make to the Social Security and Medicare systems.

So if we are going to rely on these monthly estimates from the Bureau of Labor Statistics, my point is, if one is going to say to us we have 138 million people at work in the United States, what about the 6 million who are here who probably are not counted, who are illegally here? They are real people. They are working in real jobs. What about them? Or if we are talking about the 8.4 million people who are unemployed in the United States, what is the effect of having 6 million illegal people on that rate of unemployment? It is information I think we ought to know.

At the end of his answer to my question, Mr. Greenspan said that having better information about the number of undocumented aliens living and working in the United States is a subject that has ''bedeviled statisticians.''

I believe it is also a problem we ought to try harder to figure out the answer to. In fact, I believe it is inexcusable that we would base so much of our public debate about unemployment on surveys that likely exclude several million employed workers in the United States, many of them doing jobs that most Americans consider to be valuable jobs.

This failure to report accurate information may be leading us into a number of erroneous, ineffective, and expensive policy decisions. I have asked Mr. Greenspan and his excellent staff and I have asked the Bureau of Labor Statistics if they could examine this question in-depth and give me and perhaps other Members of the Joint Economic Committee, if Chairman Bennett finds the subject interesting, an opportunity to talk with them about their conclusion.

It seems odd that we would continue to base so much of our national debate upon information that may be flawed, and if it is not flawed, then we need someone with reasonable authority to say that each month we are counting the 5, 6 or 7 million people who have jobs in the United States and who are illegally here so that this cannot be an issue. If they cannot say that, then we need to work harder to find out the answer.

I ask unanimous consent that a copy of my letter to Chairman Alan Greenspan be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 3, 2004.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors, Federal Reserve System, Washington, DC.

DEAR MR. CHAIRMAN, I am writing to follow up on your answer to my question about illegal immigration and calculation of the employment rate during your testimony before the Joint Economic Committee on April 21.

My concern is that there may be up to 6 million people living and working in the United States who our government is not counting when it makes our regular projections about who is working and who is unemployed.

There is a consensus that there are 8 to 10 million undocumented aliens or illegal immigrants in the United States today. For example, estimates from the Urban Institute and the Center for Immigration Studies, based on data from the Current Population Survey, are 8 million and 10 million respectively. The Urban Institute estimates that 6 million or more undocumented persons have a job in the United States.

You indicated in your comments to my question that you believe our government's job-counting surveys take these illegal workers into account, or at least, they do a fairly equal job of NOT taking them into account.

My guess is that the government is not counting most of these 6 million illegal workers when we announce each month the number of Americans who have jobs (138,298,000 for March, seasonally adjusted) and the number who are unemployed (5.7 percent of the workforce or 8.4 million people in March, seasonally adjusted).

The Bureau of Labor Statistics gathers data for these estimates in two main ways. The principal way is through the Current Employment Statistics Program, or so-called payroll survey of payroll records from 400,000 business establishments. Since it is a violation of Federal criminal laws for a company to employ an undocumented alien, I think it is wrong to assume that most or even many of the 6 million illegal immigrants who are working for established businesses are reported by the payroll survey. These illegal immigrants may be self-employed, agricultural workers, contractors, or in some other kind of work that is not in any event covered by the payroll survey.

Nor do I believe that most of the 6 million illegal immigrants are likely to be included in the other principal data-gathering mechanism of the bureau, the Current Population Survey, commonly known as the household survey. This is a telephone survey of more than 60,000 persons living in the United States that basically asks in many different ways, ''Do you have a job?'' The household survey must include a great many persons that the payroll survey does not—such as farmers, people working at home, and independent contractors—which is one reason why it paints a larger picture of employment in the United States than the payroll survey. But common sense suggests to me that the household survey does not include many illegal immigrants. If you are an illegal immigrant and you receive a phone call from the government asking questions, you are not likely to give many answers—especially if the phone call is not in your native language.

So I see no basis to assume that these 6 million undocumented aliens are being counted—or that they are being equally uncounted—by the two surveys.

Our failure to find some way to consider the implications of having so many undocumented aliens working has a great many policy implications:

Knowing the answer would help us know if we are understating the number of people living in America who are employed and overstating the rate of unemployment.

If we have 8.4 million unemployed and 6 million illegal immigrants working, are those 6 million taking jobs that the other 8.4 million want?

If the 6 million all went home, would we have virtually full employment?

If the 6 million all went home and the 8.4 million still remained unemployed, that certainly would tell us something about whether we needed more or less unemployment insurance, or more or fewer training programs, or more or fewer lessons in English.

If the 6 million illegal workers are actually employed, that would tell us something about the effectiveness of our immigration laws—and it would help us make more accurate estimates of contributions these workers might make to the Social Security and Medicare systems.

You said at the end of your answer to my question that having better information about the number of undocumented aliens living and working in the United States is a subject that has ''bedeviled'' statisticians. If is also a problem we ought to try harder to figure out.

In fact, I believe it is inexcusable that we would base so much of our public debate about employment on surveys that likely exclude several million employed workers in the United States. It may be leading us into a number of erroneous and expensive policy decisions.

I would be very grateful if you could examine this question in depth and give me an opportunity to talk with you about your conclusions. I am also making the same request of the Bureau of Labor Statistics.

Thank you very much.

Very best wishes,

LAMAR ALEXANDER,
U.S. Senator.

Mr. ALEXANDER. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1637, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1637) to amend the Internal Revenue Code of 1986 to comply with World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

Pending:

Harkin amendment No. 2881, to amend the Fair Labor Standards Act of 1938 to clarify provisions relating to overtime pay.

Frist Motion to Recommit the bill to the Committee on Finance, with instructions to report back forthwith with the following amendment:

Frist amendment No. 3011 (to the instructions of the Motion to Recommit the bill to the Committee on Finance), in the nature of a substitute.

Frist amendment No. 3012 (to the instructions (amendment No. 3011) of the Motion to Recommit the bill to the Committee on Finance), relative to the effective date following enactment of the Act.

Frist amendment No. 3013 (to amendment No. 3012), relative to the effective date following enactment of the Act.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am glad we are back on the jobs and manufacturing act. This will be the third time we have attempted to move this bill. President Reagan had a very famous quip: Here we go again.

Here we go again, hopefully to conclusion of this very important piece of legislation.

I hope things are going to be different. This time the European Union sanctions are very firmly in place. There should not be any doubt in the mind of any Member where Europe is headed. In the process of the European tax on our exports to that continent, they are freezing out of their markets U.S. companies.

This time there is an agreement on the political message amendments that will be addressed on this bill even though those amendments have nothing to do with the measures contained in the bill. This time we will finally reveal with absolute clarity whether some on the other side of the aisle are ready to drop the political posturing and pass this bipartisan bill to remove European Union sanctions against our farmers and manufacturing workers.

In Sunday's Washington Post was an article saying that Senate partisanship was the worst in memory. It spoke about the long list of legislation stalled in the Senate, stalled in the Senate because of political posturing. The article mentioned the bill that is before us today, this jobs and manufacturing bill. The paper said:

Foreign tariffs have been imposed on many American products while the Senate dawdled over [today's bill]—to substitute corporate tax cuts for subsidies that have been outlawed by the World Trade Organization.

Dawdled? That is no compliment, obviously. It is, unfortunately, an accurate description of what opponents to passing the JOBS bill have achieved during the last 2 or 3 months. It is an accusation that all of us will hear back home if we continue to allow the European Union to sanction our agriculture, timber, and manufacturing exports.

I will have more to say about sanctions later, but I want to remind people who might say, Why do you have to worry about the European Union? They don't have any business doing that; we ought to be able to export our products to Europe; that America has also imposed some retribution against European products coming to this country because Europe decided not to abide by the agreement on beef hormones. They don't let our meat in. We won the case before the WTO, so we put duties on their products coming here.

We lose a case before the World Trade Organization—and, by the way, we win more than we lose by a long sight. But regardless, Europe is doing what they can legally do under our international trade agreements. We all understand these international trade agreements have moved us in the right direction, the direction of lowering barriers to our products in other countries so we can export because we are an exporting nation and because exports create jobs and because those jobs pay 15 percent above the national average of jobs. It creates jobs and it creates good jobs.

You don't have to dispute the 50-year history of the advantage of international trade agreements to the United States when other countries have higher barriers to trade than we do, and we bring those barriers down. We have a process for settling our differences. That is called the World Trade Organization dispute settlement process. This bill is before the U.S. Senate because we are changing our laws to be within our international trade agreements, agreements this Senate has already adopted. We have already voted on these international trade agreements, so now we have to live up to them in the same way we expect Europe to live up to those agreements when we win a dispute with Europe. That is why we are here. Only this legislation is going to go a lot further than just to make our laws comply with European laws; we are also going to do other things to our tax laws to encourage manufacturing in America, to create more jobs in America.

This legislation has been held up, as the Washington Post said, while the Senate dawdled. That was over partisan politics. There is no excuse for allowing partisan politics to hold this bill up because this bill was reported out of the Senate Finance Committee with only two dissenting votes, and those two dissenting votes were not Democrat votes, those were Republican votes. The two Republicans who voted against it have a different philosophy on what we should do with this bill, and they are going to be offering an amendment. But I don't think they are trying to kill this bill, even if they disagree with it. They are not standing in the way of passing the JOBS bill just because they don't like exactly what it says.

That is the difference here. Senators do, in fact, have a right to their own opinions on this bill and are free to file amendments to change it. That is exactly what they ought to be doing if they are representing the people of their State. But that is a far cry from trying to delay this measure just to score points on completely unrelated political issues that come before us in the form of nongermane amendments.

This is a bipartisan bill that reflects everyone's concerns, both Republicans and Democrats. This is a bill that is going to pass 90 to 10 when we get to finality. But you don't play political games with a bipartisan bill that affects jobs of manufacturing workers all across this vast land.

I think it is worth looking at the history of this bill. The jobs in manufacturing act is a bipartisan bill from the ground up. The framework was laid by my colleague and friend, Senator BAUCUS, when he was chairman of the Senate Finance Committee in the last Congress. It began with a hearing in July 2002 to address the controversy within the World Trade Organization and our tax laws. We heard from a cross section of industry that would be damaged by the repeal of the Extraterritorial Income Act. We also heard from U.S. companies that were clamoring for international tax reform because our tax rules were hurting competitiveness in foreign trade. Their foreign competitors were running circles around them because of our arcane and probably outmoded international tax rules.

During this hearing we had, for instance, Senator BOB GRAHAM of Florida and Senator HATCH of Utah express concerns about how our own international tax laws were impairing the competitiveness of the U.S. companies. That is almost 2 years ago.

After some discussion on forming a blue ribbon commission to study this issue, we all decided that decisive action was more important than a commission. During that hearing, Chairman BAUCUS formed an international tax working group that was joined by Senators GRAHAM, HATCH, and me, and was opened to any other Finance Committee Senator who was interested in participating. The bipartisan Finance Committee working group developed a framework that forms a basis for the bill that has been before this Senate now, off and on, over the last 3 months. We directed our staff 2 years ago to engage in an exhaustive analysis of many international reform proposals that have been offered. We sought to glean the very best ideas from as many sources as possible.

Chairman BAUCUS and I formed a bipartisan bicameral working group with the chairman and ranking member of the Ways and Means Committee in an effort to find some common ground in dealing with the repeal of the Foreign Sales Corporation Extraterritorial Income Act that was ruled contrary to our international trade agreements. While that effort with Ways and Means did not go so well, it did inspire Chairman BAUCUS and me to continue our Senate bipartisan development of the repeal of this legislation and also to bring about international tax reform.

We continued our efforts in cooperation with Senator HATCH, Senator BOB GRAHAM, and others on the Finance Committee who wanted to do what was fair and what was right in complying with the World Trade Organization ruling.

We continued our bipartisan efforts when I became chairman again after the 2002 election.

In July 2003, we held two hearings on the FSC/ETI and international reform issue. One hearing focused on the effects of our tax policy on business competition within the United States, and the other hearing focused on international business competition. These

two hearings led to this bipartisan bill that has been before the Senate for the last 3 months.

Let me again emphasize that there is not one provision in this JOBS bill that was not agreed to by both Republicans and Democrats—not one. We have acted in good faith to produce a bill that protects American manufacturing jobs and also ensures our companies remain the global competitors we ought to want to be, are, and we ought to continue to be. We did this in a fully bipartisan manner, which is what the American people expect us to do on such an important issue as manufacturing jobs and our Nation's economic health.

The core part of this bill repeals the current FSC/ETI provisions that are now in our tax law. FSC/ETI reduces the income tax on goods manufactured in the United States and exported overseas by as much as 3 to 8 rate points. That is, if the corporation tax rate is 35 percent, the tax rate on export income is going to be somewhere between 27 to 32 instead of the 35 percent it is right now. It lowered the U.S. corporate rate on goods made in the United States and sold overseas.

The World Trade Organization has determined that FSC/ETI is an impermissible export subsidy and has authorized the European Union to impose a $4 billion a year tax against U.S. exports until we get rid of the FSC/ETI legislation that has been on the books for about 3 decades.

We have sanctions put on us by Europe. They began on March 1 with 5 percent right off the bat, increasing 1 percent a month. You have March, 1 percent; April, 1 more percent; and May, 1 more percent. This is a 7-percent Euro tax on American exports. It is a very serious threat for all members because sanctions are hitting commodity products, agricultural goods, timber, and paper.

Presently, about 89 percent of Foreign Sales Corporation export benefits go to the manufacturing sector. Repealing this legislation raises around $55 billion over 10 years. If that money is not sent back to the manufacturing sector, that means an additional $55 billion cost to manufacturing. It is mathematically impossible for it to be anything else.

That is why our bipartisan jobs in manufacturing bill takes all $55 billion of the FSC/ETI repeal money and sends it back to the manufacturing sector in the form of a 3-point tax rate cut on manufacturing income. This rate cut is for manufacturing in the United States, it is not for manufacturing offshore. We start phasing in those cuts this year if the Senate passes this jobs in manufacturing bill this year. The cuts apply to sole proprietors, partnerships, farmers, individuals, family businesses, multinational corporations, and foreign companies that set up manufacturing plants in this country. In total, this bill provides $75 billion of tax relief to our U.S.-based manufacturing sector to promote factory hiring here in the United States.

We also include in this legislation international tax reforms, mostly in the foreign tax credit area and most of which benefit the manufacturing sector. The international tax reforms largely fix problems which our domestic companies face because of the complexity of the foreign tax credit. These reforms are necessary if we are to level the playing field for U.S. companies that compete with our trading partners.

You will hear arguments this week that the international tax reforms provide an incentive to move jobs offshore. I am going to show you later how adamantly I disagree with that argument. We have carefully selected on a bipartisan basis the international reforms that do not provide offshore incentives.

Our bill also includes a Homeland Reinvestment Act which will temporarily reduce tax on foreign earnings that are brought into the United States for investment here at home instead of leaving that money overseas to create jobs overseas. This provision is sponsored by Senator ENSIGN, Senator BOXER, and the Presiding Officer, Senator SMITH from Oregon. It has broad support in the House and Senate.

The JOBS bill will extend the R&D tax credit through the end of 2005. This is a domestic tax benefit that generates research and development here in the United States. That translates into good, high-paying jobs for workers here in America and not jobs overseas.

The legislation before us extends for 2 years many tax provisions that expired in December of last year or, if they didn't expire then, will expire during this calendar year. These items include the work opportunity tax credit and the welfare-to-work tax credit. The JOBS bill will make the merger of those credits permanent.

We include a provision that allows Naval shipbuilders to use a method of accounting which results in more favorable income tax treatment.

There are enhanced depreciation provisions to help the airline industry.

There are new homestead provisions. These are rural development provisions to create businesses in counties that are losing population. For example, they would provide incentives for starting or expanding a rural business in a rural high-outmigration county, something that would benefit States such as mine in the Midwest where rural counties are losing population—not even maintaining but losing.

The jobs in manufacturing underlying bill also includes the new markets tax credit for high-outmigration counties. These credits help economic development in rural counties that lost over 10 percent of their population.

The bill includes brownfields revitalization provisions which help tax-exempt investors that invest in cleanup and remediation of qualified brownfield sites.

The bill includes a mortgage revenue bonds measure which repeals the current rule that doesn't allow mortgage revenue bond payments to be used for issuing new mortgages. There are 70 Senate cosponsors of this mortgage revenue bond bill. It is included because it has broad support in the U.S. Senate.

We allow deductions for private mortgage insurance.

The JOBS bill includes a tax credit to employers for wages paid to reservists if they are called to active duty.

We have extended and enhanced the Liberty Zone Bonds used in the rebuilding of Lower Manhattan. We also include $200 million in tax credits to be used for rail infrastructure projects in the New York Liberty Zone.

The bill contains renewal communities provisions. We increase small business industrial development bond levels to spur economic development in rural areas. We have bonds for rebuilding school infrastructure. We have included tribal bonds in the JOBS bill which allow the same rules that apply to tax-exempt bonds for State and local Governments to also apply to our constitutional relationship with Native American tribes so they are treated like States and other political subdivisions.

We have tribal school bonds. Under current law there is no class of bonds designated for the purpose of encouraging school construction on Indian reservations as we have for our States and local communities.

There is a new tribal markets tax credit which would add $50 million a year for economic development on reservation lands.

We have included the Civil Rights Tax Fairness Act.

The JOBS bill contains a change in section 815. The provision suspends application of the rules imposing income tax on certain distribution to shareholders from the policyholders' surplus account of a life insurance company.

We have a special dividend allocation rule that benefits farm co-ops. Other farm provisions give cattlemen tax-free treatment if they replace livestock because of drought, flood, or other weather-related conditions over which that farmer has no control.

We include a provision that allows payments under the National Health Service Corporation Loan Repayment Program to be exempt from tax to help get health care providers into rural America.

We included the passenger rail infrastructure tax credits that provide $500 million for inner-city passenger rail capital projects. We also included so-called short-line railroads.

We have many other improvements in this bill. One I bring up deals with the stalled Energy bill before the Senate. We have included in this bill, because gasoline is so high, because this country needs a national energy policy and because the Finance Committee Senator BAUCUS and I lead has so much

to do with tax credits for incentives for the production of fossil fuel, conservation and for alternative sources of energy—those all need to be done now that we have gas over $2 a gallon. We need a national energy policy.

We are taking advantage of this legislation being in the Senate, working with Senator DOMENICI to include provisions in the Energy bill that have previously been approved by the Finance Committee, but which did not go to the President because of the filibuster in this body against that overall Energy bill. It is essentially the exact bill originally cosponsored at the beginning of this Congress by this Senator and Senators BAUCUS, DOMENICI, and BINGAMAN. It is the first time the chairman and ranking member of both committees of jurisdiction, Finance and Energy, have crafted a bipartisan bill that would serve as a national energy policy that represents the business of the American people and the sort of cooperation by which things get done around here. Too bad it is not done more often.

The energy provisions are balanced in all segments of our energy needs, and we have expanded all provisions for renewable electricity to include wind and biomass, to promote conservation of energy and alternative cars and fuels. It does not abandon our tried-and-true energy performers like traditional oil and gas production and the newer, cleaner coal provisions for electricity.

The best aspect of the entire package is the energy part of this jobs and manufacturing bill creates jobs all by itself.

The volumetric ethanol excise tax credit provisions, known as the VEETC, in this package would add up to $14.2 billion in revenue to the highway trust fund over the 6-year life of the transportation bill pending before the Congress. This provision alone creates as many as 674,000 new jobs across our country.

The energy tax package also includes a new incentive for the production of renewable biodiesel. This provision means jobs in the heartland. Renewable fuels have directly generated over 150,000 new jobs. In fact, in this year alone, this industry will add 22,000 new jobs.

Another provision creates a tax incentive for the production of super energy-efficient appliances which is critical to the 95,000 employees in the U.S. home appliance industry.

The bill also includes a provision to accelerate the production of natural gas from Alaska and the construction of a pipeline for natural gas from Alaska to the lower 48. According to the Department of Labor, Bureau of Economic Analysis, construction of the Alaska natural gas pipeline would create nearly 400,000 jobs in construction, trucking, manufacturing, and other service sectors.

The jobs and manufacturing bill provides all this tax relief, nearly $170 billion worth, and remains revenue neutral, meaning there is no net cost to the Federal Treasury. That cannot be, one would think—$170 billion of tax changes; and we have not affected the income coming into the Federal Treasury by one dime. That is pretty significant for people worried about the budget deficit. People ask: We have a budget deficit; how can you reduce the corporation tax and create jobs? How can you give all these tax incentives to bring about alternative energy and conservation and have a national energy policy, without costing a lot of money?

There are a lot of unfair things in the Tax Code and we take care of those unfair things. Basically, there are some corporations playing games with the Tax Code to avoid taxation. We are going to plug those loopholes.

This bill is paid in full by extending custom user fees, shutting down abusive tax shelters, and attacking the abusive tax strategies used by companies such as Enron—strategies we unearthed during our Finance Committee Enron investigation last October. The Finance Committee held hearings on the status of abusive tax shelter activity. During that hearing, we received anonymous testimony from a leasing industry executive describing how U.S. corporations are able to take tax deductions for the Paris sewer lines and the New York subway system. Did you hear me right? American corporations are taking tax deductions for Paris sewer lines and the New York subway system. They are claiming tax deductions on taxpayer-funded infrastructure located not only in the United States but overseas.

One can imagine the surprise of the members of the Senate Finance Committee upon learning the U.S. taxpayer is subsidizing the cost of electric transmission lines in the Australian Outback.

This jobs in manufacturing bill is revenue neutral because we end this abuse of the Tax Code. It was shortly after the attack on September 11, 2001 we saw the beginning exodus of U.S. companies moving their corporate headquarters to tax havens for the sole purpose of evading U.S. taxes. It was the events of September 11 and the ensuing stock market plunge that provided companies with a cost-efficient way to get out of the United States, to cheat on their taxes.

You may recall the videotape of a Big Four accounting firm partner saying U.S. companies were resistant to this scheme out of a post-9/11 sense of patriotism and national duty. But that employee said patriotism would have to take a backseat when they see their improved earnings per share.

Now here you have 3,000 Americans killed on September 11 when the terrorists attacked our country. Then you have these big accounting firms marketing these tax shelters—that maybe would raise some question about the new patriotic fervor in this country because we have been attacked—telling people: You are going to forget all about that when you see your new earnings report. Corporations like that ought to get their heart into America or get their rear end out because what this country is all about is pulling together, particularly now in time of war.

The JOBS bill includes measures to shut down corporate expatriation and to limit the tax benefits for those corporate cheats that manage to get out under the wire before Congress can enact this legislation. We will shut down that abuse in this bill. All we have to do to do these obvious things is to convince a few people who are stalling this bill with nongermane amendments that this bill needs to get passed.

There is so much good in this bill. We can rescue the manufacturing sector. We can end this European tax on our exports to Europe and continue to sell over there. Pretty soon that market is going to be shut down.

We can respond to the recent rise in gas prices because in this bill we have a national energy policy for alternative fuels and conservation and for stimulating fossil fuel development, and we are going to pay for it all by shutting down every known tax abuse.

But we cannot do any of this without the support it takes to pass this bill. And I do not mean final passage, because when this bill comes to final passage, it is going to pass overwhelmingly. What I am talking about is getting to finality. People all over this body are telling me: Well, this bill is going to pass. This bill is going to pass. But those very same people are hooking this nongermane amendment or that nongermane amendment on to this bill. Well, we have accommodated even those people with nongermane amendments.

I do not have any fault with the legitimacy of the subject matter of their amendments because it is legitimate debate, particularly in the Senate. But it seems to me we should not be gambling with manufacturing jobs in America. We should not be gambling with whether we ought to have a national energy policy.

And, for sure, if you are one of the Members who is complaining about corporations not paying their fair share—and we are shutting down these tax shelters—you ought to be in the forefront of getting this bill passed. It is unbelievable to me this bill has been held up for so long over political gamesmanship. It is time to put the adults back in charge. It is time to pass this very important bill to aid our manufacturing sector, to remove tariffs off our farmers and workers on products shipped to Europe, and to place the Senate back on its footing to do its job and move legislation—this legislation—that will benefit the American people.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, the battle to enact this bill has certainly—thankfully—not been compared to a war. But I do believe we can now say this bill is at least what Prime Minister Winston Churchill is reputed to have said after the British victory at El Alamein, when he said: ''[I]t is, perhaps, the end of the beginning.''

Perhaps we may even say what Talleyrand said after the Russian victory at Borodino, when he said: ''It is the beginning of the end.''

In either case, I believe by obtaining an exclusive list of amendments—that is, Senators already agreeing to a finite list—we have a victory. We may now say we can work to the end of this bill. And well we should, because we still have not won the battle to create jobs here in America.

I refer you to this chart I have in the Chamber. Yes, the economy did turn in one good month of job growth in March. The American economy created a net of 308,000 new jobs. But as this chart shows, one good month does not a recovery make. On this chart, the green bars are the months of job creation, and the red bars are the months of job loss. As the chart shows, March was, indeed, a strong month for job growth with more than 300,000 new jobs. But March was the only month in the last 4 years where there was that much job growth.

In contrast, during the 8 years of the Clinton administration, the economy turned in 25 months with more than 300,000 net new jobs per month. The economy as a whole still has a long way to go before it is creating jobs at that level.

Anyone who has talked to people trying to get a good job knows the job market remains soft. In March, for example, a record 354,000 jobless workers exhausted their regular State unemployment benefits without qualifying for any additional Federal unemployment assistance. To reduce the ranks of the unemployed, the economy will need to sustain strong job creation.

Look at the next chart. This chart shows the number of private sector jobs in the American economy, incorporating the latest numbers. It shows the private sector still has 2.7 million fewer jobs than it had in December of the year 2000. As shown on this chart, here we are in December of 2000, and you can see that is where the private sector jobs peaked. The chart clearly shows the number has declined significantly to the current date, a loss of, I think, about 3 million jobs on a net basis.

This next chart shows manufacturing remains in a slump. The manufacturing sector has lost more than 3 million jobs since July of 2000. I might say, I can also see this state of affairs in my home State of Montana. In Montana, for example, wood products companies provide nearly 37 percent of our manufacturing jobs—over a third. But a decade ago, those jobs made up 47 percent of our manufacturing. That is almost one-half of all manufacturing jobs. Employment in wood products dropped almost 5 percent last year alone.

This final chart shows the number of jobs in American manufacturing remains at the lowest level in more than a half a century. A half a century ago—the level shown here on the chart—was roughly 14 million jobs, a little bit more than 14 million jobs, the same as it is today. Just to repeat that: The number of jobs in American manufacturing remains at the lowest level in more than half a century. That is a strong statement. So we continue to need to act on the legislation before us.

More importantly, I must say, I have heard from folks in my State of Montana who tell the reason why we need to act on this bill. Let me give you an example of some of their frustration.

Keni from Hamilton, MT, wrote:

> All our good jobs are being sent overseas to a cheaper labor market, and we're fed bovine manure . . . [about] all the great jobs [our American economy is] creating.

Then there is Christopher, who was laid off in February of 2003. Christopher writes:

> Many of those individuals [with jobs] have to do two or three other people's jobs in order to keep their own.

Now listen to Kay. Kay wrote that the economy ''bring[s] no new business[es] to speak of in[to] Montana that pay any kind of decent wage, keeping the poor, poor. When is it going to end?''

We have to end the loss of good jobs. We need to do what we can to help create good manufacturing jobs here in America. That is what this legislation before us is about.

We have conducted a number of battles on this bill. The Senate has conducted four rollcall votes on this bill.

The Senate has adopted 11 amendments: from tax shelters, major provisions to close loopholes, to the R&D tax credit, which is very popular and needed by American industry; to government jobs offshore, discouraging jobs from going offshore, to expiring provisions; that is, the provisions in the Code which have expired or are about to expire and need to be continued; to accelerating the manufacturing tax credit, an amendment offered by Senator STABENOW which improved the manufacturing deduction of the bill; and we added in an amendment to the energy tax provisions, the tax provisions that passed the Finance Committee dealing with energy production.

At this point we have an exclusive list of additional amendments. Senators have preserved their rights and listed 83 amendments on that list. Fifty of those listed amendments preserve the rights of Senators in the majority, while 33 preserve the rights of Senators in the minority. Of the total of 83 amendments, Senators have listed 36 simply with the word ''relevant'' or similar language. Although we might expect Senators to offer some of these amendments, experience tells us that an overwhelming majority of those amendments, listed merely as ''relevant,'' will probably be dropped from the list. Of the remaining 47 amendments, I believe Senators will modify many of them so the Senate may agree to them without rollcall votes.

Realistically, I expect that probably fewer than 20 of the amendments on that list will require rollcall votes. Nearly all Senators from this side of the aisle, those with amendments on the list, have indicated to this Senator that they would be willing to abide by short time agreements, none more than 1 hour equally divided, so this exercise need not take much time.

We have now been on the bill, counting today, on 9 separate days over the course of 4 separate weeks. I hope we can now stay on this bill until its completion. I believe the Senate can now complete the bill over the course of a matter of days.

What the preacher said in Ecclesiastes applies to this bill:

> Better is the end of a thing than the beginning thereof.

I look forward to working with my colleagues to the end of this bill.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I come to the floor to support the chairman and senior ranking member on this legislation. I know they have talked about it in great detail and explained it thoroughly. My point is, it is time for us to move forward.

We have been on the bill for a frustratingly long time. We have gone to the bill three times. But this isn't the only one. We seem to be having the same experience with many of the interesting bills, such as highway legislation, the budget, moving forward with jobs. It seems to me we ought to examine ourselves and see where we are in terms of doing the job we were assigned to do, and that is to move forward dealing with those issues that are pertinent to this country.

I support passage of the JOBS bill. It is interesting that at a time when we are concerned about jobs, concerned about continued economic growth, having a deficit in the trade balance, concerned about manufacturing jobs, here we are with some reasons to do things that would impact all those issues, and we continue not to do it. It is time we come to the snubbing post and talk about what we have to do to get this job done.

There are, of course, different views of what should be done, and I understand that. There are different ideas. The bottom line is, when you have a bill and it has a purpose, that is what we ought to be talking about, not about loading it up with everything that everyone intended at one point or another to include so that it becomes so controversial that the core values, the reason it is there, never happens. That is basically where we are.

This is basically a bill that was brought to the committee. The Senators have at one time talked about

giving 3 percent encouragement for people to send goods overseas. The World Trade Organization ruled against that and said it was unfair and said, If you don't do something about it, we are going to continue to add penalties to this area.

We are now at 7 percent. Each week it can be added to be a higher percentage. That is what the basic bill is about. There are lots of things involving taxes and lots of things involving a million things you could do. But we ought not to forget what the purpose of it is, and we need to go back to that purpose and say: Wait a minute here; we need to get that finished.

It is really interesting. At some point, this is broader than that, but I think we have to take a look at the role of the Federal Government and what we are doing. We ought to take a little time, and I am in the process of trying to find out all of the various agencies and activities that are funded by this Congress. I think we would be amazed. Every time we see a little problem, every time we see something here, every time a constituent wants something, suddenly we have a Federal program for it. And then it is amazing we say to ourselves: Where is all this money going?

I can tell you where it is going. We are continuing to have more and more programs, and we need to take a look at putting those in some kind of a priority as to what the role really is of the Federal Government.

Unfortunately, I am sure it is true, many of the things here are strictly political. They are simply things that a Senator wants to spell out his political situation by offering an amendment. Whether or not it ever passes, you can go home and tell the folks: I sure worked on that one, you know.

Well, that is not what these things are for. That is not what they are for. Amendments should be perfecting the base, perfecting the purpose for the bill. Then if we want to do all these other things, let them stand on their own.

I happen to be a big supporter of the Energy bill. We put together a total Energy bill. Frankly, if I had my way about it, we would keep it together because we are talking about the whole. It is a policy. You are talking about what you do about alternative sources. You are talking about what you do about conservation as to how you can use less energy. You are talking about the way you substitute and do research to develop new ideas. You are talking about domestic production—all those things. But when you start taking it apart, then it becomes very difficult to deal with all the issues that ought to be there. Nevertheless, this is the way it is.

I support it because we do need to do something. But there are an awful lot of issues that aren't there that ought to be in the energy policy that are being left behind. It makes it less likely they will be passed. We have things like trade adjustment assistance to service workers. That is an issue that ought to be talked about, I suppose, but it should not be addressed in this bill. It costs $5 billion over 10 years. We have that one on there. We have overtime rules, trying to go back and change the rules that are put in by the administration. What does that have to do with doing something about WTO? Nothing. But it is one of the issues that is going to hold us up.

This JOBS bill is designed to save hundreds of thousands of manufacturing jobs, alleviate the tax burden on businesses, and allow manufacturers to freely compete with their European counterparts. That is what it is for. As a result of a 2001 WTO ruling, which I have already mentioned, the European Union initiated a phase-in of punitive tariffs. That is in the process right now. It started at 5, it is at 7, and it is going to continue. So we need to focus on that issue and do something about it.

The bill reported by the Finance Committee represents a strong, bipartisan effort to accomplish key objectives for manufacturers. It is one that enhances the ability of U.S.-based companies to compete in an international market; provides a lower tax rate on manufacturing goods; makes the tax burden of U.S. manufacturers closer to the international competition; enhances the financial strength of U.S. companies, creating incentives for them to invest in workers, facilities, and community.

Our manufacturing sector, of course, has faced many challenges over the last number of years and will continue to. We are in a changing economic situation. Interestingly enough, many manufacturers produce more goods through efficiency. They actually have less workers and are producing more goods than before. That indicates we have to broaden our kinds of manufacturing and do more in different areas.

We need to stay focused on this bill. I am becoming rather impatient with what is happening on the Senate floor, not only on this bill but on lots of bills where we continue to have endless numbers of these issues put on that do not belong there at all. We ought to come to an understanding that this is the issue that is being dealt with here. Let's do it. This one is important and we should do it. These amendments need to end.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 3107

Mr. HARKIN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3107.

Mr. HARKIN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Fair Labor Standards Act of 1938 to clarify provisions relating to overtime pay)

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF OVERTIME PAY.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

''(k) Notwithstanding the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) or any other provision of law, any portion of the final rule promulgated on April 23, 2004, revising part 541 of title 29, Code of Federal Regulations, that exempts from the overtime pay provisions of section 7 any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003 remained in effect, shall have no force or effect and that portion of such regulations (as in effect on March 31, 2003) that would prevent such employee from being exempt shall remain in effect. Notwithstanding the preceding sentence, the increased salary requirements provided for in such final rule at section 541.600 of such title 29, shall remain in effect.''.

Mr. HARKIN. Madam President, I return to the Senate floor this afternoon to address an issue of utmost importance to working Americans and their families, and that is time-and-a-half overtime pay and the seemingly relentless campaign by the Bush administration to take away the overtime rights of many American workers. This effort to take away time-and-a-half overtime, to jiggle the rules, cloud it all up, is one of the most anti-worker, anti-family proposals to come along in my tenure in the Congress.

As most Senators know by now, my amendment serves the simplest of purposes. It lets stand the new threshold of $23,660 below that which all workers are automatically eligible for overtime. My amendment lets that part of the proposal stand. My amendment also guarantees that no worker who currently is eligible to receive overtime pay will lose that right to overtime pay under the new rule.

Again, my amendment does two things. It lets stand that part of the final rule that raises the threshold to $23,660. The other part of my amendment also guarantees that no worker who is currently getting overtime pay will lose that right under any new rule. It is very simple, very straightforward.

Madam President, this is a subject I feel very deeply about, and I am not alone. Wherever I travel in the United States and in Iowa, people talk to me about what overtime pay means to them and their families. Many become quite emotional about it. They know what the administration is trying to do and they are angry. They want action to be taken to stop these new overtime rules.

One of the reasons they are angry is because they know what this chart shows: The average annual working hours of the American worker in the

United States is more than any worker anywhere in the industrialized world. It is more than in Canada, Japan, Australia, France, and Germany. Our average annual work hours are more than anyone, anywhere in the world. American workers know that because they are the ones doing the work.

Since passage of the Fair Labor Standards Act in 1938, overtime rights and the 40-hour work week have been sacrosanct, respected by Presidents of both parties. Last year, the Bush administration launched a frontal assault on this time-honored principle. The Department of Labor proposes changes to the overtime rules that, according to the best analysis we could muster, would have taken overtime pay eligibility away from up to 8 million American workers. That proposal really was breathtaking. The administration proposed this without consulting Congress, without holding public hearings. It actually took several weeks for many of us to realize the magnitude of what the administration was proposing. In fact, some of the most harmful provisions of the proposed rule were not discovered until months later.

Finally, we were shocked to discover that the administration was proposing to strip overtime pay from police officers, firefighters, veterans, nurses, and many others. The radicalism and audacity of this proposal is without parallel in modern day labor legislation. Of course, once the true intent and extent of the proposed rule became known, many of those affected were in open rebellion.

As this issue spilled over into this election year, frankly, this became a huge political liability for the administration. Late last year, during consideration of the Labor, Health and Human Services, and Education appropriations bill, I offered a similar amendment in the Senate—it passed by a margin of 54–45—to block the worst aspects of the administration's overtime proposal. Following that, the House of Representatives, by a margin of 221–203, voted to instruct its conferees to support the Senate's position in conference. Unfortunately, White House officials instructed the conferees to delete my amendment from the Omnibus appropriations bill, and that is why we are back here today.

It must be pointed out that since we last debated this amendment, the Department of Labor has issued its final rule on overtime. In this final rule, the Department appears to have had something of an election year conversion. Under extreme pressure from working Americans, as well as critics in Congress, the administration has backed off its attempt to strip overtime from certain high-profile groups, such as rank-and-file police officers, firefighters, and emergency medical technicians.

I salute the efforts of many individuals and groups and labor unions who have fought hard and forced the administration to abandon several of its offensive and egregious proposals. Let's be under no illusion about this final rule. We have progressed—if that is the right term—from a proposed rule that was profoundly terrible to a final rule that is just plain terrible.

The administration's model seems to be that if at first you don't succeed in limiting the overtime pay of American workers, try, try again and spin like crazy. Again, Madam President, I ask that those who look at this final rule not just compare it to the proposed rule. As I said, we went from profoundly terrible to just plain terrible. So I suppose if you compared the final rule with the proposed rule, you would say it is better. I think the proper yardstick of measurement is to measure the final rule compared to what we have today. Who loses? What happens to our right to overtime in that regard?

Make no mistake: Even with the changes from the proposed rule, this final rule is a radical rewrite of the rules governing eligibility for overtime. It would deny time-and-a-half overtime pay to millions of workers earning as little as $23,660 per year. By and large, these are low- to middle-income workers who don't have a strong organized voice, so the administration may feel it can run roughshod over their rights. That is why we in Congress must be their voice and their vote on this matter.

Of course, the administration denies this. Its public posture is all smiles and happy talk, including the audacious claim that no workers earning less than $100,000 a year will lose their right to overtime. Frankly, at this point, the administration has zero credibility on this issue.

As I said, when the proposed rule was issued a year ago, it took months of reading the fine print before one realized how destructive it was, and only belatedly do we discover that the administration was giving tips and advice to employers as to how they could avoid paying overtime to employees under the new rule.

Here we go again. Once again, the administration is all smiles and happy talk. Once again, the administration is assuring workers they will not lose their overtime rights. When the Bush administration smiles and says it is here to fix overtime, I have five words of advice for American workers: hold on to your wallets.

Why exactly is the administration so eager to ''fix'' overtime? Now I know why many corporations and employer groups want to fix overtime. They want to pay fewer workers overtime. It is very clear. But is anyone clamoring for this?

I frequently visit manufacturing plants, and never, ever has a factory worker come up to me and said: You know, Senator HARKIN, too many of us are getting overtime pay. It is broken and you need to fix it.

I frequently visit hospitals. Never has a nurse come up to me and said: Senator HARKIN, it is not right that I am receiving overtime pay when I work 50 hours a week. You need to go back to Washington and fix this overtime mess.

Back home in Iowa, I love to go to Dairy Queens. It is something my colleague and I share when we go back to Iowa, Dairy Queen, but no one ever, in a Dairy Queen making hamburgers or Blizzards, or a working supervisor, has come up to me and said: Senator HARKIN, I don't deserve time and a half overtime pay. You need to fix it immediately.

I will go one step further. Not one employer in my State of Iowa has come up to me and complained about paying overtime pay under existing rules. Not one.

Now the Department of Labor is saying to the American workers: Hi, we are from Washington, and we are here to improve your overtime rights.

Is there anybody at this point in America who believes that? Working families are not buying it. They have a simple message for the Department of Labor: Keep your hands off our right to overtime pay.

Let me repeat the administration's central claim. No workers earning less than $100,000 a year will lose their right to overtime. This claim is demonstrably false.

This chart shows in simplest terms the impact of the new rule. It is clear that employees earning less than $23,660 a year, automatically will be paid overtime regardless of what they do. The new rule will make it very easy to exempt most workers making over $100,000. It will not totally, but most will be exempt.

We just learned that some of the oil rig workers, for example, in Alaska and off the coast of Louisiana who work under hazardous conditions and are away from their families a lot—some of them may make a little over $100,000. I guess I can't blame them. These are hard-working people and they are away from their families. It is a hazardous occupation. They, too, may be stripped of their overtime rights simply because they make $100,000 a year. I don't think it is correct we should do that.

It has come to my attention in the last few hours that oil rig workers would also have their right to overtime stripped.

The real gray area is from $100,000 to $23,000. People in that area are saying people will not lose their right to overtime. A careful analysis of the new rule makes it abundantly clear that certain jobs and professional categories in this gray area will be ineligible for overtime.

To cite one glaring example, under the new rule, a worker who leads a team of other workers loses his or her right to overtime. Under the old rule, there was no provision concerning so-called ''team leaders.'' There is no such term in present rules. But the new rule, under section 541.203(c) states:

An employee who leads a team of other employees assigned to complete other

projects for the employer meets the requirements for exemption—

Listen to the following words—

even if the employee does not have direct supervisory responsibility over the employees on the team.

Talk about a loophole. This team leader loophole is big enough to drive an Amtrak train through. Team leaders are commonplace throughout the manufacturing and services sectors. They are especially common in factories, refineries, chemical plants, and other places. MIT professor of management Thomas Kochan estimates that this team leader loophole alone could deny overtime rights to as many as 2.3 million workers making above $23,660 a year and less than $100,000 a year—a team leader.

Again, I point out that the term ''team leader'' exists nowhere in the present rules. It is now put in the final rule, ''team leader.'' But guess what. There is no definition of a team leader. There is no definition. It is up to the employer to define it. So any employer can define a team leader as they wish. And that team leader, as I pointed out in the rule, does not have to have direct supervisory responsibility over employees on the team. That team leader could be a team leader for, say, 5 minutes a week. Maybe it is a Friday afternoon get-together to discuss what went on the week before, and all of a sudden you are a team leader for that 1 hour of discussion. You are not exempt. Your employer can now exempt you from overtime simply by calling you a team leader. So in the rules there is no definitional structure of what a team leader is. It is a huge loophole.

Section 541.303(b) strips overtime rights from nursery school teachers earning more than $23,660. Under section 541.604, registered nurses who are salaried could be denied overtime. Large parts of the financial services industry are no longer eligible for overtime under the new rule.

According to an analysis by the Houston Chronicle, labor relations, public relations, human relations, and government relations employees will be ineligible for overtime under the new rule. Funeral directors and embalmers will be ineligible. Insurance claim adjustors will be ineligible. Many outside sales representatives will be ineligible.

In addition, many computer services employees will lose their right to overtime, including programmers, network, and database administrators.

I would also point out that the new rule includes loopholes and artful language that will strip overtime from several broad occupational categories. For example, the new rule will make it much easier for management to reclassify workers earning as little as $23,660 a year as professional employees. So you could be making $24,000 a year and your employer could reclassify you as professional, and you will be ineligible for overtime.

Employees will no longer need college degrees to be considered professionals exempt from overtime. Work experience will be enough. Under the present rules that have existed for many years, it pointed out to get an exemption under the professional status one had to have a 4-year degree. That was sort of the minimum. That was the minimum one needed to be exempt.

Now a person does not need that. All they have to have is work experience. For example, section 541–301(d) strips overtime rights from cooks and chefs who have ''substantially the same knowledge'' and perform the same work as cooks or chefs with 4-year culinary arts degrees. In addition, the new rule will make it much easier for management to reclassify workers earning as little as $23,660 as executive employees who will be ineligible for overtime pay. Under the present rule, employees that spend the majority of their time, 50 percent or more, doing administrative, management, or professional work lose their right to overtime under the executive category. Under the new rule, employees who do even a small amount of administrative, management, or professional work can lose their overtime rights.

For example, a McDonald's franchise assistant manager who spends most of her time making hamburgers or filling orders, making french fries, but spends 10 percent of her time performing supervisory duties, could be reclassified as executive and be ineligible for overtime. Think about that. In the past, the threshold was 50 percent. One had to spend at least 50 percent of one's time in an executive or an administrative capacity to be exempt from overtime pay. Now there is no threshold. It can be as little as 5 percent, 10 percent; nobody knows. It does not make any difference. It is whatever an employer says.

So guess what. A person is now working at a McDonald's franchise. They are making hamburgers and french fries and filling orders, which is pretty tough work. They move pretty fast. They are making $24,000 a year. All of a sudden the owner comes in and says: You are now an executive. Do you not feel good? I am going to put a little name up there, Susan Smith, executive. Now you are an executive. You feel great. There is a certificate. You are now an executive. You can hang that on your wall at home. By the way, you do not get anymore overtime pay.

I wonder how many American workers would feel good about that, that now they are an executive but they lose their right to overtime pay.

I can go on at great length naming others who will be denied overtime under the new rule, but I have made my point. The administration claims no workers earning between $23,660 and $100,000 a year will be denied overtime. That statement is false. All of these people, veterans, police, nurses—I talked about the team leaders—journalists, I have talked about that, cooks, financial services, computer workers, working foremen, and many others, because they can be reclassified as executive, administrative, or professional, under very ambiguous and clouded procedures or definitions, could lose their right to overtime pay.

My second chart is very revealing again as to what is going on. There are 152 pages in the new rule. As the chart goes, only 15 pages are devoted to the highly compensated employees test, which is $100,000 or more, and the minimum salary test, which is $23,660 or less. Fifteen pages are devoted to those two categories, and 137 pages are devoted to those who make between $23,660 and $100,000.

I have to tell my colleagues something. If the administration were sincere in its assertion that no worker earning between $23,660 and $100,000 a year would lose their overtime rights, believe me, it would not take 137 pages to say so. The administration could have said it in one or two sentences. Instead, the new rule spends 137 pages spinning a web of artful language, calculated ambiguity, and outright loopholes such as the team leader loophole, a complex web designed to catch workers and strip them of their overtime.

It is ironic that one of the administration's main justifications for proposing a new rule on overtime was to bring clarity and reduce litigation. They said this is one of the reasons they are doing it, to bring clarity and reduce litigation.

This final rule is shot through with artful, ambiguous language that clearly favors employers. This is guaranteed to lead to scores of lawsuits and years of litigation as workers fight to retain their overtime rights. If increasingly conservative courts rule in favor of employers, countless additional workers will lose their right to overtime.

For example, in several places, the final rule broadens what used to be a narrow test. By definition, this will mean less position, less clarity, not more. The final rule is far from clear. As I said, who can be classified as team leaders? It is not defined. The employer defines that.

What is a working foreman? It is up to the employer to decide what is a working foreman. Once they decide, a person is ineligible for overtime.

When Congress enacted the Fair Labor Standards Act of 1938, it anticipated there would be a number of less than honorable employers who would try to cheat workers out of overtime, so Congress included a penalty provision that would act as a strong deterrent. Under the present rule, if an employer is cheating employees out of overtime, the penalty can be massive. If found guilty, all employees in the enterprise, including salaried employees who are exempt from overtime, must be paid time and a half overtime for the period the improper practices were taking place. That is a tough deterrent.

In other words, if an unscrupulous employer was cheating an employee out of overtime and they were taken to court and found guilty of doing that, they did not have to pay only that employee back, they had to pay everyone in the enterprise time and a half overtime for the entire periods in question. They even had to pay time and a half to exempt employees who were exempt from overtime. As I said, a very tough deterrent.

What does the new rule do? Under the new rule, the penalty is limited to the work unit where the violation was detected. This ignores the fact that in nearly all instances, overtime violations are not limited to a renegade supervisor. They are almost always a result of some companywide practice.

So again, if an unscrupulous employer cheats an employee out of overtime and is caught and convicted, the company has to pay that employee back, and whoever is in that little work area, maybe two or three people. Before, they had to pay the entire enterprise. So we can see they have really watered this down. We have gone from kind of a nuclear deterrent under the old rule to kind of a pussycat deterrent under the new rule.

Let me summarize. Under the new rule, many workers will legally lose their right to overtime and employers who cheat their workers out of overtime illegally will receive a penalty that amounts to less than a slap on the wrist. No wonder the Wall Street Journal has called the new rule a victory for business groups.

It is time for Washington to listen to Main Street and not just Wall Street. Listen to ordinary working Americans. They are telling us loudly and clearly their number one issue is economic security. They are telling us they fear losing their jobs. They fear losing their health care. They fear losing their retirement. Now they fear losing their right to time-and-a-half compensation for overtime. They fear, with good reason, that under the Department of Labor's new rule they will be obliged to work 45, 50, 60 hours a week with zero additional compensation. For millions of working Americans, this is unacceptable, and the last straw.

For 65 years, the 40-hour week has allowed workers to spend time with their families instead of toiling past dark and on weekends. At a time when the family dinner is becoming an oxymoron, this standard is more important than ever. As I said earlier, this final rule on overtime is anti-worker and anti-family.

Given the fact that we are stuck in a jobless recovery, the timing could not be worse. It is yet another instance of the economic malpractice of this administration. Bear in mind that time-and-a-half pay accounts for some 25 percent of the total income of Americans who work overtime. With average U.S. income declining, the proposed changes would slash the paychecks of countless workers. Moreover, the proposed new rule is all but guaranteed to hurt job creation in the United States. This is just basic logic. If employers can more easily deny overtime pay, they will push their current employees to work longer hours without compensation. Workers without overtime rights are twice as likely to work more than 40 hours a week, according to the current statistics. They are three times as likely to work more than 50 hours a week. With 9 million Americans currently out of work, why in the world do we want to give employers yet another disincentive to hire new workers?

It is bad enough to deny American workers their overtime rights, but what is striking is the approach taken by the Department of Labor and the administration on this issue. As I already mentioned, no public hearings were held. There was no consultation with Congress. I have looked back and have done research. Every time I have been able to find in the past when we made changes to the Fair Labor Standards Act, Congress always had hearings, consulted with business, consulted with labor, and there was a process by which the public believed they had an input. That is not so this time.

Also, something I think that is beyond comprehension, the Department has offered employers what amounts to a cheat sheet. It has offered employers helpful tips on how to avoid paying overtime to the lowest paid workers. I mean these, the ones who make less than $23,600 a year, down here. The administration has basically put out information. They say they want to help these people. They raise it to $23,660 from about $8,000 a year—a good step. I compliment the administration for doing this. But they turn right around and tell employers how they can get by without paying them overtime.

They recommend raising a worker's salary slightly to meet the threshold. If you are an employee who is near this $23,660 level, they might want to raise your wages to $23,661. Guess what. Then you are no longer exempt.

They also suggest cutting a worker's hourly wage so any new overtime payments will not result in a net gain to the employee. Think about that. You say we are going to raise the threshold. Now, here is what you can do: cut the hourly wages so if you do have to pay them overtime it will all be the same. The employee will get the same amount of money, but the employee would be working 42, 43, 45, 48 hours a week. This is from the Department of Labor. They have actually put this out in print. It is disgraceful.

There is one group that is disproportionately harmed by the new overtime rules—women. The fact is, women tend to dominate in retail, services, and sales positions, which would be particularly affected by the new rule. Married women increased their working hours by nearly 40 percent from 1979 to 2000. As women have increased their time in the paid labor market, their contribution to the family income has also risen. These contributions are especially important to lower and middle-income families. Yet now the administration's new rule will take away overtime protections from millions of American women.

Women in the paid workforce will be forced to work longer hours for less pay. And, of course, this means more time away from families and more childcare expenses, with no additional compensation. Not surprisingly, prominent women's groups are adamantly opposed to the new overtime rules. The American Association of University Women, the National Organization of Women, the National Partnership of Women and Families, the YWCA, 9 to 5, the National Association of Working Women—among others, are all strongly supporting my amendment.

Listen to what Sheila Perez of Bremerton, WA, says. She is a single parent working hard to support her family. When she leaves work after a difficult 8-hour shift, she says:

> My second shift begins. There is dinner to cook, dishes to wash, laundry, and all the other housework that must be done, which adds another three or four hours to my workday.

Ms. Perez said something also very powerful. She said:

> My time at home with my kids and family is truly my premium time . . . it is personal time. . . . it is the most valuable time of my day. So if I am required to work longer than eight hours . . . if I have to sacrifice that premium time with my family . . . then I ought to receive premium pay, that is, overtime pay.

I agree wholeheartedly with Sheila Perez. If she is sacrificing personal time, her premium time with her family and her kids, it is only fair she be compensated on a premium basis with time-and-a-half overtime pay.

I think there is a broader context for this discussion of overtime. It is sort of a bigger picture. As I said, the No. 1 issue for Americans today is economic security, and with good reason, because it is abundantly clear that America is stuck in a largely jobless recovery. Since the administration took office, nearly 3 million private sector jobs have been lost, including one in every seven jobs in manufacturing. President Bush—George W. Bush—has presided over the greatest job loss of any President since the Great Depression. Yet he remains wedded to policies that make it worse.

His administration has praised the outsourcing of jobs as something good for our economy. He has opposed any increase in the minimum wage. He has opposed extending unemployment benefits. Now, this administration wants to destroy the overtime rights of many hard-working Americans.

There is no question, I suppose, that those policies have been good for wealthy investors. Corporate profits are rising, the stock market is up, CEO pay is up, and once again the rich are getting richer. But something is missing. Ordinary Americans are not participating in this so-called recovery. In

fact, more and more Americans live in fear of losing their jobs, their health benefits, their retirement, and now their right to overtime pay.

The truth is, we cannot build a sustainable recovery by exporting jobs, driving down wages, and making Americans work longer hours without compensation. Moreover, such a recovery is not desirable. A true recovery must include all Americans. It can only be built on a foundation of good jobs with good wages in America, not overseas. It can only be built on a foundation that includes a minimum wage that is a living wage and not a poverty wage. And it can only be built on a foundation that reserves Americans' rights to time-and-a-half overtime pay over 40 hours.

So I urge my colleagues to support this amendment to protect the overtime rights of American workers. Again, I repeat, my amendment will let stand the positive provision of the rule which raises the low-income threshold to $23,660 and makes more workers automatically eligible for overtime.

Now the administration again says it does not want to take away the overtime rights of anyone earning less than $100,000. If that is the case, then the administration should have no problem embracing my amendment because this amendment has a simple purpose: to guarantee that workers who are entitled to overtime pay now, today, will not lose their right under the new rule.

I think the new rule is disingenuous. The administration is being disingenuous about it and knows full well this new rule will strip overtime eligibility for many workers earning less than $100,000. That is the reason it is being pushed aggressively. That is exactly why many corporations and groups are so keen to see this new rule adopted. But it is unfair. It is an attack on a basic right American workers have enjoyed for over 65 years, and it is bad economic policy. It will hurt job creation and reduce disposable income.

I want to point out a few statements from others in support of my amendment.

The Effect of Final Rules Silence on Police Sergeants.

This is an April 28 press release from the International Union of Police Associations, the National Association of Police Organizations, and the International Brotherhood of Police Organizations.

The DOL has done nothing to define the line between management and police duties for those above line-level officers. Once the final complex rules go into effect, their very ambiguity regarding the line between supervisory duties and traditional policing duties will undoubtedly shift the ball from the legislature to the courts.

That is why they support my amendment.

Here is a press release from the United American Nurses.

The Effect of Final Rules Silence on Registered Nurses.

In the midst of a registered nursing shortage that is projected to reach 808,000 RNs by 2020, it is incomprehensible why this President wouldn't do everything in his power to make sure that RNs are fairly compensated for the life-saving work we do.

I mentioned earlier the professional loophole. This is from the code itself. This is the current regulation on learning professionals.

As is well known, there are still a few practitioners who have gained their knowledge by home study and experience. Characteristically, the members of the profession are graduates of law schools, but some few of their fellow professionals whose status is equal to theirs, whose attainments are the same and whose word is the same did not enjoy that opportunity. Such persons are not barred from the exemption. The word ''customarily'' implies that in the vast majority of cases, the specific academic training is a prerequisite for transfer into the profession.

This is what we have been operating under for years.

. . . in the vast majority of cases, the specific academic training is a prerequisite . . .

Under the proposed rule, work experience—even the experience you might have gotten in the military—would disqualify you from overtime.

I want to make a point on this. I want to make a point on the veterans. When we debated this last year, we pointed out in the proposed rules it specifically mentioned those who were not learned professionals because they had a 4-year college degree but who had learned on-the-job training, including training in the military—those were the words: ''including training in the armed forces.'' We pointed out here on the floor this means someone going into the military and who received training in the Army and came out, because they received training in the military, they would be exempt from the right to get overtime.

Guess what the administration did. In the final rule, they took those words out—''training in the armed forces.''

But what they didn't do was change the underlying language which says basically you don't have to have a 4-year college degree; you can have on-the-job training or work experience. It doesn't say they couldn't be in the military. They didn't specifically exempt the military; they took out those four words.

Under this final rule, veterans in the future will be different than veterans in the past if they receive training while in the military which they then use on the job later on. They may have their right to overtime pay taken away from them.

This is sort of an example of the learned professional exemption. Let's take a look at chefs. It basically says: Chefs, such as executive chefs who have attained a 4-year specialized degree in the culinary arts program, generally meet the duty requirement of the learned professional exemption. The learned professional exemption is not available to cooks who perform predominantly routine mental, manual, mechanical, or physical work.

In other words, an executive chef who has fewer years is automatically exempt, but also if you, for example, at some point in time supervised someone at a McDonald's, or whatever, then you would be exempt.

That is the ambiguity of these rules.

I could point out more and more. There are all kinds of different workers who are caught up in this kind of web of ambiguity. But I close by saying again the new rule is unfair. This kind of a process should have been done in Congress. It should have been done with the appropriate committees, with appropriate hearings and consultation and being very careful about how we are going to address this.

I see nothing wrong—in fact, I see everything right—in what the administration is proposing in raising the threshold to $23,660. It should have been done a long time ago. But most of the rules do not pertain to them. The 137 pages out of 152 pages pertain to those making over $23,660 a year, and it provides one loophole after another to deny the right to overtime pay for employees.

I am hopeful we can have a strong bipartisan vote in support of this amendment. We can save the administration from making a terrible mistake. We can protect American workers' right to overtime compensation and we can support an economic recovery that includes all Americans—a recovery that respects and preserves the American dream. Our workers deserve an ironclad guarantee that their overtime rights will be safe and nurtured as they have been in the past and are today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have listened with interest to my colleague from Iowa in his presentation. I rise to disagree with the positions he has taken. I will do my best to do it in a manner that is not disagreeable either to him or to others who are in support of this amendment.

Let us understand, of course, the Fair Labor Standards Act is one of the most important protections American workers have. We all agree on that. But these provisions have not been updated, some for as long as 50 years. Some kind of clear updating is essential. In the process of updating regulations that go back as long as 50 years, some explanation was, of course, necessary which results in the number of pages my friend from Iowa has referred to.

My problem with the Senator's amendment is with a very broad brush and strong ax he cuts out a large chunk of the pages that have been made and says those things that are in place are going to stay in place. We are not going to allow any changes in these areas. His amendment is relatively short but very powerful in its impact on the overall bill.

In an effort to understand this—because I am not an expert in these areas—my staff and I have reached out to HR directors throughout the State

of Utah to get their reactions to the new proposal, and at the same time ask them what their response would be to what we understood the Harkin amendment to be. The reactions have been unanimous—No. 1, that the action of the Department of the Labor Department is long overdue and very welcome.

One of the things I had not known until we got into this particular subject was the trial lawyers, whom we hear so much about in the Senate, have found a bonanza in class action lawsuits dealing with the Fair Labor Standards Act. Indeed, the bonanza has been primarily for the trial lawyers and not for the workers in whose name they bring these class action cases. This should not come as a surprise. We have seen other examples where this goes on.

To quote from the Texas lawyer: Overtime litigation is attractive to trial lawyers because of the ''astonishingly'' high amount of money at stake.

And Lawyers Weekly USA says: Boom in overtime suits, a danger for employers but a gold mine for plaintiffs' lawyers.

In the opinion of the HR directors we have spoken to on this issue, this boom for trial lawyers would not go away if the Harkin amendment were passed. Indeed, in their opinion, if the Harkin amendment were passed, it would mean more ambiguity, more uncertainty, and more opportunities for trial lawyers to file class action lawsuits. The reason for that is by freezing certain classifications that are in the current regulations forever forward as a result of the Harkin amendment and allowing other classifications to remain as they are in the new regulations, you could very well end up with two employees doing absolutely identical work, but because one of them was in place when the Harkin amendment was passed and the other was hired after this legislation was passed, they would have different classifications. A trial lawyer would come along and have a great deal of fun with that, perhaps win a judgment of some kind, tremendous fees for himself and not that much for the workers.

Everyone we have spoken to on this issue has said over and over again: The Harkin amendment would make things much more difficult; the Harkin amendment would create an administrative nightmare to try to work our way through; the Harkin amendment should be opposed.

They are all unanimous in saying the proposal by the Department of Labor is a good proposal. It will make their lives a whole lot easier because it will bring the regulations up to date, bring the regulations that are 50 years old into the 21st century, and allow people to begin to deal with these challenges in ways that are consonant with today's labor market.

My friend from Iowa talks about the jobless recovery. I recommend he spend a little time looking at the jobless claims that are being filed. The number of jobless claims being filed keeps going down week after week. People are no longer being laid off in the degree they were during the recession. As we saw in the month of March, 308,000 new jobs were created. We are waiting for the April figures. The expectation is it will be over 100,000 new jobs created in April. The effects of the recession and the recovery period are wearing off, the jobs are coming back, the labor market is tightening up, and the Federal Reserve is talking about raising the overnight rate because they say the economy is coming back. They have not given a date for that. Economists have been expecting that to happen in September. After Chairman Greenspan's appearance before the House Banking Committee, some thought it would happen as early as July. I do not have a crystal ball on that and do not pretend to know. As chairman of the Joint Economic Committee, I do know that virtually every economic indicator we have is up and pointing up. The economy is coming back very strongly.

I hope the rhetoric about the terrible economic conditions in which we are currently operating will begin to change in light of the current economic information that contradicts it and says the economy is coming on very strongly. In that kind of economy, in that kind of situation where we are looking to the 21st century workforce, it only makes sense to upgrade, revamp, and modernize those portions of the Fair Labor Standards Act that are, in fact, 50 years old and have been languishing for a long time. There are definitions in that act of jobs that no longer exist. There are circumstances described in that act that are clearly out of touch with today's economic reality and today's labor marketplace.

I congratulate Secretary Chao and the Department of Labor in the very careful way in which they have approached this issue. As nearly as I can tell, the only people who have any reason to fear these new regulations, the only people who have any reason to fear their incomes might go down as a result of these regulations are the trial lawyers who have taken advantage of the anachronisms in the existing regulation and filed all of these class action suits I have talked about.

I have some examples of how the class action suits have muddied the water, based on the current regulations, many of which would be frozen in place by the Harkin amendment. Courts have interpreted the confusing regulations differently. In the Virginia court, a designer of electric equipment gets overtime; but in a New York court, a designer of electric systems does not get overtime as they have tried to determine a different meaning of these phrases. This would be cleared up by the new regulations proposed by the Department of Labor. In a Louisiana court, purchasing agents are entitled to overtime; but in an Oregon court, log merchandise buyers—to me, that is a purchasing agent—are not entitled to overtime. This is because these definitions are in the old regulations, the existing regulations. These definitions are anachronistic, they are uncertain, and they are being brought up to date, brought up to standard by Secretary Chao and her associates at the Department of Labor.

But the Harkin amendment says, no, we will freeze these changes in place to make sure the past pattern does not change. Quite frankly, I want the past pattern to change. People who are involved, caught up in the difficulties of trying to handle the past pattern want them to change. They want modernization. They want these things to be updated. It is not being done in an effort to try to deny anybody overtime. If that had been the case, the administration would have left the number at 8,000 instead of raising it close to 24,000 as the threshold by which people could be reclassified.

No, this is not an attempt to deny overtime to anyone. This is simply an attempt to bring the Fair Labor Standards Act regulations into the 21st century, bring them up to date with current economic reality, make them available and understandable to the HR directors in the various firms that deal with these challenges, and remove from the lives of those HR directors the tremendous ambiguity, uncertainty, and, frankly, stupidity that comes from regulations that are half a century old.

I say to my colleagues, if there are portions of the work that the Labor Department has done that Members think you can improve upon, let us hear your arguments, let us look at your amendments. I am willing to do that. But to take a whole section of the bill and lock it in place in the way the Harkin amendment does, in my view, cuts against the whole purpose of this revision. It says we are going to keep in the law anachronistic positions that are 50 years old just because we are afraid something might happen. In a dynamic economy, something is always happening. Yes, sometimes it can be very painful.

I know what it is to be looking for a job. I know what it is to be laid off. I know what it is to go without health insurance. I know what it is to dig into one's savings and then see those disappear and slip into debt in an effort to keep things going. I have founded businesses, some of which have failed. And I do not get unemployment compensation when I am the boss and my business fails. I know how difficult this can be.

So it is not a matter of not having appropriate sympathy or appropriate experience with those who are caught in economic changes. But at the same time, I recognize the genius of the American economic system is its ability to grow under all circumstances, as we traditionally have. We have had fewer recessions and more shallow recessions than our friends around the

world who have attempted, through government, to monitor the economy and keep it under some kind of governmental control.

Yes, it can be painful. But ultimately it produces more jobs, more wealth, more opportunity, and more security for more Americans if you allow the free market to work better.

The regulations that are being proposed by the Department of Labor, in my view, meet that criteria. They provide a change in the situation that will allow the economy to be more responsive to today's economic opportunities and challenges in a worldwide, borderless economy. I believe they should be adopted, as proposed, without the encumbrance of the Harkin amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I welcome the opportunity to join with my friend and colleague, the Senator from Iowa, in urging the Senate to accept this amendment he has proposed on overtime. I want to take a moment or two this afternoon to review, very quickly, where we are in terms of what our workers in this country are facing at this time in terms of our economy.

First of all, Madam President, I ask unanimous consent that the excellent editorial entitled ''Timeout on Overtime Rule'' in the Los Angeles Times be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KENNEDY. I will mention, very quickly, some of the points that were made in this editorial, ''Timeout on Overtime Rule.'' This is what they mention:

> Unfortunately, the new Labor Department overtime rule intended to clear things up just makes them murkier. . . . Despite [Secretary] Chao's assurances that she's worked hard to ''get it right,'' the National Assn. of Police Organizations determined that ''while many police are protected, others are not.''
>
> A former Department of Labor investigator last week told a House committee the ambiguous wording threatens [many] protection[s] now afforded to many workers—including nursery school teachers, nurses, chefs, team leaders, outside sales people and financial service employees—who earn from $23,660 to $100,000 a year.

It continues: ''American workers have fueled recent productivity gains but failed to share in the newly created wealth because, as Alan Greenspan recently told the Senate, 'virtually all of the gains in productivity ended up in rising profit' '' suggesting that the investments are not going back to those in terms of the increasing productivity but are all going back into profits.

And then it points out:

> A panic about their overtime is the last thing workers need. . . .

As we know—and the figures point out very clearly—American workers work longer and harder than any other workers in the world. They average working longer than any other nation in the world—2½ weeks longer in a year than workers in the United Kingdom; 7 weeks longer in a year than workers in France; 4, 5 weeks longer every year than most of the industrialized countries in Western Europe. American workers today are working longer, and they are working harder. But what has happened is we have seen that 8.4 million Americans are out of work. We have seen the loss of jobs over the period of the recent years. We have seen the economic record of 2.4 million more unemployed workers today than we had in 2001. So American workers are working longer, they are working harder, and we have seen a significant loss of jobs.

I heard my friend and colleague from Utah refer to those who have gone back into the labor market. But as the Senator knows very well, many of those people are working part-time because they still can't find full-time work. This is a reflection of the fact that we have seen American workers working longer and working harder. And there is also a loss of some 2 million jobs.

What has happened to the wages of those workers? Look at the difference in the wages of those workers who were working in the year 2000 versus 2002. In the year 2000, they were averaging $43,848, and now they are averaging $42,408. We have seen a significant reduction—some $1,400—in wages that have been lost during the period of the last 2 years for jobs that are already in existence. And this administration is trying to cut back even more.

What is the administration's problem with working families? They oppose an increase in the minimum wage. They oppose extending unemployment compensation. And now they are trying to cut back on the income of working families.

Well, we hear: Look, we have created, under this administration, some new jobs. The interesting point is, the new jobs that have been created are averaging 21 percent less in pay than the old jobs that were there. So we have seen a significant reduction in the pay that workers receive if they have been able to hold their job. If you have lost your job, and then you get a new job, it is paying 21 percent less than what it was paying in the year 2001, and still the administration wants to reduce those figures even more for hard-working Americans who are trying to make it.

Now, what has happened? What are these families doing? These families who were making $44,000, and maybe now they are coming back into the market and making 21 percent less? Let's look at the kind of burden those families are under. Let's look, for example, at what has happened in terms of if those families are sending one of their children to college. We find out if they are sending their children to a 4-year college, the average increase in college tuition has increased 26 percent since 2001. Virtually nothing has been done by the Bush administration to try to get a handle on that.

There are things that can be done. We have had good ideas and good suggestions of trying to work with colleges, work with States, work with the Federal Government in trying to get a handle on the increased costs. We have families working harder, working longer, and making less, and finding out—when they are trying to put their children through college—college tuition, in the last 2½ years, has gone up some 26 percent. They see they are making less money now. If they have their old job or even if they have a new job, they are finding out, if their children are going to college, what is happening at a 4-year public school.

Let's look at what has happened in terms of their health care premiums. The costs are virtually out of control. This chart shows their premium increase versus the CPI. The CPI might represent what some of these workers are getting in their increased wages in terms of their employers, but look what has happened to the costs that are out of control. Over the period of the last 4½ years, the increase in health care costs have gone up 43 percent. How are the average working families in this country able to make it? Their pay is going down. There are new jobs paying less. Tuitions are going up. Health care is going up. We have a proposal on the floor of the Senate. That is not bad enough, if they work even harder and longer, we are going to cut back on that.

You can take the same with regard to the issue of prescription drugs. I see my friend from Oregon in the Chamber, Senator RON WYDEN, who has done so much in the area of prescription drugs and trying to get a handle on the costs of prescription drugs. He is a real leader in the Senate on this issue.

If you look at what families are paying in increased costs for prescription drugs, those costs are virtually out of control.

That is why those of us on this side of the aisle have asked: What in the world does this administration have against working families? Why now, the first time in more than 60 years, are you going to undermine or assault or attack overtime pay for workers? Why? It just isn't right and it just isn't fair.

Look at what has happened in the recovery we have had, briefly, in the last several months. Let's look at how that recovery has affected workers and how it has affected the profits for companies. Here we have a chart that shows the difference between the recovery in the early 1990s and today's recovery. This chart reflects what the difference is between workers wages and corporate profit.

In the early 1990s, when you had a recovery in the 1990s, you found out that the workers participated in expansion of wages 87 percent and the corporate profits went up 13 percent. Here it is today. With today's recovery, it is 60 percent goes to corporate profits and 40 percent to wages. And company after

company, industry after industry is trying to cut that back in terms of wages.

Just look at some of the industries, what they requested in terms of this administration. I will illustrate with the restaurant association, but the list goes on.

The National Restaurant Association requests that DOL include chefs under creative professional categories as well as the learned professional category.

Then from the Federal Register, April 23: The Department concludes that to the extent a chef has a primary duty of work, requiring invention, imagination, originality, or talent—imagine telling a chef that he didn't have those, how long would he work in a restaurant; of course, it means all the chefs—such chef may be considered an exempt creative professional.

There is the request of the National Restaurant Association. There is the result.

Take the insurance companies. Here is their request, the National Association of Mutual Insurance Companies' letter to the Department of Labor: The National Association of Mutual Insurance Companies supports the section of the proposed regulations that provides that claims adjusters, including those working for insurance companies, satisfy the fair labor administrative exemption. Therefore, will not qualify for overtime.

From the Federal Register just 10 days ago: Insurance claim adjusters generally meet the duty requirements for the administrative exemption.

There is the request of the special interest; there is the result. I could take the rest of the afternoon. You could go industry by industry. We are talking about modernization, to make these regulations more understandable. This is what it is all about. It is the bottom line. The bottom line of those industries, taking it out of the pockets of the men and women who are working hard, working longer, as the first chart showed, more than any other industrial nation in the world, having a hard time making ends meet, paying for the education of the kids, affording the health care, paying for the prescription drugs. That is what this is all about.

Here are the various groups that are affected: nurses, nursery school teachers. Imagine this, nursery school teachers. I looked through the regulations. Imagine denying nursery school teachers. When we understand the importance, anyone who has had the opportunity to read ''From Neurons to Neighborhoods,'' Jack Shonkoff's brilliant book that summarized three Academy of Sciences studies that showed that the intervention in the early years make the greatest difference in terms of children.

We are concerned about education and we are going to make sure those nursery school teachers, even if they are qualified, even if they deserve it, no way, are they going to be excluded. The list goes on. The list goes on.

Finally, I want to mention this chart that shows what happens when you either have protections for overtime or you don't have protections. Protections meaning if you are required, you pay time and a half versus you don't pay time and a half, what is going to be the impact on workers.

Workers ought to listen to this. Workers ought to take a look at this chart. If you have overtime protection and you work more than 40 hours a week, only 19 percent of the workers are going to be required to work overtime. But if you don't, if the employer doesn't have to pay the overtime, it goes up to 44 percent, more than double. Workers beware. That is how you are going to end up. You are going to be required to work much more than the 40-hour workweek and you are not going to get compensated for it.

And it isn't only the 40-hour workweek. If you have a 50-hour week, you are three times as likely to work longer than if you have the coverage under overtime.

This can be summarized very easily as a continuation of this administration's war on working families. Working families are not asking for much. They want a decent job with decent pay and decent opportunities for the future. They have a sense of pride, and they want to do a good job in the job they are doing. And they want to work. We are stacking it against them. We are saying we will not increase the minimum wage, even though it is 7 years since the last time we saw an increase and even though its purchasing power is at an all-time low and that it affects 7 million Americans, fellow citizens who work hard, play by the rules, primarily janitors, teachers assistants, people who work in nursing homes. Those are the recipients of the minimum wage. And it is mostly women. This overtime issue is a women's issue. This overtime issue is a women's issue because we have seen the expansion and the growth of hours that women are putting in in the workplace.

This administration has been opposed to an increase in the minimum wage, opposed to unemployment compensation, and now opposed to overtime. It is basically wrong. It is unfair.

This Harkin amendment addresses the unfairness. Americans understand fairness and unfairness. This underlying proposal of the administration is unfair.

I ask unanimous consent to print in the RECORD an excellent summary by Eileen Appelbaum from Rutgers University that talks about reinvestment in the United States as a share of corporate profits has hit a postwar low.

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

It is not a lack of profits that has kept U.S. corporations from investing. As Figure 3 shows, the after-tax capital share is at its highest level in the post-War period. Indeed, the Wall Street Journal reports that 60 percent of U.S. companies and 70 percent of foreign-owned companies in the U.S. didn't pay ANY federal taxes for the years 1996 to 2000 (Wall Street Journal, April 6, 2004, p.1). Nevertheless profit reinvested in the U.S. as a share of corporate profits has hit a post-War low.

In 2003, corporate taxes fell to just 7.4 percent of federal tax receipts—its second lowest share since 1934. Further tax cuts for corporations are not likely to spur investment or create jobs. The problem is the overhang from overinvestment in IT and telecommunications during the latter half of the 1990s and the on-going restructuring of companies. This, combined with a lack of attention to strengthening manufacturing where nearly 40 percent of investment takes place, suggests that low rates of business investment are likely to be a drag on the economy and private sector job creation for several more years.

Investment has begun to rise over the last two quarters, but the growth in corporate profitability has been even more impressive. If companies continue to grab productivity gains and a larger slice of the economic pie for themselves, and profits continue to squeeze wages, consumption growth will not be able to continue to sustain the economy. Growth in investment is unlikely to be able to overcome the drag on the economy from giving workers a smaller slice of the economic pie.

Mr. KENNEDY. Make no mistake about it. What this is about is increasing the profits. Do we think those profits are going to be reinvested in the worker? There is no indication that they will be. This is about the bottom line.

The question is, Whose side are you on? Are you on the side of working families trying to make it in America or are you on the side of the companies trying to increase the bottom line? That is what the issue is.

I applaud the Senator from Iowa and hope the Senate will support that effort.

EXHIBIT 1

[From the Los Angeles Times Editorial, May 3, 2004]

TIMEOUT ON OVERTIME RULE

Overtime pay makes ends meet for many U.S. workers. But the federal regulations that determine who merits overtime are so complex that employers and employees end up in court way too often, Unfortunately, the new Labor Department overtime rule intended to clear things up just makes them murkier. A timeout is called for, if just to figure out who the winners and losers really are.

An earlier version of the new rule drew 80,000 comments from befuddled workers and employers alike. The final rule published in April—though a clear improvement—has provoked outright argument about what some of its provisions really mean.

Labor Secretary Elaine L. Chao maintains that, when the rule takes effect in four months, it will guarantee overtime protection to workers earning less than $23,660 a year and strengthen overtime rights for 6.7 million other American workers, including 1.3 million low-wage, white-collar workers who previously didn't qualify. Workers, though, aren't taking Chao's word for it.

Despite Chao's assurances that she's worked hard to ''get it right,'' the National Assn. of Police Organizations determined that ''while many police are protected, others are not.''

A former Department of Labor investigator last week told a House committee that

ambiguous wording threatens protection now afforded too many workers—including nursery school teachers, nurses, chefs, team leaders, outside sales people and financial service employees—who earn from $23,660 to $100,000 a year.

American workers have fueled recent productivity gains but failed to share in the newly created wealth because, as Alan Greenspan recently told the Senate, ''virtually all of the gains in productivity ended up in rising profit.''

The economy isn't spinning off jobs quickly enough to get the unemployed back to work, and young workers are frustrated by a minimum wage that hasn't budged since 1997. A panic about their overtime is the last thing workers need, even though the regulations surely do need some straightening out.

Rather than take Chao's word, Congress should order the Labor Department to delay implementation of the complex overtime regulations until everyone knows what really will happen to workers' paychecks. Get a think tank on the job.

Replacing one flawed set of regulations with another won't diminish lawsuits and may allow unscrupulous employers to take advantage of more workers. As Chao has noted, key portions of the rule hadn't been changed in more than 50 years. A few more weeks isn't going to matter.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I wish to take a few minutes to talk about the overtime rules. I believe they are a marvelous step in the right direction. After 40 to 50 years of inaction and lack of review, I believe we are in a position to make some changes today. Secretary of Labor Elaine Chao is one of the finest members of this administration. She is a determined public servant. She advertised those changes. She solicited information from various groups and individuals and got 70,000 responses. They evaluated those responses and made the proposed rule changes that are before us. I think it is clearly a step in the right direction and will add to the number of people who are covered. The final rule updating part 541 of the Fair Labor Standards Act regulation is important.

When these rules were established, we used words and terms that don't really exist today. They used terms like ''gang leader.'' That has quite a different tone today than it did when that rule was set up. There was also ''linotype operator'' and overtime was guaranteed only for persons who made less than $8,060 a year. So this rule change improves the regulations in quite a significant way.

I had the personal experience of working as a lawyer and representing two individuals who had problems with overtime. I represented the first individual against a company. I had not studied the law that much, but I had been a Federal prosecutor and I knew the people. One was a friend from my high school days and he operated heavy equipment. He said: Jeff, I think I have been entitled to overtime. I worked extra hours. When the weather was good, we worked extra hours.

They saw him as a contractor and he saw himself as an employee. I began to look at the law and I thought he was right. We filed a lawsuit and the company knuckled under and paid him. I took a fee out of it, and I am sure the company paid their lawyers a fee for representing them. A pretty significant chunk of the man's overtime had to be paid on litigation fees.

I represented an administrative assistant. The group she worked for had meetings at night. She would be required to go take notes and keep records, but they didn't pay her overtime. We filed an action on that and, eventually, they agreed to pay her. Interestingly, that lady worked for a union. So the union wasn't paying one of its own employees overtime as they were required.

What we need is more clarity in this situation. We need a legal system that everybody can understand. When you know who is covered, then people can demand their overtime and they will get it. It is my experience that you will not have quite as many situations where people blatantly violate the law if they know what the law is. If the law is confusing, they will play in the gray areas and take advantage of people. If it is clear, people will tend to follow it—most employers will. I think that is what we are looking at here.

The Department of Labor did not prematurely propose this rule. It was after a great deal of work and effort and listening and evaluation and changing and updating and altering the proposal. I think they have done a terrific job. It meets the realistic needs of the modern workplace so much better than this 50-year-old rule that has not been changed since the beginning.

I have been disappointed that our friends in the labor movement leadership have sought to utilize this change as an opportunity to attempt to scare working Americans and cause them to believe they are somehow being taken advantage of in this process. That is not so. I was disappointed to learn that the AFL–CIO prepared ads attacking the rule, before it was even published. That is not the right way to do things. We all ought to be a part of the process. If you have a specific example of something that is wrong, bring it up with the Secretary of Labor, as many did, and as labor groups did, and they will evaluate it and make the changes that work.

This is an attempt—and a successful attempt—to make the rules simpler, fairer, and clearer. We have to do better than the current law. Under this final rule—and this is so significant—workers making $23,660 or less per year are absolutely guaranteed overtime. In the past, a worker making $14,000 annually could be classified as a manager and be denied overtime.

Under the new rules, that worker and 6.7 million others will be guaranteed overtime protection regardless of whether you call them a manager, a boss, or whatever you want to call them. If they make less than that, they are classified as eligible and have to be paid overtime if they work more than the 40 hours per week. This will cover the person at the print shop, the fast food place, and the laundry. Maybe they have been classified as a manager because they do the business and manage some. Under this, if they are paid less than $23,660, automatically they will be covered. That is 6.7 million workers who are going to be guaranteed overtime protection.

This is not something that is trying to harm the worker. I know my friend, Senator KENNEDY, is quite an advocate. But I have to tell you, I don't appreciate him saying that this rule change is a war on American workers. What kind of rhetoric is that? What kind of partisanship is that? What kind of collegiality and respect for the process is that? This is a good series of rules, not a war on the American worker.

He talks about college tuition, health care, prescription drugs, and all these issues he wants to talk about but not specifically what is wrong about this regulation. There is not anything wrong with it. It is a step forward. It is good for American workers and we need to do that.

I know he talked about a lot of things. One thing he did not suggest was that if we got a handle on the number of illegal workers in this country, there would be more jobs for American workers? We will get more people at that $18, $20, $25 range. That is where we want people to work at. He didn't talk about that.

There are lots of things we can do to improve the life of the working American man and women. One of them is to update the overtime rules. I believe this has been done openly and publicly by a Secretary of Labor who is a lady of integrity and great ability, who listened to the complaints and ideas and suggestions, and she has made progress.

For example, I believe Senator HARKIN mentioned law enforcement officers. The largest law enforcement group in America, a workers group, a labor group, the Fraternal Order of Police, has clearly supported this rule change. They participated in the process and they made their suggestions. They were happy when it was over. This is what the president of the Fraternal Order of Police, Chuck Canterbury, said when the Department of Labor issued the final regulation. He said it was ''an unprecedented victory for police officers and their families.'' These are America's first responders, the police, firemen, and EMTs.

He goes on to say that ''the Fraternal Order of Police is extremely grateful for the work of the Secretary of Labor, Elaine Chao, and Wage and Hour Administrator, Tammie McCutchen, to take into consideration and incorporate the views of the FOP in developing their final regulations.''

He goes on in great praise of them. It has also been repeated on the floor earlier today that somehow veterans are unhappy with this bill and it is going to hurt veterans.

But I have a letter from the Veterans of Foreign Wars. They are one of the

largest veterans groups. They say in a letter to Secretary Chao on April 22:

The Veterans of Foreign Wars of the United States appreciates your soliciting our comments and recommendations on the revision of the Fair Labor Standards Act to strengthen and clarify

That is how he referred to it, ''strengthen and clarify''—

the overtime protection provisions; particularly provision addressing veterans and the training they received while serving in the Armed Forces. Much confusion and erroneous misinformation was disseminated.

Boy, that is true. There has been so much misinformation.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SESSIONS. Yes, for a question, without losing my right to the floor.

Mr. KENNEDY. I think the Senator is correct in the fact that the earlier provisions certainly apply to the training veterans received. I think my own reading of this is that they may very well apply to this group of veterans who have specialized training. Why didn't the administration add a line saying that anyone who received training in the Armed Forces would not be covered? That would have resolved the issue. If the Senator wanted to add that as an amendment, I would encourage the Senator from Iowa to accept that.

Mr. SESSIONS. I thank the Senator from Massachusetts for his comments. As a lawyer—and I know Senator KENNEDY is a lawyer—these things get pretty complicated. Sometimes making blanket rules like that can create unfairness in the system.

Let me go on and continue with what the Veterans of Foreign Wars said on April 22 about this legislation:

Much confusion and erroneous information was disseminated with respect to how the proposed regulations could adversely affect veterans. You and the staff of the Veterans Employment and Training Service and the Wage and Hour Division's willingness to engage the VFW and other Veterans Service Organizations in constructive dialog resulted in the removal of language pertaining to ''training in the Armed Forces,'' thus ensuring veterans would not be denied overtime as a result of such training. Again, the VFW appreciates your recognition of those who serve our Nation in war and peace.

The Disabled American Veterans, a good, strong group that does a lot of good work here:

Dear Secretary Chao: On behalf of the 1.2 million members of the Disabled American Veterans, I would like to express our gratitude for keeping us and other veterans' service organizations informed throughout the revision of rules governing overtime eligibility for workers under the Fair Labor Standards Act. We also commend your efforts to protect veterans by ensuring that a worker's status as a veteran cannot be used as a basis for exemption from overtime pay.

And from the American Legion—I suppose they know what is good for veterans. I certainly know they advocate for them on a daily basis. National Commander John Brieden III wrote to Secretary Chao, April 26, last week:

I am writing in support of the recently released regulatory changes to the Fair Labor Standards Act. The American Legion has a long history of advocating in support of veterans employment and training entitlements, and we are pleased with the Department of Labor's part 541 final regulations that seek to clarify overtime pay eligibility rules.

They are happy with them.

He goes on to write, recent assertions that the proposed regulatory changes target veterans who rely on overtime pay caused undue concern for those proud veterans who have successfully transitioned into the civilian workforce.

Who has been telling them all this misinformation? They are all saying that. How are they being told this? I am afraid the truth is, we are in a political season, and the Secretary of Labor stepped up to the plate to make some changes that needed to be made. They have not been changed in 50 years, and those who have a political agenda who want to try to embarrass President Bush, frankly, because Secretary Chao is a Cabinet Secretary in his administration are going to blame him for adversely harming workers, and it is not right. Listen to the people who were there:

Recent assertions that the proposed regulatory changes target veterans who rely on overtime pay caused undue concern for those proud veterans who have successfully transitioned into the civilian workforce. The removal of language referencing training in the Armed Forces will ensure that no worker will be unjustly penalized for their veteran status as a result of these regulatory changes. At a time in our history when American service members are answering the Nation's call—

Indeed they certainly are—

to arms in more than 130 countries worldwide, this country must ensure that all military and veterans entitlements are preserved rather than stripped away.

The American Legion supports the Department of Labor's efforts to clarify eligibility for overtime pay, and we applaud you, Madame Secretary, for ensuring that the employment rights of America's veterans are protected.

It is time for us to deal with this situation. These rules are better. A lot of people who have been called managers, who are making $18,000, $19,000, $20,000, $21,000, $22,000 a year and are being denied overtime because their employers crafted a job description that made them a manager, will be guaranteed overtime. If you make below $23,660, you are guaranteed overtime. If you make over $100,000, you are not. But for the others this will be guaranteed.

This is a step forward for clarity. It is going to reduce litigation. It is going to reduce class action lawsuits. It is going to reduce the excessive cost that comes from those lawsuits, and it will make lives better for American workers. That is our only goal. If I thought it harmed our American workers, I would not support it.

I believe the Secretary of Labor is on the right track. I ask our colleagues to oppose the Harkin amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, I wish to respond this afternoon to some of the statements that have been said, and also to rise in opposition to the Harkin amendment.

First, I wish to join in what the Senator from Alabama was saying about the outstanding leadership of our Secretary of Labor Elaine Chao. If there has ever been an American success story, she is it. She is a minority woman who has been in several very critical leadership positions, has always done a wonderful job, and she is showing real courage as Secretary of Labor. Anybody who would suggest she would be advocating positions or rules that would be antiwomen, I don't think there is any possibility that would be something she would do. I have a knowledge of her and a faith in the leadership she is providing.

She is trying to change rules that have not been touched in 50 years. Whatever they were 50 years ago, 40 years ago, 30 years ago, one would think they probably need some reconsideration and updating. That is what she is trying to do.

As far as being concerned about the low income and entry level of working Americans, I feel a real concern for that. My dad was a shipyard worker, a pipefitter, a union member. My mother taught school. She subsequently kept books because she could not make enough money teaching school. My son employs a lot of entry level, low-income, unwed mothers, and he worries about his need for insurance coverage.

I do not step aside for anybody as far as coming from a low-income, middle-income background. I want to make sure we do right by the low-income people and the entry level people.

In that connection, in talking about the economy and what is happening, I remind all Americans and my colleagues the economy is not perfect. The economy would never be as good as we would like for it to be. We would like it to be growing at 5, 6, 7, 8, 10 percent GDP and hope we can make that happen. I believe we in America can always make the pie bigger. We do not have to make the slices smaller. We can challenge every American to think about what the opportunities are that are being offered and try to take a part of the American dream. And we are moving in that direction. Productivity is up.

The point was made maybe it is going to the bottom line, the profit. I figured out if Litton Industries did not have a profit, my dad probably would not have had a job doing pipefitting in that shipyard.

Jobless claims are down, housing starts are at an all-time high, and the American dream of owning your own home is doing fantastically. I met last week with homebuilders from my home State. They are doing great. They are providing good quality, affordable housing like never before, probably because interest rates are low, historically low, and have been so. The markets are up.

When I hear, woe is me, the economy is not good—it is not perfect, but there are a lot of indicators going in the right direction.

Then when I hear our workers in America work more than people in France, are we now trying to imitate France? Pretty soon they will be down to working maybe 25 hours a week, and they have huge economic problems because they have not been able to bring themselves to address the difficulties they are getting into with all their pensions and all the stuff they are committed to they are not going to be able to pay for.

I do not want to follow France's example, for Heaven's sake. So what do we have in this particular instance? Again, we are trying to update the rules on overtime. It looks to me as though for low-income workers, they are going to be the beneficiaries. The Department estimates that few, if any, workers between $23,660 and $100,000 would lose their overtime. As a matter of fact, 1.3 million salaried workers who earn less than $23,660 would get the overtime, and they would not need to go to court or to try to deal with the difficulties of the vague language. They are going to clarify when these workers would be eligible for overtime.

Certainly, people who are making $23,000 or $24,000 ought to get overtime when they work extra hours. I think we ought to be commending the Secretary of Labor. She listened to us. She heard our complaints. Where there were weaknesses that were pointed out, they went back and tried to address those. These are not the same rules we were debating a year ago. They went back and raised the level that would be applied. The salaried level was $65,000. In the final version of rules, it is up to $100,000.

There are new provisions in the rules that specify certain classes of employees also, such as police officers and firefighters, as automatically eligible for overtime pay. Do we not want to make that clear? Do we not want to specify that firefighters and police officers would be entitled to get overtime pay?

It also declares that licensed practical nurses and certain veterans would be eligible for overtime pay. So there is a clarification with regard to the nurses. When one looks at what has happened, what they are trying to accomplish is to bring the rules up to date with the realities of employment today, and this is the first time we have done it in 50 years. As a matter of fact, low-income workers have certainty that they are going to get overtime. Specific groups such as firefighters, policemen, veterans, and licensed practical nurses will be guaranteed that they will get this overtime pay.

Now there are certain categories of people I am sure are defined in these rules who are executive or administrative in position. They may make over $100,000, $120,000, or $130,000 a year. They may have to work overtime. How many people in our offices work overtime? How many overtime hours do we work, 50, 60, 70, 80? We understand when we run for the Senate that we are not going to get overtime pay. I am not advocating that. That is my point. I do not expect it, and I work 70, 80 hours a week because of the opportunities, the way of honor and because of the understanding of what we would be paid.

I think these rules are the right thing to do. There is clarity about the fact that more people would be covered. I do not know how many people might actually have some risk of not getting overtime, but it would be in the higher brackets. The number is probably 107,000 workers earning more than this $100,000 might lose their overtime pay.

This effort has shifted the emphasis to the low-income people who have not been certain that they could get overtime. We should be commending the Secretary of Labor, not trying to pass the Harkin amendment that would block these changes.

I fear once again what we have is people wanting more. They are not satisfied that this is good enough. Good, maybe, yes, that maybe it is fine if it applies to first responders, nurses, blue collar workers, cooks, paralegals, public service inspectors, union contracts, and veterans. That is all good, but we want more. We are going to defeat the good in pursuit of the perfect.

It will not happen.

I urge my colleagues to vote against this Harkin amendment. Let us put these rules in place. It will not be the last pass at this. We are going to find that there are some weaknesses, or we should have maybe considered another group. The rules will be changed again.

I had to take a little time to talk about the facts with regard to Secretary of Labor Elaine Chao, to talk about the economy and talk about how these rules have been modified. They have moved in the right direction, and we should allow them to go into place and continue to work to make sure they are applied properly.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Maine and the Senator from Oregon would each like to offer an amendment. I would like to get them in a queue for consideration after the Harkin amendment. I have cleared this with the majority manager.

I ask unanimous consent that the pending Harkin amendment be temporarily laid aside so that Senator COLLINS may offer an amendment; that after she has been able to do so and speak to her amendment the Collins amendment be temporarily laid aside, and that Senator WYDEN be recognized to offer his amendment.

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

The Senator from Maine.

AMENDMENT NO. 3108

Ms. COLLINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS] proposes an amendment numbered 3108.

Ms. COLLINS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for a manufacturer's jobs credit, and for other purposes)

On page 139, between lines 13 and 14, insert the following:

SEC. ___. MANUFACTURER'S JOBS CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45S. MANUFACTURER'S JOBS CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the manufacturer's jobs credit determined under this section is an amount equal to the lesser of the following:

''(1) The excess of the W–2 wages paid by the taxpayer during the taxable year over the W–2 wages paid by the taxpayer during the preceding taxable year.

''(2) The W–2 wages paid by the taxpayer during the taxable year to any employee who is an eligible TAA recipient (as defined in section 35(c)(2)) for any month during such taxable year.

''(3) 22.4 percent of the W–2 wages paid by the taxpayer during the taxable year.

''(b) LIMITATION.—The amount of credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this subsection) as—

''(1) the excess of the W–2 wages paid by the taxpayer to employees outside the United States during the taxable year over such wages paid during the most recent taxable year ending before the date of the enactment of this section, bears to

''(2) the excess of the W–2 wages paid by the taxpayer to employees within the United States during the taxable year over such wages paid during such most recent taxable year.

''(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any taxpayer—

''(1) which has domestic production gross receipts for the taxable year and the preceding taxable year, and

''(2) which is not treated at any time during the taxable year as an inverted domestic corporation under section 7874.

''(d) DEFINITIONS.—For purposes of this section, W–2 wages and domestic production gross receipts shall be determined in the same manner as under section 199.

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2005.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', plus'', and by adding at the end the following:

''(31) the manufacturer's jobs credit determined under section 45S.''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following:

''Sec. 45S. Manufacturer's jobs credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

On page 335, line 8, strike ''December 31, 2004,'' and insert ''the date of the enactment of this Act''.

Ms. COLLINS. Mr. President, before I turn to the subject matter of the amendment which I have just submitted, I rise to take a moment to thank my colleagues on both sides of the aisle for their courtesy, and in particular to thank the chairman and the ranking member of the Finance Committee and their staffs for their assistance in advancing this important legislation and in helping to bring this amendment to the Senate floor.

Over the past year, the American economy has emerged from a period of recession and slow growth into a period of economic recovery. The last half of 2003 saw the strongest growth in two decades and the growth continues to be strong, 4.2 percent in the first quarter of this year, a clear sign of a healthy and sustainable economic rebound.

There are hopeful signs on the job front, too. Last month, 308,000 new jobs were added to our Nation's payrolls. This is very good news, but the recovery has not affected all sectors equally. One sector in particular, manufacturing, is struggling to cope with the long-term decline that has cost so many workers their jobs.

Job losses in the manufacturing sector did not begin with the recent recession, nor with this administration. It is not a Democratic issue or a Republican issue. In each decade since World War II, employment in the manufacturing sector has declined as a share of total employment. In absolute terms, the number of American manufacturing jobs has fallen each year since the end of 1997. In fact, if one examines the past 84 months since March of 1997, the number of manufacturing jobs has declined each and every month except 7.

No State has been harder hit by the loss of manufacturing jobs than my home State of Maine. According to a study by the National Association of Manufacturers, on a percentage basis Maine has lost more manufacturing jobs than any State in the Nation. We have lost nearly 18,000 jobs during that period, good jobs that once provided lifelong employment to Mainers living in communities such as Millinocket, Brewer, Wilton, Waterville, Fort Kent, Dexter, Westbrook, and Sanford.

Many people are asking: Why are so many manufacturing jobs in this country disappearing?

According to a recent study conducted by the National Association of Manufacturers, one answer is the disparity in manufacturing costs in our country versus other countries. In fact, compared to other countries, it costs an average of 22 percent more to manufacture goods in the United States.

While it would surprise no one that U.S. manufacturers face a higher cost of doing business compared to manufacturers in countries such as China or Mexico, it would be a mistake to assume wage rates alone explain this difference. They do not. In fact, the productivity of the American worker is unrivaled, allowing American workers to receive more value in terms of wages for the goods they produce. As the NAM study states, if wages were the only factor, then:

U.S. manufacturers would be much more dominant . . . in the global markets than the current trade situation suggests.

It is other structural costs such as the high corporate tax rate we impose on manufacturers that make it much more expensive to manufacture goods here in the United States relative to the costs elsewhere. Indeed, the NAM study shows it is significantly cheaper to produce goods even in high-wage industrialized nations such as Japan and France. This fact illustrates the critical impact these high structural costs have on manufacturers in our country.

In essence, these costs have the same effect as imposing a 22-percent additional tax on making goods here, rather than overseas. To compete, American manufacturers must somehow do more with less, move operations overseas, or get out of manufacturing altogether. None of those is a good solution. The result is fewer jobs, a weaker economy, and a manufacturing sector in crisis.

Earlier this session I introduced legislation known as the Growing Our Manufacturing Employment Act. This legislation provides a 9-percent deduction for manufacturing income, and contains additional provisions benefiting the forest products industry, an industry critical to manufacturers and jobs, good jobs in my home State. I am very pleased the underlying bill we are considering, the JOBS Act, has already been amended to accelerate the deduction for manufacturing income and it contains these important forestry provisions. But I believe we need to go further to address the loss of these vital manufacturing jobs. For that reason, I am offering the final provisions of the Growing Our Manufacturing Jobs Act as an amendment to this bill. My amendment is aimed at reinvigorating the manufacturing sector, boosting the level of domestic manufacturing, and preventing the further loss of these important jobs.

My amendment would help to reduce the 22-percent cost differential American manufacturers face by providing a jobs tax credit to those manufacturers that increase their payrolls by hiring displaced workers who are receiving trade adjustment assistance. That would mean we would be providing an important incentive for manufacturers to rehire workers who have been laid off because of the impact of foreign competition.

In Maine alone, nearly 60 manufacturers are currently TAA-certified, and more than 4,200 Maine workers have been deemed eligible for benefits under TAA since the start of 2002. The credit I have suggested would provide a powerful incentive to hire these workers and help them get back to work.

This credit is very carefully targeted. For that reason, it carries a modest pricetag, which, thanks to the efforts of the Finance Committee, would be fully offset by other provisions included in the amendment.

Finally, this amendment is designed to ensure only those companies that are helping to build America's manufacturing base obtain the credit. It has both a carrot-and-a-stick approach. Companies that move jobs offshore will see their benefits reduced. Most important, companies that chose to reincorporate in offshore tax havens to avoid American taxes will not be eligible for this credit.

I am hopeful that by working together on this proposal and the important provisions of the underlying bill, we can take the important steps that are needed to strengthen American manufacturers, to preserve our manufacturing capacity and, most of all, to help ensure hard-working Americans have the jobs they need and deserve.

Let me once again thank the chairman and the ranking member for their ongoing efforts to advance this significant legislation. It has been a pleasure working with them to bring this proposal before the Senate. Few subjects the Senate will address this year are as important as creating and protecting good jobs, and few bills are as important to advancing that goal as the legislation before us today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 3109

(Purpose: To provide trade adjustment assistance for service workers, and for other purposes)

Mr. WYDEN. Mr. President, I send an amendment to the desk on behalf of myself, Senator COLEMAN, Senator ROCKEFELLER, Senator BAUCUS, Senator DAYTON, Senator BROWNBACK, Senator DODD, and Senator SNOWE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN] for himself, Mr. COLEMAN, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. DAYTON, Mr. BROWNBACK, Mr. DODD, and Ms. SNOWE, proposes an amendment numbered 3109.

Mr. WYDEN. I ask unanimous consent the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. WYDEN. Mr. President, I see the Senator from Montana on the floor, and the Senator from Massachusetts,

both of whom have done so much for working families, as has the Senator from Maine.

I bring this bipartisan amendment to the floor tonight because I think it illustrates a point Senator LOTT expressed earlier when he talked about updating our laws to make sure they are fair and practical for the times.

The Trade Adjustment Assistance Act, which this amendment speaks to, has been a great asset to folks who have been laid off in the manufacturing sector. It was written more than three decades ago. Of course, that was the key sector in our economy and still is tremendously important today, but the fact is, the trade adjustment law today doesn't apply to about four-fifths of our workers, the folks who have been laid off in the service sector and in the high-technology sector. So what we have is millions of unemployed workers in the service sector and in the high-tech sector who are walking on an economic tightrope every single day, balancing their food costs against their fuel costs, and their fuel costs against the skyrocketing medical bills, as Senator KENNEDY has pointed out.

What this bipartisan amendment seeks to do is establish parity between folks in the service and technology sector and those in the manufacturing sector. So people who lose their jobs when their employer closes or lays them off because of import competition, people in the public and private sector who lose their jobs when their facility moves overseas, and secondary service workers who provide services to a primary firm where workers are eligible for trade adjustment and whose closure causes the layoff or closure at the secondary firm—when those people are in the high-tech and service sector of our economy, under our bipartisan amendment those people would be able to get benefits under the Trade Adjustment Assistance Act.

In effect, this bipartisan coalition wants to persuade the Senate to support it. It is a proposition that no matter where an American works, if you lose your job because of imports, because your job moves offshore, you ought to be able to get retraining, income support, and help with your health insurance.

Workers in the high-tech sector in my home State and across the country have taken a pounding in recent years. The American Electronics Association reported recently the tech sector lost 775,000 jobs in 2001 to 2003 and another 3.3 million jobs could be lost in the next decade. A Deloitte & Touche survey of telecommunication companies forecasts that well over 275,000 jobs, or 5 percent of the total workforce, will move offshore in the next 4 years and more than half of all Fortune 500 companies are outsourcing software development or expanding their own operations overseas.

The fact is when you have a software developer earning $6 an hour in Bangalore, India, and 10 times that amount in Beaverton, OR, every single day this critical sector of our economy—services and high technology—faces extraordinarily tough competition. When the starting salary of a software engineer in India is $5,000 and top level IT professionals earn $20,000 there, you can be sure the competition is intense. The question is, Who is going to stand up for these American workers in the high-technology and service sector that plays such a critical role in our economy?

Some argue increased trade is an overall plus to the United States because it lowers prices for consumers. There is no doubt about that. That is why I have consistently supported trade. But there are negative effects on some of our workers.

Exports of high-tech products from my home State jumped 18 percent from 2001 to 2002, but in the technology industry jobs fell 11 percent. The Oregon Employment Department reports in the 2001 to 2003 period, 3,300 computer systems and design jobs were lost, 5,300 professional and technical service jobs have been lost, and 1,400 architectural and engineering service jobs were lost. Many of these have been lost due to trade.

I say it is time to update—as Senator LOTT has said—this critical law, the Trade Adjustment Assistance Act, so millions of workers in the high-tech and services sector are not left without a safety net. They have a safety net in the trade adjustment law if they are in the manufacturing sector, and that has been a great benefit to those families. But for four-fifths of our workers, those in the high-tech and service sector, that safety net has not been there. This bipartisan amendment will restore it.

High-tech workers, as we know, have been the envy of the American workforce. Certainly during the dot-com boom of the late 1990s, they were responsible for a tremendous amount of economic growth. The ingenuity of these programmers, engineers, and designers helped drive our economy into the 21st century. The creativity of these workers generated an exceptional wave of economic prosperity. Trade agreements on services and intellectual property helped carry the fruit of these dedicated workers around the globe.

Globalization of technology is unquestionably globalizing the technology workforce. Geography is increasingly less important in determining where a job can be done. Globalization of information technology hardware production from 1995 to 2002 cut information technology hardware costs 10 to 30 percent, translating into higher productivity growth and adding hundreds of billions of dollars to the U.S. gross domestic product. Information technology became affordable to business sectors previously bypassed by the productivity boom, small-sized and mid-sized companies, health care and construction.

But as information technology hardware prices decline, the importance of information technology services and software increased, to almost 70 percent of information technology spending in 2001. One economist found offshoring reportedly saved most information technology organizations on the order of from 15 to 25 percent in the first year. With growth in software and services outpacing hardware spending by almost two to one, the demand for cheaper information technology services has lent strength to this ''offshoring tsunami'' and hammered many of our information technology workers in the process.

Certainly no one could have anticipated the shocking speed or scale of globalization in information technology. The American Electronics Association 2003 Cyberstates report found unemployment among computer programmers jumped from 4.5 percent in 2001 to 6.2 percent in 2003; that high-tech employment fell by 540,000 jobs to 6 million in 2002; and that a further loss of 234,000 jobs was expected in 2003.

Hardly a day goes by without a front-page story in virtually hundreds of communities across the country about an American programmer on his or her way out having to train a foreign worker who will replace them. It is a very rich irony that some of the same workers who launched the technology revolution have in fact become its victims.

The average American may think the Federal Government is helping technology and service workers displaced by trade, but it is not. That is because a law written in 1962, when so many of our workers were in the manufacturing sector, has not been updated. Now we have tens of thousands who have lost jobs in the services sector and the technology sector who are not eligible for the Trade Adjustment Assistance Act. The bipartisan amendment I offer today will open the Trade Adjustment Assistance Act door to these and other displaced services and technology sector workers.

The act is a lifeline for millions of these workers. It provides retraining, income support, a health insurance tax credit, and other benefits to workers who lose their jobs due to trade. It can also help secondary workers who supply parts and services who may lose their jobs when the facility or service shuts down due to import competition. This is exactly the type of help trade-displaced services workers need.

A self-described ''newly unemployed software engineer'' from Hillsboro, OR wrote in December: ''My job was moved to India where the company can pay Indians a fifth of what they pay Americans.''

Another wrote: ''As a 50-year-old high-tech manufacturing engineer with 26 years of experience, I was laid off in December 2002. I am sure the new factory the company is building in China will prevent my ever returning to the company. I can't even get hired into an

entry-level position anywhere because I am over-qualified.''

These unemployed Oregonians—and there are thousands of others who are employed in the information technology sector and the service sector who have lost their jobs—deserve to have this law, as our friend from Mississippi, Senator LOTT said, updated so they can get benefits in the safety net the Trade Adjustment Assistance Act offers. I have heard the distinguished Senator from Massachusetts champion this.

It is in effect a trampoline that allows individuals in our country who have been laid off through no fault of their own to get the training and the assistance and the kind of health care to in effect bounce back in our economy.

It seems to me workers reeling from the offshoring of service sector jobs cannot afford to wait for the higher skilled jobs that economists keep promising them are just around the corner. Higher value, higher paid systems integration jobs may come along, but I am telling you in my home State—and I think in communities across the country—a lot of unemployed information technology professionals think they are more likely to see Elvis than a sudden proliferation of help-wanted ads for new, highly skilled information technology jobs.

When a worker is displaced by trade, it should be irrelevant whether the person worked in services or technology or manufacturing. Every worker displaced by trade should be eligible for this very same benefit. This bipartisan amendment ensures that will be the case.

I again thank the distinguished Senator from Montana, my friend Senator BAUCUS. He has been so helpful to me on this and so many other matters during my service in the Senate.

I also thank the Senator from Minnesota who will be joining us. He has worked with the distinguished Senator from Montana and me on this bipartisan amendment.

The Senator from Minnesota has joined us. But we have colleagues who come from every part of the country who have joined us. Senator BROWNBACK has joined us, Senator SNOWE has joined us, Senator DODD has joined us, and Senator COLEMAN, Senator BAUCUS, and Senator ROCKEFELLER. * * * very hopeful that the Senate will resoundingly support this bipartisan amendment. This is about updating a law that is now more than three decades old, a law that does not cover services and high technology, to the detriment of millions of workers. We have a bipartisan proposal that allows that. I thank my good friend from Montana.

Mr. BAUCUS. Mr. President, I thank my friend from Oregon. He has worked very hard on this issue. It is, frankly, a very bright spot in this whole bill. That is, it is a major way to help people who need help. It has been worked out very aggressively and thoroughly by an awful lot of Senators.

The real leader is the Senator from Oregon, Mr. WYDEN. He has done a wonderful job talking with lots of different Senators and working out the different points of view to come together with this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

PRESCRIPTION DRUG CARD

Mr. KENNEDY. Mr. President, the Bush administration drug cards do not pass the truth in advertising test. They are no solution to sky-high drug prices, and there will not be a solution until we have a President and Congress who care about fairness for patients instead of higher profits for pharamaceutical companies. The drug companies keep gouging all Americans on exorbitant drug prices, and the Bush administration keeps cheering them on. It is no accident that the drug companies are working ''hand in pocket'' with the administration in hyping these cards and keeping prices high.

The Bush administration has a perfect batting average on providing information to the American public about Medicare—they are misleading every single time, and the drug cards are no exception. In the great tradition of suppressed cost estimates and false advertising comes the new revelation that the administration cannot even give the public honest figures about prices for drugs under the new cards.

The millions of taxpayer dollars that the Bush administration is spending to peddle its plan cannot disguise the fact that seniors would get a better deal taking a bus to Canada to buy drugs at fair prices there.

The drug cards will offer small discounts from already inflated prices. It is like used car dealers who raise prices just before customers come to the lot, so they can offer phony discounts and make it sound like a bargain. Studies show that the savings from the cards are not significantly better than those provided by already existing discount programs.

Unfortunately, there is no lemon law for these drug cards. If seniors sign up for a card that does not deliver the promised discounts, too bad. They are stuck with it. The card companies can change their discounts every week, but seniors are locked in for a year on the card they choose. The card companies don't even have to pass all the discounts from drug companies along to patients. They can keep their kickbacks and let seniors foot the bill.

Let's end these deceptive tricks and find honest solutions to the crisis of excessive costs for prescription drugs. Americans should be able to buy safe drugs from abroad at the same fair prices that Canadians or Europeans pay. Medicare should be able to use the purchasing power of 40 million beneficiaries to negotiate the same low prices on prescription drugs that the Veteran's Administration negotiates for veterans. But the Bush administration won't allow that. Why not? Because it is joined at the wallet with drug companies and their armies of lobbyists and tens of millions of dollars in campaign contributions.

Senior citizens want a real Medicare prescription drug benefit. Americans want fair prices for prescription drugs. The Bush administration and Republicans in Congress offer slick advertisements, a well-oiled public relations machine, and lots of promises, but no performance. It is time for a change.

I will share with the Senate exactly what these cards will do and what they will not do. This chart is entitled, ''The Medicare Drug Cards: No substitute for real cost savings.'' This is the cost of a 1-month supply of the top 10 drugs which seniors most often use. This line represents the U.S. Federal supply schedule, $587. That is the cost under the VA system through the negotiation. It is $596 for the same 1-month supply of the top 10 drugs for Canada; $972 at Walgreens. RXSavings is $1,046, with $1,061 for the PCA, the two Medicare drug cards.

If we had in the Medicare bill the ability for the Secretary of HHS to negotiate the prices down, we would be at $587 or the $596. Instead, it is the higher figure.

This next chart shows the same thing. These prices available to Medicare beneficiaries are well below the prices available with the new Medicare discount cards. Again, the price for the market basket of the top 10 drugs, drugstore.com, $959. This is without any annual fee. The annual fees can go up to $30 in Medicare. You cannot go above $30. Under Costco.com, $990 with no fee. Total cost is $959 and $990. Under Walgreens, it is $972. The annual fee of $20 puts it at $992. Pharmacy RXSavings is $1,046 with a $30 annual fee, to put it at $1,076. At Pharmacy Care Alliance, $1,061, plus $19 for the annual fee, and that equals $1,080.

This is what could be received today. It clearly reflects no savings on this. The other chart showed the difference if we had in the Medicare bill the ability for real negotiations. We would have the savings reflected in the VA or as it is in Canada.

The administration now is pulling out all the stops in terms of what it is going to do for the seniors. This does not pass the truth in advertising test. It is not effective savings at all. Our seniors are able to receive better pricing through drugstore.com and Costco.com.

This is a continuation of the kind of challenge we are facing. Hopefully, before the end of this session we will have the opportunity to get back to doing something about real negotiations on prescription drugs.

SUDAN

Mr. President, I commend the Foreign Relations Committee for its action last week in reporting a resolution urging action by the United States and the international community to respond to the ongoing ethnic violence in Sudan. The Senate should act on this resolution as soon as possible.

It has been 10 years since the Rwanda genocide. A decade ago, 8,000 Rwandans were being killed every day, yet the international community was silent. We did not stop the deaths of 800,000 Tutsis and politically moderate Hutu, in spite of our commitment that genocide must never again darken the annals of human history.

Sadly, we may now be repeating the same mistake in Sudan.

In 1998, President Clinton made a special visit to Kigali, Rwanda's capital, ''partly,'' he said, ''in recognition of the fact that we in the United States and the world community did not do as much as we could have and should have done to try to limit what occurred'' in Rwanda. His visit and strong words remind us that we must not hesitate to act, when the horror is clear and when so many lives may be lost.

Over the past few weeks, reports of severe ethnic violence have come from Darfur, a region of western Sudan. We have heard accounts of thousands or even tens of thousands of people murdered, of widespread rape, and of people's homes burned to the ground.

The Sudanese government has refused to allow full access to western Sudan. International monitors and humanitarian workers have been prevented from reaching the area. We need immediate access to gather more information on what is happening and to provide urgent humanitarian relief to the one million people the United Nations reports have been displaced internally in Sudan or across the border to Chad.

Many of us hoped that the humanitarian cease-fire and agreement earlier this month between the Sudanese Government and rebel forces in western Sudan would end the many months of violence against entire communities. It has not. The bombing of villages by the Sudanese Air Force continues, and so does the mayhem by the paramilitary forces unleashed by the Government of Sudan.

The burning of homes and crops of desperately poor villagers has left in its ashes a humanitarian disaster. Without immediate relief, experts predict deaths in the hundreds of thousands. The cruelty of the Government of Sudan and its paramilitary allies against other ethnic groups raises the very real specter of genocide.

The United States and the international community need to act now, to stop this brutality, to save lives.

President Bush should make a strong public statement alerting the world to the violence in Darfur. He should call the international community to action, and increase pressure on the Sudanese Government. Doing so would send a strong signal that the international community will not accept these continuing atrocities. Sudan has been seeking better relations with the United States. It must be told that our Nation will have no relations with a genocidal government.

The United States should propose a resolution in the United Nations Security Council to condemn the violations of international law being committed in Darfur, particularly the indiscriminate targeting of civilians and the obstruction of humanitarian aid by the government. The U.N. should demand immediate international access to the region to assess the full scale of the need for assistance. The U.N. should also insist on adequate support for international human rights monitors and for monitors of the cease-fire agreement reached last week.

The international community must demand that Sudan stop the violence now, and give full humanitarian access to Darfur without question or qualification.

To minimize the suffering of those affected by the violence, we should immediately identify funds and food aid to meet at least the traditional U.S. share of the $110 million appeal from the U.N. Office for the Coordination of Humanitarian Affairs to support urgently needed assistance for internally displaced persons and refugees. These internally displaced persons and refugees must also be allowed by the Sudanese Government and militias to return safely to their homes, to rebuild their lives and communities, as soon as possible.

The European community, African countries and the rest of the international community should use their considerable influence to pressure Sudan to end the violence in Darfur, and end it now.

If the international community fails to act—and to act now—the consequences will be dire.

United Nations Secretary General Kofi Annan was eloquent in his statement at the commemoration of the 10th anniversary of the Rwanda genocide. He said that he would not permit Darfur to become the first genocide of the 21st century.

There will be discussion in Washington and around the world about whether the ethnic violence in Darfur is, in fact, genocide, but we cannot allow the debate over definitions obstruct our ability to act as soon as possible.

It is a matter of the highest moral responsibility for each of us individually, for Congress, for the United States, and for the global community to do all we can to stop the violence against innocents in Darfur. We must act, because thousands of people's lives will be lost if we don't.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I see Senator COLEMAN of Minnesota on the floor. I want to say how much I deeply appreciate all the effort he has undertaken on behalf of the pending amendment. He is one of the two or three who worked mightily to get this amendment in shape. I want the people in Minnesota and our Senators to know how much he has done. I am very honored to have been a part of his team in working with him as he has crafted and offered this amendment we are now debating.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, first, I thank my friend and colleague from Montana for his kind words and for giving me the opportunity to work with him in a bipartisan manner on this important amendment. Actually, earlier this year, I was able to join with my friend, Senator BAUCUS, the ranking member of the Finance Committee, in introducing legislation to extend trade adjustment assistance to American service sector workers. I call that good Minnesota commonsense legislation.

Today I rise to join Senators WYDEN and BAUCUS to offer a modified version of this important legislation as an amendment to the JOBS bill. Our amendment not only extends trade adjustment assistance to service sector workers, but also improves and strengthens the TAA program for all American workers.

I say to my colleagues, if you care about the issue of offshoring and outsourcing and are searching for a positive, constructive, forward-looking way of addressing these challenges, this is it. I say to my colleagues, if you support trade and expanding trade opportunities, but recognize that along the way there are going to be some workers who are going to be hurt as we grow and expand—and we need to grow and expand; and trade is part of that—we can address that.

I am a strong supporter of trade adjustment assistance because trade adjustment assistance is critical to achieving a balance: the expansion of trade but meeting the needs of those workers who are negatively impacted.

Earlier when Senator WYDEN, my colleague from Oregon, spoke, he talked about the bipartisan support this amendment appreciates and enjoys. Senator SMITH has supported this legislation, and Senator SNOWE, Senator BROWNBACK, and many others.

It is also important to note this legislation has received industry support—most notably support from the Information Technology Industry Association and the Business Roundtable—for extending TAA to service sector workers.

The TAA program has a history that dates back more than 40 years. The program was created in the early 1960s, and it is fascinating to go back and review the speeches President Kennedy and Members of Congress made on this same topic more than 4 decades ago.

We often assume issues such as globalization and the offshoring and outsourcing of jobs are new issues, but it is striking to note how some of the arguments we hear being made today were made 40 years ago. Of course, some of the terms used, such as ''globalization,'' are of recent vintage. But the underlying desire to address the needs of these who are harmed by

trade is almost identical to those discussed 40 years ago.

At that time, the President and Congress agreed to go forward in the pursuit of free trade, but they also agreed to provide financial support to workers who lose their jobs and to provide retraining benefits to assist them in finding new jobs.

Over the years, some of the specifics of the program have changed. Some initiatives have worked and others have not worked so well. The TAA program has evolved as we have learned more and faced new challenges.

The most comprehensive effort to update TAA was in the Trade Act of 2002. In much the same way they had 40 years ago, the President and Congress decided to pursue a policy to go forward, seeking the benefits of free trade, and decided to build a comprehensive program to deal with the needs of those harmed by trade.

I will not try to list every single amendment to TAA made in that legislation; There are simply too many to mention. But in the 2 years that have passed, we have seen things that have worked and seen things that need improvement. Addressing the shortcomings is the impetus for the amendment we are offering now.

This amendment may not address all the problems with regard to TAA. In a number of areas, such as the new program for farmers, the solution may simply be more vigorous congressional oversight to ensure the program lives up to the law. The Court of International Trade has criticized some of the administrative decisions made in implementing the program. This may be a place where Congress should step in to see that the ideas it put into legislation become a reality.

Our amendment makes at least one commonsense fix to a problem our dairy farmers are having with the program. We worked closely with the National Milk Producers Federation on a solution to this problem.

I would add that although President Kennedy advocated TAA for farmers some 40 years ago, it did not come about until a couple years ago, and probably never would have come about but for the hard work and efforts of the chairman of the Finance Committee, Senator GRASSLEY. Senator GRASSLEY said at that time:

> I am very concerned that if we lose farm support for free trade it will be very hard for us to win congressional support for new trade deals when they are concluded.

Some good food for thought for the folks who administer this program: We have to make this program work for the farm industry.

With regard to the taconite workers in my State, I believe vigorous oversight can help the Department of Labor find ways to use TAA to address their concerns. Here again, we have made one legislative modification in hopes of putting this issue to bed for good. This is good news for the Iron Range in Minnesota.

In other areas, new problems requiring legislation have become apparent. There have been numerous newspaper stories in recent months covering the tragedy of computer programmers and others who have seen their jobs move to India and elsewhere. From reading these stories, one might think these are obvious cases for TAA, but most of these computer workers have been denied TAA because they produce ''services'' and TAA presently only covers ''goods.'' Since the overwhelming majority of working Americans are officially classified as service workers, this is an enormously significant distinction.

I note that in conversation with many of my colleagues, I am not sure they are even aware the current law does not cover service workers. There was a sense, when we passed TAA, that we covered the needs of those who were impacted negatively by trade. But the reality is, 80 percent of the workers are service workers. They are not currently protected. This amendment would do that.

This is an area where I understand some litigation is underway, but we do not have to wait for a court to decide. It seems obvious that workers employed as computer programmers are just as unemployed as workers in a textile factory when they lose their jobs. They should be entitled to the same benefits. Splitting hairs in defining services and goods misses the undeniable point that service workers deserve no less than workers in the ''goods'' sector.

Specifically this amendment would make three important changes to the TAA program to ensure service workers are treated fairly.

First, in cases in which service workers lose their jobs because of service imports, these workers are made eligible for TAA. The best known example of a situation similar to this is the case of Mexican trucking firms which are striving to carry freight within the United States. U.S. truck drivers that might lose their jobs to such competition would be eligible for TAA under this amendment.

Second, service workers who lose their jobs when the facility they work in moves out of the United States—the problem we have read about in recent months—would be eligible for TAA. Thus, under this amendment, if a call center or computer programming facility moves from Minneapolis to India, the workers would be eligible for TAA.

Finally, in those cases where the service workers provide services to a plant or facility that closes, moves, or reduces employment, these workers are eligible for TAA if the primary plant or facility is eligible for TAA. This simply parallels the so-called secondary workers provisions now in the law for workers producing goods.

For example, under present law, if a U.S. plant producing lawnmowers closes due to import competition, the workers at the plant and the workers at the facilities that supply lawnmower parts to the manufacturing plant would be eligible for TAA. But if the closed lawnmower plant contracted for janitorial services, the janitorial workers that lose their jobs would not be covered. This amendment eliminates this obvious inequity and treats the workers that provide services to the lawnmower plant just as it does those who assemble lawnmower motors.

The issue of TAA has special significance to airline workers from my State and around the country. Last night members of the Aircraft Mechanics Fraternal Association flew from Minnesota to Washington to share their stories and the stories of workers they represent from all around the country with some of my colleagues who represent their membership. These folks represent service workers who, when they lose their jobs, receive little if any help in getting back on their feet. Folks like George Sleva of Forest Lake, MN, and Kurt Kulschar from Lakeville, MN, are just some of the airline mechanics left out in the cold under the current TAA program. One of the guys described it this way:

> I worked hard. I was a great taxpayer. Everything was going well. And then the table turned and now I'm in a world of hurt.

Our amendment would take some of the sting out of this world of hurt that thousands like George and Kurt have had to go through.

The second major feature of this amendment provides TAA benefits to all workers who lose their jobs when the plant or facility that employs them closes and moves out of the United States, regardless of where the plant moves. Thus, if the lawnmower plant closed and moved out of the country, its workers and those supplies would be covered regardless of whether the plant moved to Canada or to China or to India. I was disappointed to learn recently that the 2002 law apparently requires that if a factory closes and moves to Mexico, its workers are automatically eligible for TAA, but if the same plant moves to China, they are not. This is one of those things that Lincoln talked about, a ''skunks giving their own publicity'' kind of thing. It doesn't make sense. It is obvious to make the change, and this amendment makes that kind of change.

But we can clear up the air, if you will, or any ambiguity by rewriting the law to clearly state that all workers who lose their jobs when their employers leave the country are eligible for TAA regardless of the country they move to. That makes sense. That is what this amendment does. I want to applaud President Bush's strong leadership in this area. I appreciate the administration's shared goal that TAA coverage should be expanded to include workers affected by shifts in production to any country, not just Mexico or Canada.

One of the most valuable portions of the 2002 act was the extension of a tax credit for health insurance to TAA

workers. Without some assistance to gain health insurance for themselves and their families, it is hard to imagine that workers could really take advantage of TAA. The amendment we are offering improves this health insurance provision in several important ways. First, it makes a series of technical amendments to ensure that TAA recipients get a meaningful opportunity to really obtain health insurance. The most important provision on this topic, however, raises the percentage of health insurance costs covered by the program from 65 percent in existing law to 75 percent. This is the same level of health insurance premium assistance that workers in the private sector receive.

I understand this was the provision when TAA was passed in 2002 that the Senate advocated at 75 percent. Affordability of health insurance is a problem for everyone, but for people who have lost their jobs, it is of particular hardship. This amendment improves affordability of health insurance, which will improve access to care, a goal we all can agree upon.

One of the problems that have limited the effectiveness of the current health care system is dislocated workers have had difficulty finding the 35 percent of the health insurance bill that must come out of their pocket. I am sure that for many workers it will still be a challenge to find 25 percent as required under this amendment, but our amendment will make it a little bit easier.

I know that some will say that including health care provisions in TAA is controversial, but it is important for all Senators to understand that this concept was originally advanced by a bipartisan Trade Deficit Review Commission, a bipartisan group with some very prominent Republican members, including Ambassador Robert Zoellick, Secretary of Defense Donald Rumsfeld, and former President Bush's Trade Representative Carla Hills. I emphasize that the recommendation for transitional health insurance was supported unanimously by the Commission.

Finally, this amendment would allow wage insurance to be extended to workers who are 40 years of age or older. The current law only applies to workers over 50. In my opinion, wage insurance makes sense for workers over 50, but I think it also makes sense for workers who are 20 years old. It may be that traditional retraining will also benefit workers in their 20s just as it might workers in their 50s, but I think that is a decision best left to the individual worker and not one best made by government.

Given the fact that we are still building a record on wage insurance, this amendment only lowers the requirement to 40 years of age. This is certainly a step in the right direction and is likely to allow many workers to make choices with where they want to go in their career and how best to prepare for their new jobs.

Also I note the maximum cost of wage insurance under the law is less than the maximum cost of traditional TAA under current law. In other words, wage insurance might also be a cheap approach to retraining. We should make it available to as many TAA recipients as possible for their own good and to limit the burden on the Federal budget.

There are many other good ideas for improvement in the TAA program, but this amendment makes some important steps forward and deserves the support of the Senate.

In my opinion, TAA is an honest, responsible, productive way to directly address the needs of those harmed by trade and globalization. There are real needs out there as evidenced by the hundreds of applications from my home State of Minnesota alone, hundreds of which have been certified and probably nearly as many denied for the reasons this amendment today seeks to address.

When I was mayor of St. Paul, I used to point out that the best welfare program was a job; the best housing program was a job. Access to health care often comes with a job. Putting people back to work in a job is exactly what TAA is designed to do. Of course, there is no single solution to all the problems, but TAA is a real solution not just a snake oil suggestion.

It is a real chance to address the needs of workers, and as such it can do a great deal to help Americans adjust and prosper through the challenges of globalization and offshoring. TAA is not free. It will require an investment of resources to make it work. But if it can help all Americans grow and prosper in a competitive global economy, it is money well spent. I note in this regard that we have identified a full budget offset for our amendment, an offset recognized by Treasury and OMB as saving about $5.7 billion over the course of 10 years.

America cannot turn its back on trade. To do so would be bad policy. But America must not turn its back on our working men and women either. To do so would be wrong. Trade adjustment assistance is a way to embrace both trade and our Nation's hard-working men or women. It is the right thing do.

I urge my colleagues to support this important amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I thank, again, my good friends from Minnesota and Oregon, Senators COLEMAN and WYDEN, for their very strong work on this amendment. I support this very strongly for a special reason. I have the privilege of representing the State of Montana. About 20 years ago, Montana lost a lot of copper miners and smelter workers. Why? Because of foreign competition. At the time it was probably employment overseas—in Chile, for example—and, in addition, it was the subsidized smelter operations north of the border in Canada. These folks worked very hard, and it affected the lives of a lot of these men, and sometimes women, who held these jobs for a few generations. We had created trade adjustment assistance for these workers.

I can tell you a lot of people who lost their jobs on account of trade were able to get some retraining, get a lifeline thrown to them because they had no place else to go. Many of them were 45, 50, 55 years old. They didn't know what to do. There were no other jobs around. Those were good-paying jobs, very good-paying jobs. We had TAA. I remember that I had to do battle with the Department of Labor to get the Montanans who were laid off; in this case, they were smelter workers. Finally, we got a little relief from the Department of Labor at the time when trade adjustment assistance was granted—not in very large measure, but it was granted to smelter workers particularly in Montana. You could see it was just enough to keep them from being totally despondent. Those were the early days of TAA. The retraining provisions really didn't work terribly well. But based upon my experience with TAA in Montana, I see the great need for training.

Now, clearly, the need for retraining workers who lose their jobs on account of trade is even greater than it was back then. It is much greater now for a few reasons. No. 1, the United States is much more engaged in a global economy. We are so interrelated worldwide. It is much more likely, therefore, that the actions taken by a headquarters in Tokyo, or in any other country around the world, has a direct affect on workers in the United States, and vice versa. American global companies, or multinational companies, have to compete vigorously in order to stay in existence. It is a very competitive world.

Other countries have very aggressive ways to help their companies. We know many of them are subsidized in ways that are not available in the United States. Other companies are helped by their host countries. In many ways, American companies are not helped by America. It is basically because we have much more of a free enterprise system. Our Founding Fathers came over from England years ago and wanted freedom and independence—''go West young man,'' and sending a man to the Moon. We are an entrepreneurial country. We like freedom. We like doing things more on our own. It is probably one of the main reasons the United States has become such a great country. That is why we are, in some respects, the biggest and strongest and wealthiest country in the world.

Global competition has been very good for the United States. I think that is probably because we are a little more entrepreneurial. We try a little harder and we are probably a little more creative. It is because of the nature of what it is to be an American. At

the same time, clearly, the jobs in America are in greater jeopardy as a consequence than they were 20 or 30 years ago. It is because of this competition. You will also find that a category of jobs is in greater jeopardy today, and those are service industry jobs. Why? Because of the unbelievable advances in technology, particularly communications technology. Information is now digitized. We have much more broadband capability worldwide. So a lot of services, whether financial services, medical services, or many kinds of services, can be sent by wire or by speed of light anyplace in the world. People around the world are taking advantage of that. They are training people maybe at a lower wage, so the American jobs that otherwise were here can go overseas, and vice versa. All countries are finding that their employees are losing jobs on account of trade. All the major countries are finding that. Germany is finding that, as are France, Japan, and others.

We are also finding that we are all losing jobs due to outsourcing, offshoring. In effect, jobs are going overseas. But on a net effect, we are still creating many more jobs than we are losing.

Having said all that, the purpose of this amendment is to address one part of the competitiveness problem. That is, what do we do about the people who lose jobs through no fault of their own? Clearly, we should come up with something. The answer in this bill is trade adjustment assistance. It is expanding the current trade adjustment assistance program that applies only to manufacturing workers to also service industry workers who lose their jobs. We have heard some describe some additional provisions of this trade adjustment assistance amendment. It is attractive in some cases and has good health benefits. That is important, too, because the current trade adjustment assistance hasn't been working terribly well. One reason is because the health provisions don't work well. The lingo is the ''uptake,'' or whatever it is. What it comes down to is, how many people who theoretically qualify for health insurance benefits under trade adjustment assistance actually take them? The answer is a very low percentage, 2 or 3 percent. It is because there are so many bureaucratic hurdles, procedural hurdles, and it is so difficult.

We made a lot of changes in this bill so that more people who lose their jobs on account of trade also are able to get not only retrained, but get health insurance benefits, where they pay 25 percent and the Government will pay the rest for a certain period of time. As we all know, when you lose your job, you often lose your health insurance. If you lose your health insurance, it is a double whammy. Not only have you lost your job, but you cannot pay the medical bills.

This throws in a lifeline and helps people who lose jobs on account of trade. As has been stated, it is totally bipartisan. We are working on both sides of the aisle. Why is it bipartisan? It is because it is that important, it makes that much common sense, and it is very much the right thing to do. I am very proud to be associated and working with the Senator from Oregon and the Senator from Minnesota. I thank them very much for their good effort.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I see my colleagues still in the Chamber. I thank the Senator from Montana and the Senator from Minnesota, especially as the Senator from Montana touched on the issue of health insurance costs for people who have been laid off in high-tech and the manufacturing sector. As we heard earlier, these are folks who are getting hit by a wrecking ball with respect to health care. They literally have nowhere to turn. Many of them are not old enough for Medicare, not poor enough for Medicaid. They don't fit into a lot of the categories—these boxes by which you get health care in our country.

So what we did in these bipartisan negotiations—and the Senator from Minnesota was particularly helpful, but I also commend the Senator from West Virginia, Mr. ROCKEFELLER, who is very much involved in this effort to get a bipartisan agreement with respect to a 75-percent allocation of the coverage—we were able to add critical benefits for spouses, which is something that was so important to help people where there was an interruption in coverage.

So what the Senator from Montana has outlined with respect to health care issues was exactly, in my view, how the Senate ought to move to deal with a very real problem but to do it in a bipartisan way. As we began those discussions, we had some folks who wanted to go even higher than the number we set out. Some people said you cannot go there at all because of the deficit.

But we made the judgment on a bipartisan basis that you could not afford not to cover these people because if, for example, as has been documented in the Finance Committee, these people cannot get coverage on an outpatient basis, what will happen again and again is they will face the need to have more extensive and much more expensive medical services. I was very glad the Senator from Montana brought up the bipartisan agreement as it related to the health care issue.

The Senator from Minnesota and the Senator from West Virginia, Mr. ROCKEFELLER, were especially helpful in the efforts led by the distinguished Senator from Montana.

Mr. BAUCUS. Mr. President, might I ask my friend a question? Is it also true that other Senators have contributed to portions of this legislation, such as Senator BINGAMAN who added a provision with respect to trade adjustment assistance on communities; is that not correct?

Mr. WYDEN. The Senator from Montana is absolutely right. A lot of Senators have been at this issue for many of years. Senator BINGAMAN's contribution with respect to community services in the health care area is very important. I heard my colleague from Oregon, Senator SMITH, talk about the health care needs of folks laid off in the high-tech and service areas. He has been supportive as well.

The Senator from Montana is absolutely right. There have been a lot of Senators who have been at it with respect to this issue. It is a bipartisan proposal, but right at the heart of that is dealing with the health care issue. Health care, as we all know, has been the toughest issue for the Senate to deal with for some time. This is an area where there has been a real breakthrough with respect to health care. It had to be bipartisan—the Senator from Montana is right—or a lot of Senators would not be involved.

Mr. BAUCUS. Might I also ask a question of my good friend from Minnesota? This amendment adds new dollars for retraining. Doesn't the Senator agree that the new jobs in the future are going to have to be, for want of a better expression, smarter jobs; that is, even someone who repairs automobiles today has to understand computers? You do not just have a wrench and a screwdriver these days to build and repair cars; you have to learn computer skills, maybe programming skills. Isn't it true, if we are going to compete in the world, that we have to spend a lot of time and effort on retraining because of the additional needs in the future, and that is another reason for supporting this amendment?

Mr. COLEMAN. Mr. President, my friend, the ranking member of the Finance Committee, is absolutely correct. We have the strongest economy in the world. The way we are going to keep that strong economy and keep moving forward is if we have the best training and the best skilled workers.

The reality is the jobs of yesterday may not be the jobs of today or tomorrow. So my friend from Montana is correct in what this amendment does. It provides opportunity for those who may be impacted by a job that may be a job of yesterday, to give them an opportunity to have a job of tomorrow to take care of their families.

I also note in response to the Senator from Oregon, Mr. WYDEN, in talking about the health insurance provisions, we are talking about a tax credit. This is a tax credit. I think that is important. I support tax credits. I think that is a very fiscally responsible way to provide opportunities.

I also note that under the existing TAA, I believe less than 5 percent of those eligible are using this tax credit. The Senate originally intended to do better than that. I was not here in 2002. I am still relatively new in this body, but I have to believe that my colleagues, when they enacted the tax credit, the health insurance provision,

anticipated that more folks would take advantage of it. The reality is they have not. What we are doing here is providing an opportunity to make use of something that I believe was the intention of my colleagues.

As I noted earlier, I found it fascinating in talking with many of my colleagues about the idea that we should extend this to service workers that many of them actually presumed they were included. I think there was an intention in extending TAA 2002 to cover those impacted. What this amendment does is expand it.

I ask a question of my colleague from Oregon, and Oregon is a State known as one of the high-tech centers of this country, is it correct, as I understand, that both the Business Roundtable representing employers and the High-Tech Council have indicated their support of extending TAA to service workers?

Mr. WYDEN. The Senator is right. In addition to the bipartisan support in the Senate, there has been very significant bipartisan support in the business community. There are an awful lot of business leaders who have been looking for these kinds of ideas that the Senator from Minnesota has really touched on. This is a question of updating our law. I don't think anybody got up in the morning years ago and said: Let's be rotten to service workers. That was not what happened at all. I think people just did not really see what a critical role service and high technology were going to play in the economy. The business organizations that the Senator from Minnesota has mentioned do. They get it. They understand it is absolutely critical to not leave something like four-fifths of the workers behind.

I join with the Senator from Minnesota and commend him and thank him for his support.

Mr. COLEMAN. If the Senator will yield for another question, in addition to updating this law, would it be fair to say it would make it easier for folks to use? Today, for instance, current law makes it automatic that you get TAA if it is with a country that has an agreement with the United States. So Mexico and Canada fit into that law. As we read the papers, so many jobs we are talking about today that negatively impact workers are jobs that may be lost to China and India. Would it be fair to say in addition to updating, we make it easier for workers negatively impacted to take advantage of provisions under law?

Mr. WYDEN. The Senator is right. I think it is fair to say that the certification process today for the workers is almost a kind of bureaucratic water torture. It involves essentially a different process with different countries.

What we tried to do in our bipartisan discussions is to try to streamline the process, make it worker friendly. I think this is really going to expedite the processing, expedite the certification.

Obviously when these families are hurting—and we are talking about people who have been laid off after years and years of employment—they are on this economic tightrope trying to figure out how to balance and pay for essentials. The last thing they need to do is jump through hoop after bureaucratic hoop to get these benefits. The Senator from Minnesota is right, that is a significant improvement as well.

Nobody knows more about this subject than the Senator from Montana because he and his staff have worked on this issue at length. Streamlining is very helpful.

Mr. COLEMAN. Mr. President, again I thank the Senator from Oregon and the Senator from Montana for the opportunity I had to work with them on this amendment. I am pleased we are able to include Senator SNOWE's TAA for communities bill and Senator ALLEN's Homestead Act that will protect dislocated workers' mortgages and their homes. Those are also included. I think it adds to the broad bipartisan support this amendment enjoys.

I thank the Chair.

Mr. WYDEN. Mr. President, at one time I had the floor. I yield at this point and again hope the Senate will support the bipartisan initiative that has involved many months of work and is critically needed in the economic challenges we face today.

I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Montana.

Mr. BAUCUS. Mr. President, we have made good progress today. The Senate has had good debate on the Harkin overtime amendment, finally. Senator COLLINS has proposed an amendment on manufacturing jobs credit. Senator WYDEN and Senator COLEMAN have offered their amendment on trade adjustment assistance. I am hopeful the Senate will be able to vote in relation to these amendments tomorrow afternoon.

We are also looking forward to Senators DORGAN and MIKULSKI having an opportunity to offer their amendment on runaway plants tomorrow. Thereafter, we hope to continue to work through other amendments as they become available. We hope to continue to make good progress with amendments and completion of this bill on a fairly timely basis.

Again, I thank my colleagues very much for the work we have done today. We are off to a very good start.

I just feel that we are going to make our way through this bill this week. At least that is my hope. I thank my colleagues.

I yield the floor, and 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 that the order for the quorum call be rescinded.

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

Mr. REID. What is the status of the Senate at this time?

The PRESIDING OFFICER. The Harkin amendment is pending to S. 1637.

Mr. REID. I ask unanimous consent that I be allowed to speak as in morning business.

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

A POSITIVE PRESIDENTIAL CAMPAIGN

Mr. REID. Mr. President, I am very happy for all Nevadans today that Senator KERRY is now beginning a message of positive accomplishments in the State of Nevada. We have waited some time for this. The Democratic nominee was really selected the first part of March. During the 60 days since then, Senator KERRY has been obligated to get his campaign in order after the very difficult and hectic primary.

Of course, during this period of time there has been $70 million spent to try to define him in a way that was very negative. Senator KERRY's message beginning today is one of a very positive message. It, of course, talks about his being a combat veteran and having received a number of awards for heroism during the time he fought in the jungles of southeast Asia. Senator KERRY not only was decorated for his bravery, but some of those acts of bravery occurred during a time when he was injured.

One time when he was injured, he directed fire to protect somebody who had been knocked off his swift boat into the water, and Senator KERRY himself brought this man to safety even though Senator KERRY himself was injured at the time.

The message to the people of Nevada is that he cares about people, especially the middle class. He is a man of principle. I have served with Senator KERRY now in Congress for some 22 years. He has had extensive experience in State government. He has served the people of Massachusetts now for 30 years. I believe he is a man of integrity and that he will establish to the people of this country that he believes in a stronger America. I am very happy the message that is being pronounced today in the State of Nevada and other places in the country is one of a positive nature. I think we need that.

I hope this campaign for the Presidency of the United States can talk about the positive of each of the two men running for President. I can remember when I first ran for public office, no one would ever consider a negative campaign ad. You searched for what was in your record that you could give to the people, in my instance the State of Nevada, and sometimes as a young man it was very hard to find things because you had not had much experience. But these two men now are very mature and both should run on what they can give the American people and not try to downgrade and belittle the other. I repeat that I hope the campaign will be kept on that high basis. There is no reason it should not. The American people, I think, are tired of negative campaigning.

I see my friend is here. I had a longer statement, but I can work on that

later. I don't know if the Senator is wishing to close this body this evening? I am waiting for him to do so.

The PRESIDING OFFICER. The Senator from Kentucky.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

HONORING OUR ARMED FORCES

TRIBUTE TO PAT TILLMAN

Mr. MCCONNELL. Mr. President, in November of 1864, when the ''awful universe of battle'' raged across America, President Abraham Lincoln paused to write a letter to one Mrs. Bixby, the mother of five sons serving in the Civil War.

Dear Madame, I have been shown in the files of the War Department a statement of the Adjutant General of Massachusetts that you are the mother of five sons who have died gloriously on the field of battle.

I feel how weak and fruitless must be any words of mine that should attempt to beguile you from the grief of a loss so overwhelming.

But I cannot refrain from tendering to you the consolation that may be found in the thanks of the Republic they died to save.

I pray our heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

In the face of tragic death, it is beyond my capacity to conceive of the words that could justify the cause of freedom.

Yet with President Lincoln's words of 140 years ago, I cannot conceive of any better words to consecrate the cause of freedom in the face of such tragedy.

As long as freedom last, these words are immortal.

Every President and every leader in the free world since who has had to call upon their soldiers to defend freedom knows of Abe Lincoln's letter to widow Bixby.

Upon hearing of the death in combat of any of our fine young men and women in uniform, all leaders of freedom have searched for the right words and likely returned to those used by the Great Emancipator almost a century and a half ago for inspiration.

Eleven days ago, another costly sacrifice was laid upon the altar of freedom.

Today the people of San Jose, CA will gather to remember one of their honored fallen.

Pat Tillman was no different than any other soldier who served. Those who survive Pat Tillman grieve no differently than the survivors of any other soldier killed in freedom's cause.

Yet Pat Tillman embodies to a Nation the honor and duty of all those who serve in uniform.

Not every soldier is like Pat Tillman, but in each soldier, we find a little of the likes of Pat Tillman.

In my home state of Kentucky, the sacrifice for freedom is real and painful with the loss of too many fine young men.

On April 7, Staff Sergeant George S. Rentschler, 31, of Louisville was lost in action with the 1st Armored Division in Baghdad.

Marine Corporal Nicholas Dieruf, 21, of Lexington was killed in action in Husaybah on April 8.

Sergeant Major Michael B. Stack, 48, of Fort Campbell, serving with the 5th Special Forces Group was lost on April 11 in the al Anbar Province.

And 1st Lieutenant Robert L. Henderson II, 33, of Alvaton, serving with the Kentucky National Guard was killed in Diwaniyah on April 17.

Each of these heroes volunteered knowing that one day they might be called upon for the ultimate sacrifice for freedom.

Like Sergeant Rentschler, Corporal Dieruf, Sergeant Major Stack and Lieutenant Henderson, Pat Tillman heard the call and paid the sacrifice.

With our fallen Kentucky natives, he joins that band of brothers, that noble breed of volunteer militia who so long ago picked up the musket so that freedom might find one sanctuary here on Earth.

Where his forefathers put down their hoe in a cornfield, he put down his helmet on a football field and walked onto the battlefield of freedom.

In dedicating the final resting place of those who died at Gettysburg, President Lincoln stated

But in a large sense we cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract.

President Lincoln concluded:

It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave their last full measure of devotion; that we here highly resolve that these dead shall not have died in vain; that this Nation, under God, shall have a new birth of freedom; and that government of the people, by the people, for the people shall not perish from the earth.

Mr. President, the sacrifice of Pat Tillman—like all those who serve and perish in our Nation's duty, has consecrated the cause of freedom far greater than our words could ever do.

From the last full measure of devotion he gave for a new birth of freedom, it is we who must dedicate ourselves to the unfinished business of government of the people, by the people, and for the people.

THE PROPER ROLE OF THE UNITED NATIONS IN IRAQ

Mr. MCCONNELL. Mr. President, for many months the President's critics have asserted the situation in Iraq would improve if only the administration would cede control over the reconstruction and democratization of Iraq to the United Nations.

While the presumptive Democratic nominee, Senator Kerry, has yet to offer a detailed plan for Iraq, he has made it abundantly clear it involves transferring a significant measure of authority to the U.N. In fact, on December 3rd of last year, he noted:

Our best option for success is to go back to the United Nations and leave no doubt that we are prepared to put the United Nations in charge of the reconstruction and governance-building processes. I believe the prospects for success on the ground will be far greater if Ambassador Bremer and the Coalition Provisional Authority are replaced by a U.N. Special Representative for Iraq.

The U.N. is an immensely valuable organization, and America's significant contributions to the U.N. are a worthwhile investment. The U.N. is often the only entity that can bring international humanitarian relief to needy and impoverished societies across the globe, and its employees and volunteers deserve the highest praise for their selfless acts to bring comfort to the downtrodden.

When civil authorities in dysfunctional states collapse, the U.N. has sometimes averted humanitarian disaster. It can bring relief to failed states in isolated backwaters of the world where the major powers are unlikely to intervene themselves.

The U.N. in such cases plays a critical role and deserves our support for its important efforts. But the United Nations is not a blue-helmeted knight here to slay the dragons of aggression and evil. When the stakes are high and the threat of violence is real, the United States is too often helpless in the face of danger.

Before I turn my attention to the specific reason that Americans should be wary of abandoning Iraq to the United Nations, let me dispel a myth about the administration's foreign policy.

The President's critics often refer to America's efforts in Iraq as unilateralist. This politically expedient fix is an insult to the thousands of men and women from the 30-plus countries who are risking their lives to bring peace and democracy to the people of Iraq. If the President's critics still believe his policy to be a go-it-alone approach, let them repeat that assertion to the families of the Italian, Spanish, Polish, British, Danish, Ukrainian, Bulgarian, Thai, Estonian, South Korean, Japanese, and Salvadoran soldiers and aid workers who have given their lives in Iraq.

Some say United Nations oversight in Iraq would confer legitimacy to the coalition's occupation and reconstruction of that country. I find that hard to believe. Given its role in sustaining the Saddam Hussein regime via the alleged mismanagement of the Oil for Food Program and the refusal to enforce its own resolutions, the United Nations is not in a position to lend legitimacy to a free Iraq. In fact, I think it could be