about. The majorities in the Senate and in the House voted against the Bush overtime proposal on September 10 of last year. Yes, we had a vote on it once before. My distinguished friend is right, September, October, November, December, January, February, March—yes, we had one. I counted it on my fingers. It was more than 6 months ago when we had a vote in the Senate, 54 to 45. It did not go party-line votes, but it was close. There were some courageous Republicans who voted against the party line, one of whom is sitting in the chair. They voted against this issue, and it passed.

Not long after that, less than a month after that, the House, by a party-line vote said, no, we do not want to rescind it, they knew they were wrong because of what I have said today, that it punishes working families, it prevents the creation of new jobs, it dishonors hard work, and they recognized that. So by a vote of 221 to 203, the House voted to have the instruction go to the conferees to take what happened in the Senate and rescind what the President had done.

In the middle of the night, the Republican majorities in the House and Senate, without a single Democrat being present, took the Harkin-Kennedy amendment—that is this amendment right here, passed by a vote of 54 to 45—out of the omnibus bill. It comes to the floor and it is not in the bill. Surprise, surprise. Even though it passed, they took it out.

Yes, my friend from Kentucky is right; we had a vote on it over 6 months ago, and by some phantom-like work in the middle of the night, contrary to what I think are rules of fairness, and just brute power, they stripped this from the bill.

By recorded votes, the House and the Senate said they wanted this rule changed, but in spite of our constitutional framework, in spite of the rules we have in the Senate and House and the rules that work to keep the two bodies working together, they were abrogated and we came up with this strange situation.

No, the conferees did not follow these heavy votes. When this bill was rolled into the omnibus, the conference committee struck it. I repeat, the conference committee, which excluded Democrats, ignored the votes of Congress and in doing so ignored the voice of the American people.

I respect the opinions and views of every Member of the Senate, whether or not I agree with those views, because I know every Senator was elected by the citizens of their State. Every Member's opinion carries weight with me because I believe every person in

America has a right to be heard. In order for the people to be heard, the votes of those who represent them must count for something in Congress. Unfortunately, the conference committee that stripped Senator HARKIN's overtime amendment out of the Omnibus appropriations bill said our votes do not count; the voice of the people does not count; the voice of the people does not matter. Meeting behind closed doors, the committee disregarded the will of Congress and ignored the voice of the American people. So we have to have another vote on this.

We have had those on the other side of the aisle say this is an important bill. Why are we doing this?

Senator HARKIN has said he would take a time agreement. What does this mean? We have unlimited debate in the Senate. I think Senator HARKIN would take 15 minutes, give the majority 15 minutes, and then vote, an up-or-down vote on whether we want to have a rule in the United States that police officers, nurses, cooks, clerical workers, firefighters, physical therapists, reporters, paralegals, dental hygienists, graphic artists, bookkeepers, lab technicians, and social workers and on and on—8 million people are not going to be able to get overtime. I want a vote here. We want a vote. We are entitled to a vote. The only vote we had, the voice of the people, was stricken in the middle of the night. If this is an important bill, can't we afford 15 minutes to vote on this amendment?

The reason they don't want a vote on this amendment is because they know this amendment of Senator HARKIN will pass and the Secretary of Labor will have to issue new directions.

The purpose of the underlying amendment is to protect the jobs of American workers. It is a measure that protects the overtime pay of 8 million people, 8 million people who have families. Remember, 20 percent of these people work up to 50 hours a week; 25 percent of them depend on this overtime pay to make car payments, house payments, furniture payments, to send their kids to school. The voices of the American people are clear, just as the voices of the police officers and firefighters I met in Nevada last week were clear. They want us to protect the overtime pay their families depend on. We have a duty as legislators, national legislators, to stand and speak for the people we represent.

This bill, which is an important tax bill, the majority is willing to take down. The majority is willing to take down this important tax bill that we support on our side. They are willing to take it down, to have it go into limbo as so many other things do, like the gun legislation, like other bills. We can't seem to have closure on much of anything around here because the majority is unwilling to take tough votes. If it is something they disagree with, procedurally they just block us from voting on it.

This matter, that is, overtime pay for 8 million people, is going to be

something we are going to vote on. The responsibility for this bill being taken down is not at the hands of the Democrats. It is at the hands of the majority party, the Republican Party, which refuses to have a vote on repealing a decision made by the President of the United States that takes away overtime pay for people who make more than \$22,000 a year, as I have listed on this chart. It is wrong.

I told people twice yesterday that seeking to do away with this amendment by a parliamentary maneuver is not going to accomplish anything. We are wasting time. I can just see it now. The majority leader is going to come here and say we don't have time to do these important pieces of legislation; we are so busy.

We are busy wasting time. That is what we are doing. We wasted yesterday. We wasted all day today. We are having a cloture vote tomorrow. Cloture will be defeated. But to even show the complicity of what is happening here by my friends on the other side of the aisle, they were unwilling—they didn't have the nerve to file cloture on the underlying bill. Why? Because it would show directly what they were doing with the Harkin amendment. So they have developed this very interesting procedure where they have a motion here to recommit. The only reason they are doing it this way is so they do not have a direct attack on the FSC/ETI bill, the underlying bill here, and the Harkin amendment. They are going around that and saying we have this motion to recommit. If cloture is invoked, the bill comes back in its regular form.

Say whatever you want to say in however many ways you want to say it, this is an attempt to stop Senator HARKIN from having a vote on this overtime issue. It is wrong. No matter how many times people say we are going to be able to vote on it some other time, the record is replete with our cooperating in the first few months of this legislative session.

We have said to Senator HARKIN on many occasions, Let us go ahead and do this legislation. Let us work on this legislation. You can offer it on the next piece of legislation. And then the next piece of legislation.

We are at the end of the rope. The American people will no longer let us avoid this issue. This is an issue that must be addressed and we are going to address the issue because it is the right thing to do. Eight million Americans are depending on us, and \$22,000—it is as if somebody who makes \$22,000 a year and then gets overtime pay is committing some type of crime. Is that ruining our country? As I established here statistically, no, it is not. It is good for our country. Overtime pay creates more jobs. It rewards hard work. It allows people to maintain their standard of living—which isn't very high. Remember the starting point is \$22,000 a year.

I hope in the days and weeks to come and the few months we have left in this

legislative session, where we have 13 appropriations bills to pass and many other items, people remember the wasted time this week. All we want is a simple vote on overtime. Fifteen minutes of debate and vote. They will not let us do that because they know it would show the President of the United States is wrong, wrong in trying to take away overtime pay from people who make \$22,000 a year or more. It is wrong.

They will not let us vote on this. We are going to continue coming back as often as we have the opportunity. They will not be able to escape this. I feel really bad about this bill, which is important to our country. The majority is willing to take down a bill that is important to the competitive nature of our country. They are willing to take this bill down because they don't want a vote on overtime pay because it makes the President look bad. I should tell them the President looks bad anyway on this issue. They are not going to take away the damage done here. Why not let us vote and get rid of that ridiculous rule he has issued and get back to allowing people to be rewarded for working hard and creating new jobs? It is an issue we need, to make sure people are honored for hard work, rewarded for hard work, not punished.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BOND). Without objection, it is so ordered.

Mr. KYL. Mr. President, I would like to speak about the Harkin amendment. I wasn't here for the earlier conversation, but I was advised about some of the arguments that have been made. It concerns me because people are concerned about the proposed rules that have been promulgated by the Department of Labor. I think it is incumbent upon us to clarify the situation so American workers are not frightened of these proposed rules because of the mischaracterization by certain people.

The amendment here would stop the rules from going into effect. I fear there are things being said about these rules that are very inaccurate, misleading, and therefore are frightening people into thinking somehow the rules would prevent them from receiving overtime pay, when the reality is more people would be ensured they could qualify for overtime pay than is the case today.

I want to speak for a few moments to try to allay the fears of people so they are not concerned about these proposals and they embrace them, because the possibility of overtime extends to a larger universe of people than it does today. I will talk about this for a moment. The amendment would prohibit the Department of Labor from pur-

suage this proposed rule, which clarifies something called the white-collar exemption from the FLSA overtime rules, or the Fair Labor Standards Act rules.

What it has to do with is the requirement that non-white-collar workers are entitled to overtime under certain circumstances. The question is, how do we define the non-white-collar workers as opposed to the white-collar workers to understand who is entitled to receive compensation for the overtime and who is not. The proposed changes would actually guarantee payments to 1.3 million low-wage workers who were not entitled to overtime before. I think this is the key point. It does not take away people; it adds to the number of people who would qualify for overtime.

This is one of the ways in which that occurs: It would raise the minimum salary level at which workers are ensured overtime pay from \$155 to \$425 a week, \$22,100 annually. So it raises the level at which this kicks in, which would be the largest increase since the law was enacted in 1938. So we are making the availability to a much larger group of people, people at a higher salary level, than has ever been the case.

It will actually ensure that the lowest 20 percent of all salaried workers get pay of time and a half for overtime work. Now, that is a substantial increase in the number of American workers who will be ensured overtime pay. This is so important because I have heard from workers who have personally spoken to me and they are very frightened about this. They believe that somehow or another these proposed rules are going to make it more difficult for them to get overtime pay. The reality is that a lot more people are going to be ensured that they will receive overtime pay. First, as I said, because we are raising the level of people who would be covered. That is the largest reason why we can make that claim.

Another thing that this proposed rule does is to clarify the definitions of who is actually covered and who is not covered. In recent years, there have been a large number of class action lawsuits that have been brought over this definition of white-collar status; therefore, the question of whether they are exempt from overtime requirements. This has actually surpassed the Equal Employment Opportunity class action lawsuits in number, and there are a lot of those. The trial lawyers end up making millions of dollars off of this confusion in the current system over the definition. This law would eliminate all of that cost and all of the wasted energy in litigation and paying a lot of trial lawyers by clarifying who is covered and who is not covered.

Now let's talk a little bit about that definition because, once again, people are asking whether they are going to be covered anymore; they will be exempt from this guarantee of overtime pay with the new definitions. I want to

make it very clear that in most of the situations I have heard described that just is not true.

Employees who earn more than \$65,000 annually would be exempted from the overtime pay requirements if their job involves executive, administrative, or professional duties. Now, again, we are talking about time-and-a-half pay. When one is making over \$65,000 a year and they are in an executive position, the theory is that they can negotiate their own salary, that they are not in the situation in which they would be getting time and a half for the time they put in, and that is the reason for this particular exemption.

Those who earn between \$22,100 and \$65,000 will remain eligible for overtime pay if they meet what is called the short test. That determines whether they are exempted white-collar workers. That test basically includes definitions such as whether one supervises two or more employees, whether they have the authority to hire and fire or they need an advanced degree or some kind of specialized training. One would have to clearly be in one of those categories in order not to be guaranteed the protection of this time and a half for overtime. That is between \$22,100 and \$65,000.

There is a study out that I think also has some faulty data in it which have skewed the effect of the proposed rule that has been used by the opponents of the proposed regulation and by the supporters of the amendment that would prevent the regulation from going into effect. The claim is that 8 million workers would become exempt from overtime pay requirements based on this so-called EPI study. One of the reasons that the number is so large is because the study counts part-time workers who do not work 40 hours a week and therefore do not receive overtime pay.

Well, we have to extract all of those workers in order to have a relevant cohort because one has to work 40 hours a week in order to qualify for overtime pay.

The study also includes individuals who are not affected by the rule. Again, I do not see how one can have a valid study that allegedly shows how many people would no longer qualify if a lot of people are included in the study who do not qualify in the first instance. So it is very unclear what the actual number of people would be who would not qualify for the overtime pay.

Clearly, this study is fatally flawed in those two significant respects and therefore it should not be used to scare people into suggesting they would no longer be covered.

I will give some other examples of different professions in which there have been questions raised, and I think it is important we allay the fears of these people. Cooks are concerned, people who cook in restaurants, for example. Well, all cooks are not exempted from the overtime pay in the proposal.

Only chefs who have college degrees in the culinary arts will be deemed white-collar workers and therefore exempt from this requirement. So when one hears the conversation about all of the cooks who are no longer going to be entitled to time and a half because that is—I mean, when a person is working in a restaurant, for example, there is a lot of time and a half involved in that and here we are not talking about most of the people. The people who would be exempted are only those who have a college degree in culinary arts, which does not represent most of the people who are actually doing the cooking.

One of the arguments is as to the process, and there has been a suggestion that this rule was just passed in the middle of the night and somehow people are not aware of it. Nothing could be further from the truth. Prior to the drafting of the rule, the Department of Labor held over 40 meetings of stakeholders, people who had an interest in the proposed rule, 50 different interest groups, including, by the way, 16 labor unions. Some of the labor unions have raised questions, I think some will support it, but the bottom line is they were included in the consultations.

I am advised that the Department of Labor invited 80 groups to participate in these stakeholder meetings. So I do not think anybody can claim this was done in the middle of the night.

I ask unanimous consent that a letter which was provided to me—it was sent to the majority leader and minority leader from the Grand Lodge Fraternal Order of Police—be printed in the RECORD.

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

GRAND LODGE,
FRATERNAL ORDER OF POLICE®,
Washington, DC, March 22, 2004.

Hon. WILLIAM H. FRIST,
Majority Leader, U.S. Senate,
Washington, DC

Hon. THOMAS A. DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR MR. MAJORITY LEADER AND SENATOR DASCHLE: I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our concerns regarding an amendment which is expected to be offered tomorrow on the floor of the Senate concerning the proposed regulations governing the exemptions from overtime pay under the Fair Labor Standards Act (FLSA), and to renew our opposition to any such effort which would have the effect of delaying or hindering the Department of Labor's (DOL) ability to issue a final rule.

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

necessary due to the increased burdens placed on public safety officers following the terrorist attacks of 11 September 2001.

Since the beginning, it has been clear from our dialogue with Secretary of Labor Elaine L. Chao and Department officials that it was never their intention to cut overtime for public safety employees. Thus, we decided that the interests of our members could best be served by working cooperatively with the Department. Based on our dialogue with DOL, we are confident that when the final regulations are issued, that overtime pay will be available to even more police officers, firefighters and EMTs than is possible under the current regulations.

The F.O.P. believes that amendments such as the one which may be offered on Tuesday do not take into consideration the police officers, firefighters and EMTs who are currently exempt, who must work longer hours when the terrorist threat level goes up, and who are ineligible to receive overtime compensation. Nor do we think it is the best possible result that Congress should reaffirm that the existing executive, administrative, and professional exemptions are acceptable for our nation's first responders. Instead, our efforts with the Department of Labor and others have been geared towards ensuring that overtime compensation is available to all those public safety employees whose continued performance of overtime work is vital to the security of our nation.

These regulations offer an important opportunity to correct the application of the overtime provisions of the FLSA to public safety officers. We are therefore concerned that the adoption of any amendment with respect to the Department's revisions to the Part 541 regulations will undermine our efforts to successfully protect overtime compensation for more than 1 million public safety officers, and hinder DOL's ability to issue a final rule. During the public comment period on the proposal, the Department received nearly 80,000 comments from individuals across the nation. The purpose was to solicit feedback and suggested changes to the original proposal before issuing final regulations. None can say with any degree of certainty what changes DOL has made to their proposed rule and what its final scope will be. In essence, all of the concerns which have been expressed to this point are based solely on the pre-public comment draft proposal, and on conjecture over what is feared will or will not be part of the final regulation. That is why the F.O.P. believes that the regulatory process should be allowed to move forward unimpeded, and that Congress should reserve acting on this issue until after the regulations have been promulgated as a final rule.

On behalf of the more than 311,000 members of the Fraternal Order of Police, we respectfully request your assistance in opposing the adoption of any amendment which would delay the issuance of a final rule. I cannot express to you the critical importance of this issue to our membership. Thank you in advance, and please do not hesitate to contact me, or Executive Director Jim Pasco, through our Washington office if we can be of any assistance whatsoever.

Sincerely,

CHUCK CANTERBURY,
National President.

Mr. KYL. The author of the letter in the first paragraph—I will not cite the entire letter but the national president of the Fraternal Order of Police, whose name is Chuck Canterbury, wrote this:

I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our concerns regarding an amendment which is expected to be offered tomorrow on

the floor of the Senate concerning the proposed regulations governing the exemptions from overtime pay under the Fair Labor Standards Act, and to renew our opposition to any such effort which would have the effect of delaying or hindering the Department of Labor's ability to issue a final rule.

The reason I quote that letter is to make the point that this is the FOP, a very large and important union in our Nation today, which would like to see this rule issued. It is an illustration of one of the groups that has been involved in the process that understands what the Department of Labor is doing and appreciates the positive effect of the rule that has been proposed.

I also want to make it clear that this is only a proposed regulation. After the rule is promulgated by the Department, obviously there would be a final implementation of the rule. At the earliest, that would come out next year sometime, and clearly the Senate would have the ability at that time to address any complaints about the final rule. The agency, I am advised, has received over 80,000 comments with respect to its proposed rule and is currently working its way through those comments. So this is not something that is going to be happening tomorrow. Once they get through all of those comments, they will promulgate the final rule, again perhaps coming out sometime next year. The Senate, in any event, would have plenty of time to work on it.

That is essentially what I wanted to say, to make the point that those who have been scared or frightened by some of the comments about this proposed rule should stop and get more information about the rule. They should listen to some of the debate we are trying to bring to the floor and contact the Department of Labor if they have a question, or contact our offices so we can clarify what this proposed rule really does. We can make it clear it is not being put into effect to take a bunch of people out of the market for time-and-a-half guarantee of overtime, but in point of fact it would actually guarantee that more people would have the ability to get overtime, and because of the clarification of definitions, it would remove the potential for even more litigation that simply raises confusion about whether people are covered.

We can make it clear we are talking about people who make a lot of money, who have a lot of control over the negotiation of their salaries, who have supervision over other employees, and so on. Those are the people who are being exempt. It is not the people who are just regular workers, who don't supervise a lot of people, who don't hire and fire people, and so on. Those folks may or may not wear white collars to work, but the bottom line is they are not exempt from the requirements under the Fair Labor Standards Act to provide them time and a half for overtime for the hours they actually work. It is important to get that message out to folks; that it is not something about

which they should be concerned. Rather, the intention behind the rule is to clarify and expand the number of people eligible for it.

I hope folks who have concerns about that will be in touch with us so we can allay those concerns. Perhaps the amendment I am talking about will come up for a vote, perhaps it will not. If it does, I hope it is defeated because we need to move forward with the regulations the Department is working on right now and see them promulgated. Once that occurs, you will see labor unions and workers all over the country looking at the final product and saying, yes, that is fair. That is protective of me. It clarifies the situation, and we can support it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. REID. Mr. President, the junior Senator from Arizona is someone for whom I have the highest regard. He is articulate. He always makes a good presentation. I am glad he is a neighbor of the great State of Nevada.

But I have to say the one question he didn't answer is, Why don't we just vote on this? Why don't we just have a vote on this overtime issue? We have agreed to have Senator HARKIN spend 15 or 20 minutes summarizing his arguments, the majority can take whatever time they believe appropriate, and then we can vote on this issue and move on to this most important underlying bill.

My friend from Arizona, who is the first person who has come to try to defend the overtime proposal of the President, says the study is faulty, that it is really not 8 million people, and some are part-time.

Let's say it is faulty, which I don't think it is, but let's say it is only 6 million people.

I would also say, of course, more people would qualify for overtime pay because whatever they are doing is allowing people who now are not entitled to overtime pay, people who really don't make much money—we would allow them to have overtime pay under the proposed rule.

Let them do it. Let them have overtime. No one is trying to stop them from having overtime. What we criticize is why would we want to make one group of workers disadvantaged to try to advantage another group of workers? Let's let them all be entitled to overtime, time and a half. That seems to be the fair thing to do. I see nothing wrong with giving people who are not making much money now the ability to get overtime. We support that. But why disadvantage others?

Of course, we are told it is in the definition of "white collar." Can you

imagine the litigation and problems it is going to cause in the workforce—who is a chef, who is a cook, who is a physical therapist?

This is an issue that is important to millions and millions of working men and women in this country. We believe the rule is not right for the American people. We believe people should be rewarded for hard work. We believe we should create more jobs, not take away jobs. This proposal will not reward hard work, and it will take away people's honest efforts to be rewarded for hard work.

We are willing to vote, as had been done last September when we voted in this body by a large margin to rescind the rule. The House of Representatives, by more than 220 Members, said they wanted to do what the Senate did, the same thing. We voted on it twice. It was taken out in the middle of the night in a secret conference, with no Democrats present. Why can't we vote on it again? We believe that is what we should do. Let's vote on whether the President and his people are right or wrong.

We are willing to debate this issue in public, not secretly. We are willing to state our position and simply go forward as the Senate and the House have already spoken and get rid of this rule, which is unfair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I want to continue to discuss the white-collar exemptions on the overtime legislation and the amendment we are dealing with. I want to express how frustrating it is to see a very carefully constructed proposal by the Secretary of Labor, Elaine Chao, being mischaracterized, therefore placing fear in the American people through the misrepresentation of the nature of these regulations.

First of all, Secretary Chao is one of the finest public servants I know. From the time she gets to work in the morning until the time she gets home late at night, she is committed to making this a better country, a good country to live and work in. She wants to do something about these regulations that have not been changed since 1954 in any significant way. They need to be updated. Her proposed rule changes have received 70,000 comments. The Department of Labor is considering those, and they ought to be able to update these regulations. There is no doubt about it. It is time to do that.

The impact has been completely misrepresented. We need to talk about it. I think the reason, frankly, is that we are in a political season. People want to make this a political issue. If they can go around and say, Mean old Presi-

dent Bush wants to deny you your overtime and you can't get overtime anymore, and they can stir this up and make these complaints, then they think some people might believe it. But it is not right. What is being said is not right. It is not fair.

The Department of Labor has proposed changes to the regulations governing the overtime exemption under the Fair Labor Standards Act, also known as the white-collar exemption.

The regulations defining which workers are entitled to overtime were written in 1954 and have not been updated to reflect the ongoing changes in the workplace. Today's workers are operating under the rules that are 50 years old.

These rules include job descriptions like "gang leader," "ratesetter," and "Linotype operator." Therefore, it is easy to understand why many businesses have trouble identifying which workers qualify for overtime and which are exempt under current law.

The proposed rule increases the minimum salary requirements for overtime from as low as \$155 a week to \$425 a week.

Let me talk about that. Let us get this straight.

A worker making as little as \$155 a week today could be denied overtime if they are classified in a supervisor capacity. Under the rules of the Secretary of Labor, if you made \$425 a week or less, you are automatically entitled to overtime no matter what job title some business might give you. That is going to help a lot of people, I submit. According to the Department of Labor, this change would result in 1.3 million Americans who earn less than \$22,100 per year being guaranteed overtime compensation. That is not so now. A worker can be classified as some sort of supervisor making \$18,000 or \$20,000 a year and not get overtime.

Under the current regulations, a person earning \$14,300 annually who works behind the counter at a restaurant, for example, and is called a manager could be denied overtime compensation. The new regulations would guarantee overtime pay to this person and others making less than \$22,100. They would be guaranteed it. That is a lot of people. It means a lot to those people.

Additionally, the Department of Labor projects 10.7 million workers who currently qualify for overtime will have all of those protections strengthened, including nurses, chefs, secretaries, unionized workers, and first responders.

Following discussions with the Department of Labor, the Fraternal Order of Police, a major organization representing thousands of police officers who we deal with from the Judiciary Committee on a regular basis and who is actively engaged in defending the interests of their members, released a statement recognizing the fact that police officers will still receive overtime compensation under these new regulations. The President of the National

Fraternal Order of Police, Chuck Canterbury, said:

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

I think that is a strong statement. And for months now we have been hearing how these regulations are going to hurt policemen, firemen, and emergency medical technicians.

That is not true. It is false. In fact, it is going to guarantee a lot of people overtime who are not receiving it today.

According to the Human Resource Policy Association, the proposed changes would impact about 12.6 million workers—it sounds like a lot—12.6 million workers out of 134 million workers. About 10 percent of workers would be affected. Of that 12.6 million affected, 12 million would now qualify for overtime or have their current overtime protections strengthened—not reduced, strengthened—12 million out of 12.6 million who are affected will have their protections strengthened. The other 644,000 workers—highly educated individuals earning an average of \$50,000 per year—might be subject to reclassification under these regulations. That is what it is focusing on. The proposed rules would clarify the regulations affecting millions of workers.

By updating these rules, the Department of Labor would ease the burden on employees and employers who find it difficult to navigate the often confusing and outdated regulations governing proper compensation, including overtime pay. Additionally, the Department will be better able to enforce the law once clarifications are made.

I know the Presiding Officer is a lawyer, a former attorney general and justice of the Texas Supreme Court, and knows litigation. As a lawyer in private practice not too many years ago—maybe not long before I came to the Senate in the mid 1990s—I represented a friend I grew up with who is a bulldozer operator, a heavy equipment operator. He is a good guy. He had a dispute with his employer. He thought maybe he was entitled to overtime pay because he ran heavy equipment. The company said, No, you are a contractor. I said, Friend, I think you are right. We filed a lawsuit, and we had to go to court. We eventually settled before trial, and we got him overtime. I think he was legally entitled to overtime under current Federal regulations. Whether he should have been, I do not know. But it makes it clear that these rules and regulations are confusing. He had to pay me a lawyer's fee to represent him. I do not know how much it cost the court or how much it cost the company to pay their lawyer

to defend the lawsuit. But this kind of thing happens too much.

I represented one more overtime case. She was a clerical person at an entity, and she thought she was being unfairly treated. I looked at her case and it was not a lot of money. I talked to her and I thought she was right. We filed a lawsuit. They agreed eventually to pay her overtime after some haggling and discussion back and forth.

Do you know where she worked? Do you know who her employer was? It was a union local. They agreed to pay and they admitted she was not properly paid overtime. If we make it clearer so that it is indisputable what overtime is and what it is not, we will see less confusion.

Lawsuits over violations of the Fair Labor Standards Act are increasing each year. According to the HR Policy Association, in 2001 the number of Fair Labor Standards Act class action lawsuits actually exceeded the number of Equal Employment Opportunity class action lawsuits.

In *Carpenter v. R.M. Shoemaker Company*, the court ruled that a project superintendent making around \$90,000 annually was not an exempt employee and was thus entitled to overtime even though the employee supervised three large construction projects for a construction management company.

These laws are complex. If I were a plaintiff and I were representing someone, I would try to figure out a way to get my client in there and get them overtime, too. But I don't think that is what Congress had in mind when it created a statute where a guy making \$90,000 a year that supervises three large construction projects can receive overtime compensation. That sounds like a supervisor to me. I bet the company did not lose the lawsuit for any other reason than there was probably a violation of the complex Federal law written in 1954, 50 years ago.

In *Hashop v. Rockwell Space Operations*, the court decided that "network communications systems instructors" who had advanced degrees in physics, mathematics, and engineering, and trained personnel were not exempt because they used technical manuals and made decisions in groups. These things are pretty complicated.

Under the current rule we have employees earning \$90,000 a year or possessing advanced degrees qualifying for overtime. This is not the low-wage worker we keep hearing about in our debate. Fundamentally that is what Secretary Chao's regulations are focused on, these high-wage employees who are supervisors and are slipping in and claiming overtime when that was not the intention of Congress.

Many employers worry about incurring large unexpected litigation costs due to their inability to properly interpret these confusing rules. Even lawyers and Department of Labor investigators can have difficulty deciphering the line between exempt and

nonexempt employees. By clarifying the line—who is a salaried employee and who is not—we can reduce the number of lawsuits brought under this section, and we can make sure more people get paid overtime properly from the very beginning. If you make less than \$22,100 a year, you get overtime. That is a bright line. That is what we ought to have more of, more bright lines in this Congress so there is a lot less confusion. If you make less than that, you get overtime. That will pick up a tremendous number of people today who have been classified as some sort of manager or supervisor but have made much less than \$22,100 and, as a result of these changes, they are going to gain benefits. I believe far more will benefit than will lose under these proposed regulations. By clarifying that, we can reduce lawsuits.

In 1938, when the Fair Labor Standards Act was passed, the Congress instructed the Secretary of Labor to make changes to the white-collar exemption rules. That was part of the congressional instruction, to make changes in the white-collar exemption rules. It was understood, I assume, at that time that they had not worked everything out fully and more work needed to be done on these regulations.

The Department of Labor has now issued these proposed regulations. They issued them in March of last year. Everyone has seen them. They have been published. They have received in response to these proposed regulations over 70,000 comments during the 90-day comment period. Secretary Chao is doing her job. She is seeking to update and modernize these regulations to make them fit the contemporary needs of America today. We do not have gang leaders being paid wages today. I don't think that job description any longer exists. There is a lot of need for improvement and change. Secretary Chao is on the right track. They will continue to refine these regulations if there is a problem.

There is no plot here to try to undermine the right of working Americans to receive overtime. That is a completely bogus and political argument we are in at this time. Frankly, politics is intervening too much in our debate of late. I guess that is the nature of American government. We will have to put up with it. I am getting a bellyful of it and think we need to set the record straight whenever possible.

I am looking at another group that has been asserted would lose benefits under this, the Non-Commissioned Officers Association of the United States of America. They wrote a letter to BILL FRIST, the majority leader in the Senate. They said:

It is a blinding glimpse of the obvious that neither the current rules nor the revised proposal will negatively impact those who serve or have served in the [United States] uniformed services. In fact, this association's direct discussions with DOL leads us to the conclusion that the proposed rule relative to

the revised ceiling for annual income (increased from \$8,060 to \$13,000) will greatly expand the pool of eligible workers for overtime compensation.

I ask unanimous consent to have this letter printed in the RECORD.

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

NCOA,

Alexandria, VA, January 29, 2004.

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

DEAR SENATOR FRIST: The Non Commissioned Officers expresses its grave concern that America's military personnel and veterans are being used as an "emotional" ploy to delay the Department of Labor implementation of the Fair Labor Standards Act relative "white collar" exemptions. Claims that military members involved in the War on Terrorism and this Nation's veterans will have their employment status elevated to "exempt" based on military training and experience and lose opportunity for overtime compensation are patently incorrect. The Association regrets that some would wrongfully use such false allegations concerning impact to America's service members to garner emotional and legislative support to delay the final rules for implementation of FLSA.

It is a blinding glimpse of the obvious that neither the current nor the revised proposal will negatively impact those who serve or have served in the Uniformed Services. In fact, this association's direct discussions with DOL leads us to the conclusion that the proposed rule relative the revised ceiling for annual income (increased from \$8,060 to \$13,000) will greatly expand the eligibility pool for worker overtime compensation.

It is outrageous that unsubstantiated claims are reaching America's Soldiers, Sailors, Marines, and Airmen currently in harm's way that their future return to civilian jobs will result in a reclassification of their employment status. It is clear from our discussions with the Department of Labor that the proposed rule makes no changes from the current regulation and case law regarding military training and eligibility for overtime payments.

NCOA will continue to monitor the rights of all service members and pursue DOL intervention if the intent of any program or interpretation of the published rules would negatively impact those who have served in the Uniformed Service of this Nation. NCOA will remain vigilant to ensure their employment rights.

Sincerely,

GENE OVERSTREET,
President/CEO.

Mr. SESSIONS. We need to let this process work, allow the Secretary of Labor to evaluate these comments and continue her process of establishing fair and modernized overtime regulations.

I yield the floor.

Mr. SANTORUM. Mr. President, I rise to commend the Senate for the passage yesterday by unanimous consent an amendment to extend for 2 years the Work Opportunity and Welfare to Work tax credits, and to make certain improvements to these programs that will make them even more effective in helping Americans transition from welfare to work. These credits clearly belong in a bill whose name is JOBS; I can think of few programs

that have created jobs and provided basic workplace skills to a segment of the population that is badly in need of these resources with the efficiency and low cost of WOTC and W-t-W. I can also think of few jobs programs that have as positive an impact as these have on scarce state welfare resources. I am also pleased that Senator BAYH joined me as a cosponsor of this bipartisan amendment. I would also like to thank Chairman GRASSLEY and Senator BAUCUS for their support of this important initiative as part of a larger package of extenders.

WOTC and W-t-W are also key elements of welfare reform. Employers in the retail, health care, hotel, financial services, and food industries have incorporated this program into their hiring practices and through these programs, more than 2,700,000 previously dependent persons have found work.

A recent report issued by the New York State Department of Labor bears this out in economic terms. Comparing the cost of WOTC credits taken by New York State employers during the period 1996–2003—for a total of \$192.59 million—with savings achieved through closed welfare cases and reductions in vocational rehabilitation programs and jail spending—for a total of \$199.89 million—the State of New York concluded that WOTC provided net benefits to the taxpayers even without taking into account the additional economic benefits resulting from the addition of new wages to the GDP or reductions in other social spending such as Medicaid.

In that regard, the New York State analysis concluded that the roughly \$90 million in wages paid to WOTC workers since 1996 generated roughly \$225 million in increased economic activity. Perhaps even more importantly, the study found that roughly 58 percent of the TANF recipients who entered private sector employment with the assistance of WOTC stayed off welfare.

I mention the New York State study because it is the first of its kind; however, I am certain that similar conclusions would be reached in the Commonwealth of Pennsylvania or any of the other 48 States and the District of Columbia. These programs work and do so at a net savings to taxpayers. In fact, over a 7-year period there were more than 111,000 certifications for both WOTC and W-t-W in Pennsylvania alone enabling many to leave welfare and find private sector work. The legislation is supported by hundreds of employers throughout Pennsylvania and around the country.

WOTC and W-t-W have received high praise as well from the Federal Government. A 2001 GAO study concluded that employers have significantly changed their hiring practices because of WOTC by providing job mentors, longer training periods, and significant recruiting outreach efforts.

Mr. President, WOTC and W-t-W are not traditional government jobs programs. Instead they are precisely the type of program that we should cham-

pion in a time when we need to be fiscally responsible. These are efficient and low cost public-private partnerships that have as their goal to provide a means by which individuals can transition from welfare to a lifetime of work and dignity.

Under present law, WOTC provides a 40-percent tax credit on the first \$6,000 of wages for those working at least 200 hours, or a partial credit of 25 percent for those working 120–399 hours. W-t-W provides a 35-percent tax credit on the first \$10,000 of wages for those working 400 hours in the first year. In the second year, the W-t-W credit is 50 percent of the first \$10,000 of wages earned. WOTC and W-t-W are key elements of welfare reform. A growing number of employers use these programs in the retail, health care, hotel, financial services, food, and other industries. These programs have helped over 2,200,000 previously dependent persons to find jobs.

Eligibility for WOTC is currently limited to: (1) Recipients of Temporary Assistance to Needy Families in 9 of the 18 months ending on the hiring date; (2) individuals receiving Supplemental Security Income, SSI, benefits; (3) disabled individuals with vocational rehabilitation referrals; (4) veterans on food stamps; (5) individuals aged 18–24 in households receiving food stamp benefits; (6) qualified summer youth employees; (7) low-income ex-felons; and (8) individuals ages 18–24 living in empowerment zones or renewal communities. Eligibility for W-t-W is limited to individuals receiving welfare benefits for 18 consecutive months ending on the hiring date. More than 80 percent of WOTC and W-t-W hires were previously dependent on public assistance programs. These credits are both a hiring incentive, offsetting some of the higher costs of recruiting, hiring, and retaining public assistant recipients and other low-skilled individuals, and a retention incentive, providing a higher reward for those who stay longer on the job.

Despite the considerable success of WOTC and W-t-W, many vulnerable individuals still need a boost in finding employment. This is particularly true during periods of high unemployment. There are several legislative changes that would strengthen these programs, expand employment opportunities for needy individuals, and make the programs more attractive to employers. These changes are reflected in legislation which I introduced along with Senator BAUCUS, S. 1180, and these changes are as follows:

The administration's budget proposes to simplify these important employment incentives by combining them into one credit and making the rules for computing the combined credits simpler. The credits would be combined by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under the present work opportunity tax credit would apply to W-t-W employees.

The maximum amount of eligible wages would continue to be \$10,000 for W-t-W employees and \$6,000 for other target groups—\$3,000 for summer youth. In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Under current law, only those ex-felons whose annual family income is 70 percent or less than the Bureau of Labor Statistics lower living standard during the 6 months preceding the hiring date are eligible for WOTC. The administration's budget also proposes to eliminate the family income attribution rule.

Current WOTC eligibility rules heavily favor the hiring of women because single mothers are much more likely to be on welfare or food stamps. Women constitute about 80 percent of those hired under the WOTC program, but men from welfare households face the same or even greater barriers to finding work. Increasing the age ceiling in the "food stamp category" would greatly improve the job prospects for many absentee fathers and other "at risk" males. This change would be completely consistent with program objectives because many food stamp households include adults who are not working, and more than 90 percent of those on food stamps live below the poverty line.

I am very pleased that President Bush proposed a 2-year extension for these programs in his budget, as well as some useful modifications and improvements. The administration along with all of us in Congress are eager to continue our efforts to create jobs in America. The amendment would provide for a 1-year extension of current law to facilitate a transition period and then in the second year implement these important changes.

I would prefer a permanent extension which would provide these important programs with greater stability, thereby encouraging more employers to participate, make investment in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly. Yet the cost is a significant consideration in the current budget environment even though this is an excellent use of tax incentives which ultimately saves government resources while expanding opportunity for Americans.

Finally, I commend the Senate for acting on this amendment and encourage support for cloture tomorrow and quick completion of this important underlying jobs bill. WOTC and W-t-W expired at the end of last year, and even though the extension we propose is retroactive, these programs will not be fully effective until they become law. The individuals who enter the workforce under these programs, and our

States, that benefit greatly from the reduction in welfare that these programs generate, deserve quick action by the Senate on this bill. I urge all of my colleagues to support its passage.

Ms. COLLINS. Mr. President, I am pleased today to rise in support of the amendment offered by Senators GRASSLEY and BAYH that would extend certain tax provisions to prevent their expiration.

The Grassley-Bayh amendment contains a number of useful provisions, but one in particular that I commend to my colleagues would extend for two more years the \$250 deduction provided to teachers who purchase supplies for their classrooms out of their own pockets. Senator WARNER and I were the principal authors of this law.

This is a modest, but appropriate, step toward recognizing the invaluable services that teachers provide each and every day to our children and to our communities. So often teachers in Maine, and throughout the country, spend their own money to improve the classroom experiences of their students. While many of us are familiar with the National Education Association's estimate that teachers spend, on average, \$400 a year on classroom supplies, a more recent survey demonstrates that they are spending even more than that. According to a report released last year by Quality Education Data, the average teacher spends more than \$520 a year out of pocket on school supplies.

I have visited more than 100 schools in Maine, and everywhere I go, I find teachers who are spending their own money to improve the educational experiences of their students by supplementing classroom supplies.

The teacher tax relief we passed overwhelmingly in the last Congress was a step in the right direction. As Tyler Nutter, a middle school math and reading teacher from North Berwick, ME, told me, "It's a nice recognition of the contributions that many teachers have made." I commend the authors of this amendment for including the extension of the Collins-Warner Teacher Tax Credit on this important piece of legislation, and I invite all of my colleagues to join us in recognizing our teachers for a job well done.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Iowa.

Mr. GRASSLEY. Is our situation such that we are on the JOBS bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. We have a very important vote tomorrow. That vote is cloture to stop an effort to bring non-germane issues into and stall this bill.

I spoke this morning, spending a great deal of time explaining how the JOBS bill is a fully bipartisan bill built from the ground up in a bipartisan manner. We cannot get anything through the Senate that is not bipartisan. We can get a lot of things through the House of Representatives that are partisan but not through the Senate.

Now we are facing an attempt to defeat this bipartisan measure by injecting politically charged amendments into the JOBS bill regarding an issue that is not even dealt with in this bill. Somebody wants to write a law.

Why does the other side insist on amending this important bill for a matter that is not even the subject of this legislation? We need to focus on what is in this bill and what will be killed if we do not get cloture approval tomorrow.

We know the only way this bill can pass is by a "yes" vote tomorrow on stopping debate and moving to finality. But will the Democrats say no to cloture? Will they go on record opposing the provisions that are in this bill—very important provisions for creating jobs in America, preserving jobs in manufacturing, answers to concerns that the people of this body have expressed about outsourcing, about not enough manufacturing jobs being created?

If you look at this bill, you will find, then, that there is very important provisions for creating jobs that the other side is preparing to kill, so, in a sense, their vote tomorrow will be a vote contrary to what they have been complaining about for a long period of time about this recovery not providing enough jobs, and particularly about jobs going overseas.

This bill will prevent that. I do not understand why people would not vote to move a bill along that is going to solve a lot of the problems about our not creating enough jobs in manufacturing. If this bill does not move along, actually the situation is going to get worse, and we are going to lose jobs that we presently have in manufacturing.

So why would they be prepared to kill this bill? This bill will end \$4 billion a year of tariffs put on U.S. exports by Europe. Those tariffs are already being imposed against U.S. exports of grain, timber, paper, and manufactured goods. We can end those tariffs now at 5 percent, growing 1 percent a month into the future. We can end them with this bill. But will the Democrats say no?

A vote against the JOBS bill is a vote in favor of that 5-percent tariff going up 1 percent a month into the future. And that goes up very fast, making our business, our American manufacturing uncompetitive.

The Congressional Budget Office says we have lost 3 million manufacturing jobs since the manufacturing downturn started 6 months before President Bush became President. This bill provides \$75 billion of tax relief to our manufacturing sector to promote rehiring in U.S.-based manufacturing. But will the Democrats say no?

The Democrats claim they are worried about the scope of the proposed overtime regulations. The regulations are not even final yet. But how can you worry about overtime if you do not have a job in the first place? Shouldn't

we first worry about creating manufacturing jobs and take care of overtime on another bill instead of slowing this one up? Or will the Democrats say no?

The money from the FSC/ETI repeal gives a 3-percentage point tax rate cut on all income derived from manufacturing in the United States. It is not for manufacturing done offshore. We start this tax relief immediately.

This manufacturing rate cut relief applies to sole proprietors, partnerships, farmers, individuals, family businesses, multinational corporations, even foreign companies that set up manufacturing plants in the United States to manufacture here with American workers. This should keep the Government out of their pockets while they try to recover from the economic downturn. That is what this bill is all about: helping these manufacturing companies recover from the economic downturn. Now, will the Democrats say no to the opportunity to help American manufacturing?

This bill includes international tax reforms, most of which benefit American manufacturing, to keep it competitive in the global marketplace.

This bill also includes the Homeland Reinvestment Act, which has broad support in both the House and the Senate. It has both Republican and Democrat sponsors. But will the Democrats say no?

This bill extends the research and development tax credit through the end of 2005, something very necessary to keep our industry ahead of the curve, building for the next product, building for the next service, particularly in the technical areas. This is a domestic tax benefit that incentivizes research and development, translating into good, high-paying jobs for workers here in America, not across the ocean. But will the Democrats say no tomorrow on the cloture vote?

In addition, there are several additional provisions that are important to this bill. Senators BUNNING and STABENOW sought to accelerate the manufacturing deduction. This ensures that the tax relief and related economic benefits of the bill are provided more quickly to those hurt by the repeal of FSC/ETI.

The bill extends, for 2 years, tax provisions that expired in 2003, last year. Some of them already expired. Some of them are expiring this year. They need to be included because those incentives are very important to the prosperity of companies that rely upon these tax incentives. This would include items such as the work opportunity tax credit, helping young people, helping low-income people to get jobs, to get job training. It helps to move people from welfare to work because we have tax credits that do that.

Why would any Democrat vote against the extension of the welfare-to-work tax credits, moving people out of welfare, where they are assured a life of poverty, into the mainstream of America, the world of work where you

have a chance to move up the economic ladder? Over here, in welfare, you never have a chance to move up. We have tax credits to help. Will the Democrats say no to these tax credits to help low-income people get into the world of work, to move above, to improve themselves, to get out of poverty?

There is a provision also in this bill on net operating losses that will accelerate tax relief to companies that need it to continue operations and recover from recent difficulties. The reason for doing that is they have some tax credits. They do not have income to write it off against. This gives them some benefit helping them to enhance their recovery.

We have enhanced depreciation provisions to help the ailing airline industry, the manufacture of airplanes—Boeing, in my State where avionics are made for airplanes, Rockwell Collins—because you cannot, under existing depreciation laws, get something into completion by this deadline because it takes so long to build an airplane. This will extend provisions that were meant to help industry a year ago if they got long timelines to get something finished.

There are new homestead provisions. This provides special assistance for businesses in counties that are losing population. This is rural economic development, providing incentives for newly constructed rural investment buildings, for starting or expanding a rural business in a rural high-out-migration county. Will the Democrats say no to that rural economic development?

This bill includes brownfields revitalization. The bill waives taxes for tax-exempt investors who invest in the cleanup and remediation of qualified brownfields sites. Will the Democrats say no to helping clean up the environment? Would that vote comport with the rhetoric you hear on the environment from the other side of the aisle?

Mortgage revenue bonds: This proposal would repeal the current rule that mortgage revenue bond payments received after the bond has been outstanding for 10 years must be used to pay off the bond, rather than issue new mortgages.

There are 70 Senate cosponsors to this bill. Would the Democrats justify voting no on cloture to kill a provision that 70 of their colleagues support?

We allow deductions for private mortgage insurance for people struggling to afford a home. Anyone planning to vote no on this one? Would they vote no on allowing the cost of mortgage insurance to be written off as one writes off interest on a mortgage? That is helping a lot of young people to get a home that they would not otherwise be able to afford. I know home ownership is the highest it has been in the history of our country. Maybe they are saying: We have enough Americans owning homes. Why help some other people this way? It is in this bill. If they vote no tomorrow, they are voting

against helping those homeowners with their mortgage insurance costs.

This bill includes a tax credit to employers for wages paid to reservists who have been called to active duty. Would Democrats say no to the guardsmen and reservists who are defending our country, helping us win this war, by voting no tomorrow?

We have extended and enhanced the Liberty Zone bonds for rebuilding New York City. The two Senators from New York have talked to me about them. Are they going to vote no tomorrow and say no to the Liberty Zone bonds helping New York City at a time when Ground Zero begs for help? Will they tie up funding for the Liberty Zone in order to prove a political point for a Labor Department overtime regulation that has not yet been finalized? If it had been finalized, there is an opportunity for an expedited procedure for congressional veto of those very same regulations they don't want. This is not the last train out of the station. There are other opportunities to fight these battles and probably in a more appropriate way than a nongermane amendment on legislation that ought to pass, that is going to preserve and create jobs in manufacturing. Where are the priorities of the other side of the aisle?

We also have in this bill increased industrial development bond levels to spur economic development. We have bonds for rebuilding school infrastructure. We have included tribal bonds which apply the same rules to Native American tribes issuing tax exempt bonds to finance facilities on a Native American reservation that apply to tax exempt bonds that we allow State and local governments to use. Are Senators of the other party going to vote against the Native American Indian provisions of this bill?

We have a tribal new markets tax credit. This amendment would add \$50 million annually in the new markets tax credit dedicated to community development entities serving Native American reservations, if there is a poverty rate of over 40 percent. Are they going to say no to helping those needy Americans?

We have included a Civil Rights Tax Fairness Act so when people have been harmed in violation of their civil rights, they can go to court and get justice. Do you know what happens when they get justice? We have some people paying income tax on what they pay their lawyers so when it is all said and done, a big settlement, sometimes the people who have been harmed get nothing because of the unfair taxation of that award. Are the Democrats going to say no to those people who have had their civil rights violated? They can't get justice in court. That doesn't sound like the other party, does it?

Is it worth killing off these important priorities over a regulatory issue that has already been voted on by the Senate? How many times do we have to express our view on something?

We also have in this bill a special dividends allocation rule that benefits agricultural cooperatives. We have other farm provisions that help cattlemen receive tax free treatment if they replace livestock with other farm property where there has been drought, flood, or other weather-related conditions within 2 years from the date the livestock has been sold. Last year we heard a lot from the other side of the aisle about not helping the farmers who have been hurt by drought. Here is an opportunity to help some people through tax problems they have as a result of something beyond the control of the family farmer. Are they not going to give those farmers an opportunity to have help?

We have a provision that allows payment under the National Health Service Corps loan repayment program to be exempt from tax. Every Senator here has rural America in their State. We are always saying there is not adequate health delivery services in some parts of our country in rural America. We set up the National Health Service Corps to provide services there. They still have a hard time getting adequate service, but we have provisions in here for additional incentives for people to serve rural America. I hear from my colleagues that we have to do something about health care in rural America. We have an opportunity tomorrow in this legislation to do something about it. Will the Democrats vote no tomorrow?

We have a proposal to allow the itemized deduction for unreimbursed vehicle use for rural letter carriers. Why does that come before us? Because every time you drive a quarter of a mile and you stop at a rural mailbox to leave mail, and then go on to the next farmer's box to leave mail, that vehicle has higher costs than if it was going down the road 60 miles an hour and never stopping. The Tax Code ought to reflect a little bit different business deduction for that automobile as opposed to a business vehicle that doesn't stop at every mailbox.

We have provisions in this bill to enhance broadband expensing provisions. We always hear from the other side that the quality of life in rural America can never be equal to that of cities if they don't have the same IT access. This gives that IT access. I hear Members of the other side of the aisle talk to me about broadband tax credits. We have an opportunity to do that now. Are they going to say no to what they have been asking me to do for the last 2 or 3 years?

We provide real infrastructure tax credits, the so-called short-line credits. This bill provides \$500 million over 3 years in Federal tax credits to States for intercity passenger rail capital projects. Eligible intercity passenger rail projects include planning, track rehabilitation, upgrade, development and relocation, security and safety projects, passenger equipment acquisition, station improvement, intermodal

facilities development, and environmental review and impact mitigation.

States may transfer credits directly to short-line and regional railroads. They are going to say no to that?

Finally—here is something for the New York Senators—the proposal makes \$100 million in tax credits available to New York to be used on rail infrastructure projects in the New York Liberty Zone.

Will the Democrats say no? Will they vote against cloture tomorrow and thereby kill these measures? Will they do this over a proposed regulation which, as Senator KYL and Senator SESSIONS just explained, is being misrepresented and used as a political scare tactic?

All of these benefits are being held hostage because the other side is pushing a politically motivated vote on an issue that is not even in this bill.

The leadership on the other side doesn't really want to debate the substance of this bill. Sometimes I get that feeling. They would prefer to turn this bipartisan bill into a political football.

This is inexcusable because we have worked very hard throughout this process to make sure everyone's concerns, both Republican and Democrat, were incorporated into this bill. I related all of those. There is no reason this bill should not get almost unanimous support. In fact, it was voted out of committee 19 to 2. Now we have opposition from the other side. I don't understand.

Anyone who votes against cloture tomorrow is effectively voting against all of the items I just listed. This should not happen on a bill that is meant to create jobs in America, with an emphasis upon manufacturing jobs.

Several weeks ago, there was an article in the Washington Post quoting a Democratic tax aide—unidentified—saying, "There's not a lot of incentives for us to figure out this problem."

The Democratic aide went on to say that allowing the extraterritorial income controversy to fester would yield increased sanctions—increased tariffs—on American products going to Europe, which would benefit the Democrats in November.

That is a very appalling statement. I don't think that staff of either party are paid to think in terms of politics. They ought to be paid to think in terms of policy and, in the end, if they think about policy, they have good politics.

Efforts to delay this bipartisan bill with unrelated measures is a poor excuse. So let's get on with the business at hand and finish this bill. Vote on cloture tomorrow, approve cloture, have finality on the bill, and when we do all that, we are going to put a jobs creation bill ahead of partisan politics, put these important benefits I just listed ahead of some concern that we have about an administrative regulation that hasn't even been issued yet. Let's stop playing politics and put the Sen-

ate back to work and move the JOBS bill forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

TRIP TO THE MIDDLE EAST

Mr. LAUTENBERG. Mr. President, I wish to talk about a trip I took last week to the Middle East. I was privileged to travel with a group of colleagues to Israel, the Palestinian territories, Jordan, Syria, Iraq, Kuwait, and Qatar. I will discuss it in two parts.

One part is what we saw happening in Iraq and the apprehension, the concerns we all had with the confusion, the chaos that exists there, the continued loss of life among our troops, and the inability to cope with a relatively new form or a new mode of warfare where remote bombs are set off by people who are some distance away from the place of the explosion, seeing a target they particularly want to get to, and the prospect that will continue to be an ever-increasing part of the mechanism of war. It is so tough to fight against that kind of weaponry, that kind of a remote attack.

The people are courageous. They are dedicated. I had a chance to meet with some of our troops. I particularly met with a group from New Jersey. I got the same impression from all with whom I met. These are people who really want to do the right thing. They are not mercenaries. They are there because of the obligation they feel toward resurrecting or helping the revitalizing of Iraq and turning over to them their own responsibilities for governing.

Our people are young. Frankly, even though I served in World War II and was myself young—I was 18 when I enlisted—our military personnel today look different. They seem to be more educated. They seem to be more thoughtful. Their bravery is unquestioned. They are out there doing their duty even though there are risks all over the place which we saw in abundance.

We left Iraq about an hour before the explosion took place at the hotel. We were not at the hotel, but we were nearby. We were in the air when the bomb went off. It was simply, if I can say that, a replay of what happens every day there, whether it is Iraqis being killed or Americans being killed or coalition troops being killed. The death and the violence is ever present.

I believe we are on a path to try to make it right, but what we have to recognize is that we are not free to leave, even though there is a proposal that goes into place on July 1 for a governing council made up of Iraqis that will purportedly take over. I say "purportedly" not because I am disdainful of the effort—I am not at all—but for the lack of readiness for governing.

They need 73,000 policemen, for instance, and they have in the low twenties in uniform now. It is very hard to control the chaos, the turbulence, and the confrontations that

occur with such a small police force. It is going to take a long time, maybe a couple of years, to get the police force to the size they need. They also need an army.

What is the conclusion? The conclusion is we cannot leave there, and we have to face up to it. There are 130,000 troops coming in to replace existing personnel on the ground who have been there long enough to be rotated. Nobody believes we are going to be able to pack our bags on July 2 and start to go home. We are going to be there a long time, and I hope we will have the courage to face up to the funding necessary and put it in the budget and say what it is we are doing there.

We are adding to the total indebtedness of the country, but yet we hide it. We appropriated \$166 billion thus far, and it looks as if we are going to have a supplemental request for \$50 billion to \$75 billion in the not too distant future, and it is on the side.

We have to support our people. You have no idea how disappointing it is when I talk to young people who are serving. I said: If you can be totally candid with me, tell me what your complaint is. Is it the accommodations? Is it where you live? Is it how you live? Is it the food you get? No, no, no.

One young man, a captain, said to me: Mr. Senator, I will tell you what bothers me. I see some of our coalition friends, people who are helping us in this quest of ours, who have the latest in bulletproof vests. The ones we have are not as good and they do not protect us as well as they should.

We have seen that in the papers, but here when you come face to face, you see the faces of people who are wearing those vests, who are trying to protect themselves while they do their duty. I can tell you this: Five Senators—all of us—were wearing the latest in flak gear. It was a sad commentary on where things are to hear them say they do not have it.

They point to their weapons. I think they were M-16s. I carried a Carbine when I was in the Army, so that is not a familiar weapon to me. They said the coalition people had better, newer rifles, lighter, more efficient. Why should that happen? They needed trucks and armored vehicles, and they did not have them. Why should that happen? When we look in the paper, just yesterday, and see the problem is in the transportation of the materials to Iraq, that the manufacture of these products has taken place but we can't get the materials there, it is very disappointing. I hope we will be able to do something to accelerate the pace of providing the protective gear and the equipment they need.

Today I want to discuss another part of the trip. The volatile situation in Israel—the Middle East altogether—was difficult to witness. We went to Israel and the other places I mentioned—the Palestinian territories, et cetera.

The other visit was taking place with the Prime Minister of Israel and a few people from his staff. Suddenly activity took place and people were running out and coming back with notes. The Prime Minister of Israel reported to us: We have just had a suicide bombing in Ashdod, which is a port community in Israel, and 10 people were killed and many more wounded.

I watched this man, who I have known over the years, deflate and age in years in just a few minutes, whipped by the knowledge that more of his citizens, innocent civilians, had been killed.

I volunteered the notion that he may want to adjourn the meeting and take care of the business he had to take care of, the duties he had to deal with. He said, no, as Prime Minister of the Jewish state, unfortunately, we learn to live with adversity and we must carry on, so we will carry on the meeting.

It was a painful thing to witness. It happens so frequently. We are in a state of shock when we hear it and see it, and I know the pain that must go through their community because it affects so many people. It is the dead, the injured, their friends, their families, their fellow workers, and those with whom they serve in the military. The pain is an excruciating whirlpool, it touches so many people. When we look at that, we say, what is it that permits this kind of slaughter of innocent people to take place?

Now we hear the shrieking about the assassination, we will call it that directly, of Sheikh Yassin, the man who invented Hamas and all the horrible deeds they carried out. This is after the third suicide bombing attack in Israel in the year 2004. The death toll now stands at 941 Israelis killed by terrorism since the start of the intifada in September of 2000.

Israel is a tiny country with a small population of 6.3 million people. To put the terrorist toll in perspective, if the United States were to suffer such a wave of terror attacks, over 50,000 Americans would be dead, almost the same number we lost over 10 years in Vietnam, 58,000. In Britain, it would have translated into approximately 9,000 fatalities. Imagine the impact that has in this single day when 10 people are killed from that attack. It is the equivalent of 500 people. If we had a killing in 1 day of 500 people by terrorists, we would be, as we were in Vietnam, in national mourning. These relative numbers underscore the impact of terrorism on the Israelis.

Israel has seen 130 attempted suicide bombings since September 2000. In the latest incident, 10 Israelis lost their lives, leaving behind dozens of children, grandchildren, spouses, parents and, as I said, friends and workers and those with whom they served in the military.

As I looked at the pictures in the papers of the 10 victims, most of whom were under 40, with families to support, I asked myself: What could it take for

2 young Palestinian kids, 17 years old, to be capable of perpetrating such atrocities against innocents?

One of the main reasons that takes place, in my view, is the Palestinian Authority Chairman Yasser Arafat has not only failed to rein in the terrorists but he is actively supporting a culture that incites young people to commit such acts. Arafat's Al Aqsa Martyrs Brigade claimed responsibility for the attack, along with Hamas. They take pleasure in this. Large crowds of Palestinians in the West Bank celebrated the attacks by honking their car horns, firing guns into the air and distributing candy to passersby for the killing of innocent people. The Palestinian Authority did nothing to stop these celebrations.

By the way, I have never heard of a celebration taking place, with all the violence that has been visited upon Israel, when they killed some Palestinians, never. As a matter of fact, there are times when soldiers in the Israeli army have refused to serve, saying their conscience disturbed them such they did not want to serve in those territories.

There have been many times when Israeli civilians or soldiers have been punished for attacks on Palestinians within their community. That is the difference in the cultures. One culture celebrates death and destruction, and the other mourns the victims on both sides of the boundary.

The reality is Yasser Arafat has instituted a deliberate policy of preaching and encouraging hate. Books they have in the school system teach them to hate the Israelis, to hate the Jews. For example, on March 13, 2004, Palestinian Authority-controlled television carried a speech by a sheikh in Gaza in which he said the Jews are the sons of apes and pigs and the extremists and terrorists who deserve death while we deserve life since we have a just cause.

I was on a TV program one day with a representative of the Arab organization here, and I said this violence has to stop; you have to come to some peaceful arrangement, some detente. He said: Not as long as the occupation continues.

He was an American of Palestinian heritage. So I said, well, would you say Native Americans living in America, people who had their country wrested from them in the late 1600s, early 1700s, would have the justification to strap bombs on their backs and go into the Federal Reserve Bank or the Supreme Court or places such as that and blow them up and say this is an occupation?

The Presiding Officer is a man of learning and experience, and I would ask: How many times have borders moved as a result of combat, as a result of war? It has happened many times. Those adjustments remain in many instances.

When we look at the reason for this killing, instead of saying stop it, once and for all, Arafat should speak out and say, stop the killing. We should

not lend him a hand of help, not a nickel's worth of assistance or anything else until he gives up that post and turns it over to people.

We met with the finance minister from the Palestinian Authority. He was a reasonable individual, wanting to make peace, wanting to stop the violence. The Palestinians cry as much as the Israelis cry when they lose a son or a daughter. The false belief they are going to some kind of martyrdom does not relieve them of the sadness of the loss of a family member.

We learned something else. There was an emergency meeting in Yasser Arafat's compound in Ramallah following the suicide bombing at the Ashdod port. Arafat refused his cabinet's call to use Palestinian security forces against terror organizations.

Palestinian cabinet ministers, such as the interior minister and the commander of the national security forces, pleaded with him to act against Hamas and Fatah's military wing, the Al Aqsa Martyrs Brigade. He refused to intervene. He is an accomplice in these killings no matter how they try to deny it. He provides no useful service to his "leadership in the Palestinian community." He incites them to violence.

We went to Syria, and all President Assad wanted to talk about was the Israeli-Palestinian conflict. There are borders, 600-mile borders. He couldn't stop the people from crossing the border. We know who is crossing the border. He didn't know. He said there were people in innocent travel, business, recreation, family, et cetera. Meanwhile, terrorists are flooding into Iraq, many of them coming across the Syrian border.

That is what happens there. It is the corrupt leadership that has people believing the way out is to kill themselves and to kill Israelis and other innocent people. We don't know what the reach is. To the train bombing in Spain or other acts of violence in other parts of the world? But this notion that violence is an acceptable form of behavior is outrageous, and Arafat is allowing Palestinian society to be undermined and destroyed by a reign of terror. He has chosen to allow terrorism to flourish. Because of Arafat's lack of action, not only are Israeli children being orphaned and Israeli society terrorized, but also the Palestinian people's dream of living in a secure, free, and vibrant state is being destroyed.

I still believe all roads and roadmaps lead to a two-state solution. When I was in the region last week, I urged the Israeli leadership to try to meet and resume direct contacts with Palestinian officials in order to try to make progress toward a settlement. I told Prime Minister Sharon that his plan to withdraw from the Gaza Strip was a good start. Such a withdrawal, however, must be done in coordination with Palestinian and international officials to ensure there is a viable infrastructure to govern the people and to

prevent Hamas and the Islamic Jihad from overrunning the Gaza Strip.

I also encouraged the Israeli Prime Minister to work with the international community to resume progress on the roadmap and to begin looking at how to withdraw remote Jewish settlements from the West Bank as well as from the Gaza Strip. Yet any real progress on the roadmap depends on the speedy emergence of new Palestinian leaders who realize that a healthy Palestinian state cannot be built on a foundation of terror and violence. On this point, there should be no concessions, no flexibility, no turning a blind eye.

Today we see pictures of angry mobs in the Arab world protesting the death of Sheik Yassin, the head of Hamas. The Israeli military's strategy of targeted assassinations is questionable and controversial. But I have to ask my colleagues, if someone is standing in your kid's schoolyard with a gun in his hand, what would you do? Would you meet with him and confer about what he ought to do or would you take advantage of the opportunity of the moment and abolish the threat? Do you eliminate the threat immediately or abide by the Marquis of Queensbury rules when dealing with terrorists? These are difficult questions, but given the lack of real leadership on the Palestinian side, the Israelis are trying to find the best way to protect their population from terror.

Peace in the Middle East begins with the removal of Arafat from power. It is a step the Palestinians must take if they want to move their nation forward. Peace will not be obtained through terror but only through peaceful negotiation. It is something Yasser Arafat clearly does not understand, but we have to help him understand. We can't give him any other help of any kind. As a matter of fact, whatever sanctions we can put on him and his corrupt government, we ought to do it.

It is very painful to witness, I understand, for those who are engaged in the innocent pursuit of life, to suddenly come face to face with someone who has been encouraged to give up his life. What kind of false notion is this, that somehow or other you get rewarded for losing a son or daughter and get a financial reward? I think what we ought to do is try to trace those financial rewards to the countries that offer them. Maybe friends like Saudi Arabia ought to step up and do their share to not permit this to happen, to not permit these militant groups to exist in their society.

I can tell you one thing. After our visit there, I am more convinced than ever that we must protect Israel no matter what we have to do to see that she survives. It is not because we just love those people. It is because we love the American people. It is because we want to protect America's interests. It is because we don't want to have American troops in the middle of that mad world, with corrupt governments who

siphon off the wealth of their countries while their people in those communities starve and have no opportunity for themselves.

That is the interest I see we have in a strong Israel. It is not just the informational exchange. That is important. But it is the fact of Israel sitting there as a reminder to those corrupt countries, and it is an extension of democracy. It is not an extension of the United States. It is not the 51st State. It is an extension of democracy, and it shows what people can do when they can take a malaria-ridden nation and change it into a thriving agricultural and scientific nation. That is the example that has to be set and that is the one that has to be understood and we ought not to equivocate and say there is violence on both sides. That is the wrong message. You can't say that because that only encourages terrorism. It says violence on one side begets violence on the other side.

I said it before. I have never heard an Israeli, and I know many, nor have I ever seen the country, celebrate the death of children on the other side of the boundary. I have never seen them celebrate when men, women, and children who are innocent are killed—never.

But in the Palestinian community they celebrate by shooting off guns and handing out candy to kids and parading, happy that they have taken someone out of the family, a child, a sister or brother, mother, father—outrageous. Outrageous.

We have to stand steadfast in our support of Israel. We have to insist that Arafat step aside and provide them the right leadership, and there is leadership there but they don't have a chance to operate because he robs them of that opportunity.

It was a wonderful opportunity we had to see what was taking place there and be able to report back and shape our thinking based on the need.

Support our troops. Commend them for what it is that they do in accordance with the tenets of democracy and ultimately decency. We can argue whether we should be there or we should not be there, but we are there and we have to support those people as fully as we can, everyone who wears a uniform. We have to be proud of them. They do their duty splendidly.

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

The PRESIDING OFFICER (Mr. TAL-ENT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate