I do not know what middle-income working families have done to the Bush administration. I really do not understand why they declare war on the working families in this country, but it is war. It is a clear priority that they are not going to be attended to.

We saw recently when we had the whole issue of providing pension relief for multiemployers, the 9.5 million workers who are working, small business, and also those in the building trades and others, 9.5 million who were looking for a similar kind of relief that we were providing for single employers, the administration said no. Those were 9.5 million workers, basically middle-income working families. They said no to them with regard to retirement; no to increasing minimum wage; no to unemployment compensation; no overtime. That is the record.

We have the list the administration talks about. They have 55 categories on that list which has been included in the Gregg amendment, but I do not see the insurance adjustors on that list, I do not see cashiers on the list, I do not see bookkeepers on the list, and the list goes on.

Yesterday, when we raised these questions, we were assured: Oh, no, you just don't understand; you don't really understand. We really provided the protection.

We have the Department of Labor speaking out of one side of its mouth in testimony this morning saying one thing, and now we have something else on the floor of the Senate. Let's get it right, Mr. President. Let's get it right. Let's adopt the Harkin amendment and make sure we are going to say to those Americans who are going to have to work overtime that they are going to be adequately compensated. That has been the law since the late 1930s: a 40-hour workweek, and if you are going to work overtime, you are going to get time and a half.

There are some industries that do not have that protection. I remind workers out there who may be watching this morning that under this administration, you are going to find out you are no longer provided with overtime protection.

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

Mr. BAUCUS. Mr. President, I yield the remainder of my time to the Senator from Massachusetts.

Mr. KENNEDY. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. KENNEDY. Will the Chair remind me when I have 1 minute remaining, please.

This chart shows what happens when you do not have overtime protection. In industries today that do not have overtime protection, the chances of workers working more than 40 hours a week is 44 percent. In companies that have to pay time and a half, it is down to 19 percent. For 50 hours a week, we find out it is 15 percent versus 5 percent.

Once we take leave of overtime protections, workers beware. They are sending a message to you. They can say it is simplification and they can say it is modernization. We know how to do that. The Harkin amendment does that. But if you are talking about working longer, working harder, and making less, you are talking about the administration's position.

Now we are taking a third bite at the apple. First, the administration came out with a proposal, and it was defeated in the Senate and defeated in the House of Representatives. Then they went back. They took weeks and months to redefine it; then they came back and made representations, as the Department of Labor spokesman said, that it was not going to affect anyone between $26,000 and $100,000. Now we have a third introduction on the floor of the Senate just before noon today to make sure that the 55 categories, many of which have been mentioned in the course of the debate, are going to be protected.

Let's just do the job right. Let's just say: Look, American workers are working longer and harder than any other group of workers. This is a chart that shows that workers in the United States of America work longer and harder than any other industrial nation in the world. They are already working longer and harder. They are having a harder, more difficult time making ends meet, as I just pointed out, with the cost of health care, education, mortgage, utilities, the threats to their pension systems, and the outsourcing of jobs across this country. Let's not take away from them the one part of their pay which has been there since the 1930s, and that is the overtime pay. Let's not take that away from them, too.

That is what the administration is attempting to do. The Harkin amendment will resist it. I hope when we have that opportunity—I will vote for the Gregg amendment because it mentions the 55 different categories, even though I think it probably opens up greater litigation in terms of defining what is a ''cook'' and what is a ''chef'' and what is a newspaper person and how that is going to be defined. It is going to open up litigation. Nevertheless, it is an attempt at least in those 55 areas to make sure they are protected. I am going to vote for that amendment, but TOM HARKIN has the right amendment. It is the right way to go, and I hope the Senate will follow his lead.

Mr. President, I yield back the remainder of my time.

RECESS

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

Thereupon, the Senate, at 12:26 p.m. recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Continued

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for up to 20 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

IRAQ

Mrs. BOXER. Mr. President, I thank the managers of the bill for allowing me to have this time. I have been trying to get some time on the floor and sometimes it is difficult.

I am very encouraged by the way the JOBS bill is moving. I am a strong supporter of the bill. I support it in particular because I have been working in four areas. One area is to stop runaway film production, and we have good incentives in the bill to help us with that, which is very important to California. Another area is to encourage the bringing back of capital that has been parked overseas for a 1-year experiment to see if jobs will be created. It is a very good provision, and I hope my colleagues will support it as it was written. That was done in conjunction with Senators Ensign and Smith. Third, there is a provision to give farmers a tax credit for water conservation. Fourth, there is a good provision in there to help our local governments that have been paying the salaries of National Guardsmen and reservists to help them with that financial burden. So I am pleased about that.

I am also hopeful we can get the highway bill, the transit bill, moving because the Senate bill is excellent and I think if the two parties can reach some accommodation, we should be able to get that moving. So between the JOBS bill and the highway bill, we are looking at a tremendous number of jobs. Certainly, regardless of what State one is in jobs are wanted. These are good jobs and I am very hopeful.

I came today primarily to talk about the situation in Iraq. There are many casualties of this Iraq war. Above all are the soldiers who will never return—so far, more than 753 of them. There are the wounded who will need our help to heal physically and mentally—so far 3,864 of them. Then there are the families who, along with their pride, will bear the losses and the scars forever.

There are the innocent Iraqi civilians who are the ones our President says we are fighting for, and others caught in the middle, the press, contractors, diplomats. When the President landed on the aircraft carrier 1 year ago, he told us major combat was over. That was wrong and our casualties have grown. For the sake of the troops, for the love of the troops, we must not add yet another casualty to this war. We must not let truth be a casualty of this war.

The American people need to know the truth. The American people need to see the truth. In a democracy, letting the people know the truth is the essence of what it means to be free. The President says we are fighting for freedom in Iraq, and that is the current mission. Let us not stifle those precious values in our own country that we love so much.

There are some disturbing events going on. Why would we be told by this administration that paying respect to flag-draped coffins of our fallen soldiers is somehow a violation of privacy and the American people would be violating privacy rights if they see those coffins? I think by now all of America has seen those photographs, photographs of those coffins draped with the American flag and the care that is shown to those coffins and those flags by the military. Those pictures we did see were anything but a violation of privacy. They were a moving tribute to our troops. How shocking it is that we only saw those photographs after a Freedom Of Information Act request. We could not get those photographs. How shocking is it that the woman who actually got those photographs out to the public was fired, those dignified pictures.

No one's identity is known when you look at those pictures. All we know is our brave young troops are making the ultimate sacrifice. As one grieving parent said when she saw those pictures, she was consoled at the way her son was treated, with love and respect—and the flag. It was comforting to her. It wasn't a violation of her privacy. Those troops didn't have their names put in those pictures or their faces shown.

Some will say when they view those coffins that we must stay the course. Others will say change the course. That is what I say: Internationalize this, have an exit strategy and a clear mission. Our troops are carrying 90 percent of the burden. So are our taxpayers. So I believe, yes, we need to change this course. It is not working. But we need to give the Iraqis a chance to build their own future. It should be in their hands. It must be in their hands. That is what democracy is all about. We can teach it, we can explain it, but they must want it enough to make it work for them.

The idea of internationalizing this war is not partisan. I am proud to serve on the Foreign Relations Committee where we have agreement between Senators BIDEN and LUGAR about internationalizing. We have Senator HAGEL who is on that side, Senator CHAFEE, myself, Senator DODD, Senator SARBANES, Senator KERRY, and really most of the committee—not all, but most of the committee. So we have a chance to get out of this morass in a bipartisan way.

Backing up a little bit, this administration didn't want us to see the pictures of the flag-draped coffins. Seven stations from Sinclair Broadcasting Group barred viewers from hearing the names of our fallen heroes. The Sinclair Broadcasting Group is a big supporter of this administration.

I asked them why shouldn't the faces of our fallen sons and daughters be seen? Why shouldn't their names be heard? This is America. This is the greatest democracy in the world. But we could lose it as sure as I am standing here if our people are kept from the truth. Yes, in every war people die. In my years in the Congress I voted for two resolutions to use military force. If you vote for war, you need to see the face of it, and so do the American people.

There are many faces to war. There is the face of courage, of bravery, of fellowship. There is the face of fear. Above all, there is love of country.

As we are learning, sometimes the face of war is brutal. Sherman said, ''War is hell.'' Clearly he saw it.

The sickening images of the past few days from war prisons in Iraq do not match with the values and ethics of our country and our people and our military. Something went terribly wrong, and the people at the very top are responsible. There was no talk from the very top about getting to the bottom of this until those pictures made it into the press, those brutal pictures from the prisons. I know we will fix this. We will fix it now because some people in the military had the strength of character to blow the whistle, to tell the truth. I am asking our Commander in Chief to do more than he has done so far, to speak out more, to hold some people at the very top accountable because this scandal has unfortunately hurt our country. It has hurt our cause. It is undermining the thousands of acts of compassion and caring of our military during this rough time.

To win the cause we all believe in, the spread of true democracy all over the world, we need to win by example, not just with speeches but by example; not just with military might but by gaining the respect of the world. To win the respect of the world, truth must never be a casualty of war. Let's hear the names. Let's see the faces. Let's see the courage and the fear and the bravery and the failings. The American people are wise. They will decide from all the evidence whether the course we are on should be continued or whether we need a fresh start, a new plan—whether it is all worth it.

According to a newspaper report, the Army investigative report painted a picture of a prison in Iraq completely in disarray. To me, that is a metaphor for the aftermath of our initial military success, disarray. There is no plan. There is still no plan. And the problem is not with our brave military but from the highest civilian leadership.

We need to measure the dollar cost of this war. So far we have spent $133 billion on the Iraq war, while we struggle to find the means to do what we must at home, for our children, for our health, for our environment. I have a quick list. We have spent $133 billion on this war since March of 2003.

Look at all we spend in a year on drug enforcement, $2 billion. Look at all we spend on education for our children, $58 billion. Look at all we spent for a year on afterschool programs, $1 billion. We spent $6.8 billion on Head Start; total highway spending, $34 billion; the Transportation Security Administration, so important in a war against terror, $4.6 billion; Coast Guard, $6.8 billion; veterans' health, $28 billion; National Institutes of Health, to find the cures for cancer and heart disease, $27 billion; total environmental spending, $8.4 billion; and to clean up the most toxic Superfund sites, $1.3 billion.

This administration is telling us we don't have the money, even though highways and transit is a dedicated tax. Yet we have spent $133 billion in Iraq. It is time for a timeout, to step back from this morass, to hold people accountable, to change course.

I am going to finish up now because I, too, want to move ahead with the bills we have on the Senate floor. But I thought it was worth it to take a few minutes to reflect on where we are.

We have lost 168 Californians to date in this war. I have read their names and will continue to do that. If anyone says I have no right to do this—and no one has—but if anyone does want to shut out my words, I will tell them: This is America, and I love my country because my country is based on freedom.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that at 3:30 the Senate proceed to a vote in relation to the Gregg amendment, to be followed by a vote in relation to the Harkin amendment, with no second-degree amendments in order to either amendment prior to the votes; provided further that all time from 2:15 to 3:30 be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, let me say this prior to not objecting. This is the first significant movement we have had on this bill. We are anticipating moving forward to another couple of amendments and maybe having two other sets of votes prior to our adjourning for the night. I think this is good progress.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. REID. Mr. President, I will use whatever time I may consume.

Before the Senator from California leaves the floor, I want to commend and applaud the Senator from California. No one can ever question her right and her experience in speaking about the military. I can remember

when we served together in the House of Representatives. This new Congresswoman from the State of California raised issues that became known throughout the country, such as the toilet seat which cost $600, and other things. For the first time in this era of Congress somebody looked at abuses taking place with the spending in the Defense Department. No one is more qualified to do that than the Senator from California, especially in light of the fact that almost 200 men and women from the State of California have been killed in the war. This does not take into consideration the hundreds of people who have been maimed, who have lost eyes and limbs and have been paralyzed.

Mrs. BOXER. More than 3,000.

Mr. REID. Certainly no one can question the Senator from California raising this as an issue. I commend and applaud the Senator from California for doing this.

Mrs. BOXER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, actually we are debating the JOBS bill right now. There is a lot of conversation that takes us in another direction. I suspect that is for a very specific purpose—actually to get into Presidential elections. What we ought to be concentrating on is making sure there are jobs in this country. Some of those jobs are at stake right now because the WTO said we violated international law and they placed a 5-percent penalty on companies from the United States, and that penalty grows at 1 percent a month.

While we delay on this bill, the price is going up for American business, and when business declines, the jobs decline. Perhaps that is a point one side would like to make. Maybe that is what they want to have happen. I don't want jobs to decline. I don't care who is President or what the race is. It is very important we get jobs.

Part of the discussion we have entered into under this JOBS bill has been one about the overtime rule the Secretary of Labor has published. We have heard a lot of comments about overtime from our colleagues on the other side of the aisle. I want people to know the rest of the story. I want people to be aware of the smokescreen that covers election year politics with misleading rhetoric about overtime pay. It is time to strip rhetoric from reality, look through the smokescreen, and see who is really helped and hurt by Senator HARKIN's attempt to block the Department of Labor from updating the rules governing overtime eligibility for white-collar workers. That is right, the word is ''updating.'' The Department was told by GAO the rule needed to be updated. The rule was outdated. The rule referred to things people cannot possibly comply with because nobody knows what they are anymore. It is confusing as well.

The Senator from Iowa has proposed keeping the trial lawyers' dream. He wants to keep the gray area in the bill as an addition to the rule. Yes. There is a gray area. I can tell you this mostly affects small businesses. I can tell you small businesses realize it is going to cost them about $375 million a year in overtime. I don't know how we can talk about a decrease in overtime when it costs them $375 million more in overtime, but to have the gray area cleared up they are willing to do that. Why are they willing to do that? Because right now that $375 million potential is for lawyers' fees to decide gray areas. Who needs that? We would rather put the money in the workers' pockets.

This clarifies who gets overtime, but it clarifies it more broadly than anything we have ever done before. Do you know right now the only people who know for sure they will get overtime are those who make less than $8,060 a year? Yes. If you earn over $8,060 a year, you move into this gray area where you may have to hire an attorney to help you figure out whether you get overtime. The small businesses have to do that.

This rule the Department of Labor has issued is going to raise that $8,060 to $23,660—pretty much triple the amount. It is long overdue. It needs to be done, and it was willing to be done from the very beginning.

The Department also put in there that white-collar workers earning over $65,000 were not assured of overtime. They listened to 75,000 comments and said, We picked the wrong number. It should be over $100,000.

You notice I mentioned white-collar workers. Blue-collar workers are exempt and assured of the overtime. It doesn't have the $100,000 limit on it.

Another thing that disturbs me about the debate we are having is the implication that without a rule, without a law, there would be no overtime. I want you to know there are businesses—particularly small businesses—out there that are not only paying overtime for some special tasks, but they are paying double time and triple time to be sure they have the workers they need to do the job.

There needs to be a rule. The rule needs to be one that is newer than the 50-year-old one so we can understand the jobs that are being talked about.

Last March, the Department solicited public comments on a proposal to update these regulations. They received more than 75,000 comments on the proposal. I happen to believe public comment plays a critical role in the regulatory process. We want the public to comment on any new rule being written. We then want the Department to review these comments and to respond to them. That is how the process is supposed to work. This is the regulatory process Americans expect and deserve. I have seen times before when agencies did not pay attention. Then it became critical for us to do something. That is not the case in this instance. They listened to the 75,000 comments that were sent in writing. It is obvious they listened to the comments on this floor, and they made those revisions in the rule before they published the final rule. The Department of Labor carefully considered those 75,000 comments. They listened to the concerns of the American people, and then they did the final overtime rule and they made substantial changes to the proposal.

I have my own concerns with the proposed rule. In fact, I wrote a letter to Secretary Chao, along with Senator COLLINS, asking the Department to pay particular attention to protecting the overtime status of public safety officers, veterans, and nurses.

I ask unanimous consent that a copy of the letter 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, April 16, 2004.

Hon. ELAINE L. CHAO,
Secretary of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

DEAR SECRETARY CHAO: We want to take this opportunity to applaud the Department of Labor's efforts to update and clarify the rules *Defining and Delimiting the Exemptions for Executive, Administrative, Outside Sales and Computer Employees.* The proposed rule revises the definitions of ''executive,'' ''administrative,'' and ''professional,'' employees considered exempt from the Fair Labor Standards Act overtime compensation requirement.

The workplace has dramatically changed during the last half century. However, the regulations governing the overtime exemption for such employees remain substantially the same as they were fifty years ago. As our economy has evolved, new occupations have emerged that were not even contemplated when the current regulations were written. The Department of Labor has undertaken the difficult but necessary task of updating the rules to reflect the realities of the 21st Century workplace. In so doing, the Department will extend overtime protection to an estimated 1.3 million low-wage workers.

The Department of Labor has received approximately 80,000 comments to the proposed rule. We happen to believe that public comments play a critical role in the regulatory process. The Department of Labor has the responsibility, and must be given the opportunity, to review these many comments. We urge the Department to carefully consider all of the public comments in crafting the final regulations.

We ask the Department of Labor to pay particular attention to concerns that have been raised regarding the overtime status of public safety officers, veterans, and nurses. The final rules should clearly reflect that the overtime rights of public safety officers, veterans, and nurses will not be restricted. These individuals have devoted their lives to protecting the lives of Americans. They deserve our protection as well. We also ask the Department of Labor to be responsive to the needs of small businesses in finalizing and providing compliance assistance on the rule.

We look forward to the Department of Labor publishing its final rule that is responsive to the public comments received and the concerns we mentioned.

Sincerely,

MICHAEL B. ENZI,
SUSAN M. COLLINS.

Mr. ENZI. Mr. President, we asked the final rule clearly ensure the overtime rights of these workers would not

be restricted. I am very pleased the Department made the changes to clearly reflect the overtime rights of public safety officers, veterans, and nurses would not be restricted.

Let me highlight some of changes that were made in the final rule to better protect the overtime rights of workers and many others.

The final rule states first responders such as police, firefighters, paramedics, and emergency medical technicians are eligible for overtime pay. No question; no gray area, it clears it up.

The reference to training in the Armed Forces has been deleted and clarifies that veteran status does not affect overtime. The veterans will get their overtime regardless of the training received in the armed services.

The final rule also states licensed practical nurses do not qualify as exempt learned professionals and are therefore eligible for overtime pay.

The final rule retains previous law regarding registered nurses which assures them of overtime.

The final rule provides blue-collar workers are eligible for overtime pay.

To be considered exempt from overtime, the salary level for highly compensated employees is the final rule which has been increased from $65,000 to $100,000.

The final rule clarifies the contractual obligation under collective bargaining agreements is not affected.

The final rule maintains the previous law requirement that exempt administrative employees must exercise discretion and independent judgment.

The final rule clarifies there is no change to current law regarding the educational requirement for the professional exemption.

Significant changes were made to address the concerns raised about the proposed rule. This is exactly how the public comment period is designed to work and exactly how it did work in this situation. The regulatory process worked, and we have a final rule that is better for both workers and employers.

Again, we are talking about the small businessmen who do not have time to go through a lot of this or have the ability to hire attorneys to figure these things out. We need to keep it simple and understandable. The rule does that.

Before the final rule was published, my colleagues on the other side of the aisle stood in the Senate and blasted the proposed rule on the very issues that the final rule corrects. The Senator from Iowa still wants to block the Department of Labor from updating the rules governing overtime pay for white collar employees. This would, in effect, tell the American people that the public's role in the regulatory process means nothing. This would say those 75,000 comments mean nothing. This would leave complex and confusing rules that have not been significantly changed in 50 years. We owe all our constituents more than that.

When I am back in Wyoming, I like to hold town meetings to find out what is on the minds of my constituents. At each town meeting there is usually someone in attendance quite concerned about government regulations. I am often told to rein in big government and keep rules simple, keep them current, keep them responsive, keep them understandable for small business, and make sure they make sense in today's ever-changing workplace.

My colleague on the other side of the aisle would take the opposite approach. Instead of keeping it simple and current, he wants to keep all of the gray areas from before and impose them on a second set of regulations. That is what we need—multiple sets of regulations; now a misunderstandable set with a new set imposed on it, protecting the old set so the trial attorneys' dream still exists. He wants to prohibit the Secretary of Labor from updating the outdated rules regarding white collar employees under the Fair Labor Standards Act overtime requirements. Simply put, it is an attempt to reject the new, turn back the clock, and look to yesterday for the answers to tomorrow's problems. The amendment keeps the confusion. It is an approach that is doomed to failure. I am opposed to it.

There is no question the workplace has dramatically changed during the last half century. The regulations governing white collar exemptions, however, remain substantially the same as they were 50 years ago. The existing rule takes us back to the time when workers held titles such as straw boss, keypunch operator, leg man, and other occupations that no longer exist today. Our economy has evolved. New occupations have emerged that were not contemplated when the regulations were written. A 1999 study by the General Accounting Office, GAO, recommended that the Department of Labor comprehensively review current regulations and restructure white collar exemptions to better accommodate today's workplace and to anticipate future workplace trends. This is precisely what the Labor Department has done.

What will Senator HARKIN's effort to block the final rule do? It will set the clock back to 1954 and try to force a square peg—the 21st century jobs—in the round hole of the workplace 50 years ago. Worse, it keeps the gray areas of the past rule instead of clarifying. This obstruction will undermine the Department of Labor efforts to extend overtime protection to an additional 1.3 million low-wage workers. Under the old rule, only those workers earning less than $8,060 a year are automatically protected for overtime pay. The Department's new rule will raise this threshold to $23,660 a year. The final rule provides lower income workers with the protection they deserve.

By undermining the Department's efforts to better protect lower income workers, who is this amendment going to protect? The Department determined that few, if any, employees earning between $23,660 and $100,000 will lose their overtime pay under the new rule. The Department estimates that 107,000 employees who are earning over $100,000 could—could but not necessarily would—lose their overtime. Could our colleagues be willing to deny overtime pay for an additional 1.3 million low-wage workers in order to protect the overtime for the 107,000 workers earning above $100,000? Is Congress going to undermine the purpose of the Fair Labor Standards Act, which is to protect low-wage workers?

The Senator from Iowa and his effort to block the final overtime rule will not protect first responders, veterans, blue collar workers, or nurses. The final rule has been improved to clearly protect the overtime rights of these workers. Therefore, the opponents of updating and clarifying the white collar overtime rule had to come up with new objections. No lawsuits necessary, it is very clear. That is what the Department intends.

On April 13, the AFL–CIO released and began soliciting contributions for a political TV ad attacking the Department of Labor final overtime rule. Here is what is interesting about that: That attack came a week before the final rule was publicly available, before they knew what was in it. Such tactics suggest a greater interest in playing election year politics than in protecting workers.

Let me respond to some misleading claims about the final rule. Some have claimed that team leaders will lose overtime pay under the final rule. In fact, the new rule will guarantee overtime protection for blue collar team leaders and is more protective of overtime pay for white collar team leaders. Furthermore, there is no change to current law regarding the overtime status of computer employees, financial services employees, journalists, insurance claims directors, funeral directors, athletic trainers, nursery schoolteachers, or chefs.

It is time to get beyond the election year rhetoric and misleading information about who is supposedly harmed by the Department's new overtime requirements; therefore, I am supporting the amendment offered by Senator GREGG of New Hampshire to require the final overtime requirements to safeguard the overtime rights of workers earning less than $23,660 and certain categories of workers that some erroneously claim would lose overtime rights. His amendment very specifically names those and assures those rights. It is in the rule as well. I am confident the final regulations published by the Department of Labor on April 23 already do that, too.

The Gregg amendment serves to make it clear that it is the intent of Congress to ensure that the overtime rights of 55 listed occupations and job classifications are not weakened. These occupations and job classifications include the team leaders, registered nurses, the licensed practical nurses, oil and gas workers, refinery workers,

steelworkers, shipyard workers, journalists, firefighters, police officers, nursery schoolteachers, and financial services workers, to name a few.

The Harkin amendment effectively blocks the Department from extending overtime pay to low-wage workers and updating confusing overtime requirements. In contrast to the Harkin amendment, the Gregg amendment does not undermine the Department of Labor efforts to update and clarify the overtime requirements and extend overtime protection to 1.3 million low-wage workers and clear up these gray areas that just help the attorneys. The amendment offered by Senator GREGG will ensure that the overtime rights are guaranteed to those 1.3 million low-wage workers, strengthened for another 5.4 million workers, and clarified for all workers and employers.

The antiquated and confusing white collar exemptions have created a windfall for trial lawyers. Ambiguities and outdated terms have generated significant confusion regarding which employees are exempt from overtime requirements. The confusion has generated significant litigation and overtime pay awards for highly paid white collar employees. Wage and hour cases—this is important—now exceed discrimination suits as the leading type of employment law class action. The amendment assures those gray areas will stay, causing court action right now. The new rule clarifies and requires these areas be cleared up, but more clearly states the people who will absolutely get overtime. It states who will be entitled now. It protects the workers and puts the money in the workers' pocket, not in legal action. If these rules are clear, employers will know when they are complying with the law. This is important, particularly and especially for small business. That is for whom I always make my pleas.

Small businesses are the only ones being punished by the rules. They don't have the specialists to determine the gray areas. So they wind up in court having to solve the gray areas after the fact. It is much better to solve it before the fact. We have to worry about small businesses which should not have to rely on lawyers or accountants to tell them how to pay their employees.

The Department of Labor has estimated these new regulations are going to cost employers an additional $275 million on an annual basis. However, the new overtime rule will provide much needed clarity.

As a former small business owner, I know employers want to be able to pay their workers, not their lawyers. The Harkin blocking amendment would only add to the current state of confusion. Instead of preserving overtime rights, which the Harkin amendment purports to do, it will create even more complexity and litigation, piling rule on rule.

The blocking amendment creates a two-tiered scheme which would require two different tests to determine a worker's overtime status. The present gray area and the other one would have to be worked to be combined. So anything that would have been a gray area before will still be a gray area. It will freeze workers in jobs they have outgrown. The blocking amendment will mire the final overtime regulation in years of litigation, likely preventing them from ever taking effect.

The only clear winners for the effort to block the new rule will be the trial lawyers who will benefit from a continued state of confusion. Most people would prefer to live in a different state than that. We are spending taxpayer dollars sorting through cases that could be solved with clarity.

Under the blocking amendment, workers will still have to wait years for a court to act before they could receive the overtime pay they deserve. Why should the United States stand in between workers and their overtime pay? We need to defeat the blocking amendment that would block the final rules from taking effect. We need to ensure that American workers deserving of overtime pay will see their hard work reflected in their paychecks, not in litigation.

Today's Washington Post editorial urges lawmakers to hold off blocking the new overtime rules from taking effect. I ask unanimous consent to print the editorial in the RECORD.

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

[From the Washington Post, May 4, 2004]

OVERTIME IMPROVEMENT

Last year the Labor Department drew widespread criticism for proposed changes to overtime rules for white-collar workers. We agreed with critics who said the new rules tilted to employers and risked depriving too many workers of pay to which they are entitled. Now Labor has revised its proposal, and the new rules, while still worrisome in some respects, are substantially improved.

Unions and their allies, with some basis for being suspicious of this administration's attitude toward workers in general and the overtime question in particular, argue that the regulations still would unfairly jeopardize the overtime rights of millions of workers. They are pressing for a Senate vote, expected today, that would block the rules from taking effect. We think lawmakers should hold off. If the regulations are inconsistent with the federal law designed to protect the right to overtime pay, they can be challenged in court. And if employers exploit the regulations to unfairly deny overtime pay to workers, they, too, are subject to being sued. In the meantime, the new rules offer some significant benefits for workers.

At issue is the meaning of the Fair Labor Standards Act, which guarantees time-and-a-half overtime pay for those who work beyond the standard 40-hour week. That 1938 law makes an exception for white-collar workers—those in executive, administrative and professional positions. Figuring out who falls into this category has become a particularly byzantine area of labor law, and the regulations outlining the exceptions haven't been updated for 50 years.

The Labor Department's changes would guarantee overtime rights for workers who earn less than $23,660 a year, even if they are ostensibly white-collar. That's up from the current, woefully outdated level of $8,060 and a slight increase over the original proposal. It would have been even better to adjust the salary level to keep pace with inflation (bringing it to about $28,000) and —given that it took three decades to make this change— to build in indexing for inflation. At the higher end of the income scale, the new rules would make workers who earn more than $100,000 largely exempt from overtime eligibility, a significant increase from the original proposal, which would have capped overtime rights at $65,000.

The more complicated issue involves changes in determining which workers fall into the category of executive, administrative or professional employees not entitled to overtime pay. The department says it expects that few, if any, workers would lose overtime protections; labor groups insist otherwise.

Opponents point to such provisions as the ''concurrent duties'' rule, which would permit workers to be considered executives ineligible for overtime even if they perform non-managerial jobs. For example, assistant managers could stock shelves, cook food, serve customers and still be ''executives'' if their ''primary duty'' is management. Another provision would allow workers to be considered exempt ''administrative'' employees if they lead a team on a ''major project,'' including improving workplace productivity.

Depending on how they are implemented, these exemptions, and others, could be reasonable reflections of a modern workplace, or they could be abusive incursions on workers' overtime rights. What's needed now is not to block these regulations but to ensure that they are vigorously enforced with an eye to protecting the vulnerable workers the law was intended to benefit.

Mr. ENZI. The Washington Post states:

What's needed now is not to block these regulations but to ensure that they are vigorously enforced with an eye to protect the vulnerable workers the law was intended to benefit.

I urge my colleagues to support the Gregg amendment which will allow the Department of Labor to provide clearer and fairer overtime rights for workers. I also urge my colleagues to oppose Senator HARKIN's reform blocking amendment which will only line the pockets of the trial lawyers.

I yield the floor and reserve the remainder of our time.

Mr. KOHL. Mr. President, last year, the administration proposed rules that would force millions of workers to work longer hours for less pay. Firemen, nurses, policeman, factory workers faced 50, 60, even 100 hour work weeks at 40 hour-work-week rates of pay. Two years of technical college education, military training, or even a few administrative duties would have been enough to deny workers overtime—permanently.

In response to majority votes in both Houses of Congress—and public outcry throughout the Nation—the administration recently issued a modified rule governing overtime. And that's good, but not good enough.

While the new rule is an improvement, it still comes up short. Thousands, maybe millions, will be left working more for less—and that is just wrong.

The law governing overtime, the Fair Labor Standards Act, FLSA, was designed in the 1930s to encourage companies to stick to a 40-hour work week. At that time, employers routinely required workers to put in 7 days a week, 10, 12, even 15 hours a day. That left the workers with jobs no time for rest, family, or even their own health. And it left many others in those tough times without jobs at all. The choice was harsh—work yourself to death in order to feed your family, or starve your family and yourself trying to survive jobless during the Great Depression.

In passing the FSLA, Congress hoped that the required ''time and a half'' for overtime work would be an incentive to employers to stick to a 40-hour work week. Today, that goal is still distant as companies routinely require workers to work more that 40 hours. American workers work more hours than any other industrialized nation, except South Korea. And the overtime pay, rather than being a disincentive to employers, has become a necessary income source for many American families.

That overtime comes at a high price for most American workers. It means less time with family, fewer school events attended, and soccer games missed. Like in our past, the worker's choice is a harsh one—earn the extra income needed to meet a family's material needs, but sacrifice the family time that meets their emotional needs. If the Administration prevails, thousands, maybe millions, of hardworking families will see their sacrifices seriously devalued.

The administration argues it needs to make these changes to make it easier for business to correctly classify its workers. But this rule is unlikely to clarify anything for small business. The rule, with all the support material, is over 500 pages. We have not simplified anything. New court cases will be brought, and new guidance will be written. Employers will still struggle with the issue of who their professional employees are, and who is management. The very people that the administration is trying to help are unlikely to find this easier to understand.

The new rule also contains troubling exemptions of entire jobs and industries. It exempts from overtime ''team leaders,'' even though these employees may have no supervisory role, or any real authority over the people they are supposed to be leading. Other groups of workers are classified as exempt by the Department of Labor, with little discussion. Certain industries have worked for years to get out of paying overtime to their workers—and the rule's list of exemptions reads like a roll call of those that succeeded. For reasons unclear, even after 500 pages of explanation, journalists, personal trainers, financial services workers, and computer industry workers—to name just a few classes—are summarily ineligible for overtime.

The current overtime rules are not perfect; they were written many years ago in a different industrial age. They should be updated; the wage thresholds should be changed. But the administration's rule—even in its more moderate incarnation—does much more than update. It changes the fundamental nature of the overtime portions of the FSLA—from rules designed to fairly compensate workers for onerous overwork to a system where certain favored industries can return to a depression-era policy of more work for less pay.

We all believe that hard work should be rewarded. Our country achieved greatness through the sacrifices and sweat of our working men and women. Today, sadly, these workers are not celebrated, but squeezed—forced to work more for less by harsh international competition from countries with few or no labor standards and faceless international conglomerates with no concept of family or community. We have a choice in this matter. We can let unfettered economic pressure lower wages in this country and around the world, or we can work to uphold standards here, and demand them around the world. Any weakening of the overtime rules is a step down on the ladder of economic progress.

Mrs. FEINSTEIN. Mr. President, last year the White House proposed redefining the job descriptions of millions of workers and thus eliminating their right to Federal overtime protection.

After several in this Chamber raised serious concerns over such a change, the administration released final rules that make significant, but insufficient, changes to those draft rules. Left alone, these rules will take affect later this year.

I support the Harkin amendment because it is sensible and protects hardworking employees. The amendment simply prevents the White House from implementing changes in existing overtime laws that reduce the number of jobs protected by those laws.

The stated objective of the administration is to increase worker protection. This being the case, I would think this amendment would be an easy accommodation for the President to make.

However, if the numbers of the Department of Labor are correct, then more the 117,000 individuals could lose overtime protection. If they are wrong, it could be millions.

These rule changes would wipe out overtime pay protections and increase work hours. In California alone, several hundred thousand workers could lose their Federal overtime protection. However, State law will continue to protect most workers from the deleterious effects of this rule change. But some public employees and many in the film industry won't be so lucky.

Although most workers in California will maintain their right to overtime through protections granted by State law, the rule change represents a movement in the wrong direction when it comes to enhancing worker protections.

As we all know, losing overtime pay protections would also result in huge pay cuts for many workers. This is an issue of fairness. Our workers are more productive then ever and yet President Bush feels that it is necessary to penalize those very individuals who have literally built this Nation.

Those hurt most will be disproportionately women and minority. They will be mostly middle and lower income. They will be struggling to make ends meet and they will be worrying about paying the mortgage.

Given the still high unemployment rate and the uncertainty still plaguing our economy, this is not the time to be making it harder for workers; rather, it is a time when we should be helping all workers achieve fairness in the workplace.

It is well known that by requiring companies to respect the 40-hour work week, we encourage businesses to hire additional workers. With more than 8 million people still out of work, we should continue to encourage companies to maximize employment while respecting the workforce they have.

I urge my colleagues to support the Harkin amendment.

Mr. BYRD. Mr. President, it is appropriate on a trade bill such as the one now pending before the Senate, that we, at long last, engage in a debate about the standard of living for American workers.

The establishment of the 40-hour work week and a worker's right to overtime pay in 1938, fulfilled President Franklin Roosevelt's promise to workers to end starvation wages and intolerable working hours.

That same year, President Roosevelt called it ''the most far-reaching, farsighted program for the benefit of workers ever adopted here or in any other country.'' It is unsettling to watch, 55 years later, as a successor to President Roosevelt seeks to limit the scope of that far-reaching legislation.

President Bush's overtime rule promotes a thoroughly un-American notion of fair compensation for some, but not for all.

Through its overtime rule, the Bush administration has sought to dictate who will receive overtime pay and who will not. It has sought to dictate whose extra work will be recognized and valued and whose will not.

While guaranteeing overtime pay for some workers, the Bush administration rule would take it away from registered nurses, nursery school teachers, cooks and chefs, and employees of the financial services industries. It would take overtime away from insurance claims adjusters; sales representatives; and computer network, Internet, and data base administrators. It would take overtime pay away from so-called ''team leaders'' in factories, refineries and chemical plants; from employees who perform administrative, management or professional work; from television, radio and newspaper journalists.

The President cannot explain why some workers should be entitled to overtime pay and others should not. The Labor Secretary cannot explain why. I doubt that anyone can explain why.

This rule threatens the overtime pay of millions of workers earning more than $24,000 per year. I hope that workers listening, even if they do not receive overtime pay, won't be fooled into believing that this issue does not apply to them. If workers are suddenly no longer eligible for overtime, what's to stop their bosses from working them 60 hours per week? Or 70? Or 80?

We are told by some that the economy is improving, and workers are strong enough to endure the loss of their overtime pay.

Whether we call it an economic recovery or the worst job market since Herbert Hoover; it makes no difference.

The fact is that millions of workers have lost their jobs or have seen their friends or members of their families lose their jobs. They have had their work days scaled back from a full work week to half-days, to half-weeks. They have had to accept cuts in their health care benefits and pension benefits to keep their employer out of bankruptcy.

These workers have little patience for election-year hyperbole that prosperity has returned, that wages are adequate.

Workers read about an alarming trade deficit and the outsourcing of jobs overseas, and they wonder if their job will be next. They see their health care premiums rising, their savings being depleted, the specter of unemployment on the horizon, and want to know why their government cannot do more about it.

Workers wonder if their President understands these fears. Time and time again, this administration has shown that it does not.

Little by little, the Bush administration is chipping away at the rights and protections due American workers. It has blocked action on the minimum wage. It has blocked an extension of unemployment benefits. It has furthered the erosion of pension and health care benefits. It has curtailed the safety and health protections won by the labor movement in the 20th Century.

This is not the record of an administration that understands the plight of American workers. To the contrary, this is an administration that has demonstrated a callous—almost smug—disregard for their plight. This is an administration that has abandoned the very American ideal of inspiring other nations to improve working conditions and to lift their working class.

We must not allow ourselves to be deceived by temporary employment gains which depend on the wasteful exploitation of resources and which cannot last. Workers should not be satisfied with present conditions.

One worker need not sacrifice his overtime pay to guarantee it to another. One worker need not forgo his retirement security or health care security to provide it to another.

In one of his renowned fireside chats to the Nation, President Roosevelt told workers: ''Do not let any calamity-howling executive . . . who has been turning his employees over to the Government relief rolls . . . tell you . . . that [a minimum wage] is going to have a disastrous effect on all American industry.'' President Roosevelt's message to workers is unmistakable. Don't let any business lobby, any elected representative, any President, tell you that a fair wage for your labor is too much to ask.

After 52 years of public service in Washington, serving in 26 Congresses and with eleven presidents, I am still convinced that the American people retain a sincere respect for the promise that extra work should yield extra benefits. Overtime is a means for workers to secure for their children a chance at a better life, to ensure for themselves a secure retirement.

It is an essential part of our social economy. It has the overwhelming support of the American people in every walk of life, and the Senate would do workers a disservice by allowing to stand the Labor Department's thoroughly egregious misinterpretation of Franklin Roosevelt's promise to them.

Mrs. CLINTON. Mr. President, I rise today in strong support of the Harkin amendment because I believe it is the right thing to do for New York's working families.

The Harkin amendment is very simple. It says that not a single worker who is currently eligible for overtime pay should be denied that right. And I have yet to hear a compelling reason that some workers currently eligible for overtime should lose that eligibility. In fact, the Department of Labor argues emphatically that few if any workers will actually lose eligibility. Well, if few if any workers will lose overtime eligibility then I see no reason why the Department of Labor shouldn't support the Harkin amendment wholeheartedly.

Of course, the reality, as those at the Department of Labor well know, is that plenty of workers will lose eligibility for overtime. Let's look at the facts. Registered nurses will be in danger of losing their eligibility because, for the first time, it will be easier to classify those who are paid hourly as ''salaried employees.'' It will also be easier to classify them as ''team leaders.'' Journalists will lose their automatic overtime protection. Veterans who do not have a 4-year degree will be much more easily classified as professional employees and denied overtime eligibility. Workers in the financial services industry—and I represent many of them—will lose their overtime protection if they do not exercise independent judgment and discretion. Chefs. Funeral Directors. Embalmers. Insurance Claims Adjusters. Salespeople. Software engineers. Computer programmers. All will be vulnerable to the loss of overtime—and therefore face significant pay cuts.

The list goes on and on and on. And these are just the consequences analysts can foresee. What does the loss of overtime mean? Let's put it in human terms. It's a 25 percent pay cut. It is $161 a week on average. And—as importantly—it's time with your family. This is not trivial. At its very core, this issue is about our American values of work and family. Workers stripped of their overtime protection would end up working longer hours for less pay. That translates into less time with their children, less time with their parents, their spouses, less time to volunteer and contribute to the fabric of our community. More work hours, for less pay, and less family time—that is not the American way.

This regulation would make unpaid overtime a household word and make it easier for bad-faith employers to coerce other workers into accepting time off instead of overtime pay.

Now, I know there is strong support in this Chamber to protect the rights of workers to receive overtime because we've done it before. Back in September, we passed a very similar amendment to prevent the Department of Labor from promulgating any amendment that denied overtime from any worker currently eligible. Republicans in my State crossed party lines to block this regulation in the House—and I applaud them for doing so. They know how many New Yorkers rely on overtime pay—not as a luxury, as a necessity.

Back then, despite strong bi-partisan votes in the House and Senate, the extremist right wing leaders in the House and Senate neglected to include the language in the final appropriations bill. They made a mockery of the democratic process.

But with this vote today we prove that we will keep fighting for the rights of working people. We may be overruled—as we were before—but we will not back down.

So, I urge my colleagues to support the Harkin and to reject the Bush administration economic policy of tax cuts for wealthy; pay cuts for the workers.

Mr. FEINGOLD. Mr. President, I rise in strong support of the Harkin amendment, of which I am proud to be a cosponsor.

The Bush administration's final overtime regulation is much the same as its proposed regulation. The largely cosmetic changes that the administration grudgingly made at the eleventh hour did not change the rule's result: the loss of overtime benefits for millions of American workers, many of whom rely on overtime to help support their families. Making a bad proposal a little better does not mean a good result for American workers. As a recent editorial in the Milwaukee Journal Sentinel rightly pointed out, ''. . . why hurt anybody? Gain for some workers

shouldn't mean pain for others.'' I could not agree more. And this rule will lead to uncertainty for millions of hard-working Americans and their families who rely on overtime pay to get by.

It is true that the new rule increases the minimum salary threshold to $23,660, thereby ensuring that workers who are earning less will be guaranteed overtime pay. While this is a positive step, it is regrettable that this increase does not keep up with inflation, especially since it has been 29 years since the last adjustment.

In addition, this rule exempts so-called ''highly compensated'' employees who earn more than $100,000 per year and have one job duty that can be classified as administrative, executive, or professional. This is a new exemption which is not indexed for inflation, thus leaving even more workers open to a loss of overtime benefits in the future.

But those who are in the most jeopardy of losing their overtime benefits may be those workers whose salaries fall between $23,660 and $100,000. These workers are not guaranteed overtime, and the new duties tests included in the final rule could strip overtime pay from millions of these low- and middle-income Americans.

The final rule changes the process by which a worker can be declared to be exempt from the wage and hour protections of the Fair Labor Standards Act (FLSA), thus opening the door to denial of overtime benefits to millions of workers who currently are entitled to this extra pay for working more than 40 hours per week.

In essence, this rule, which we will allow to move forward if we do not pass the Harkin amendment, will create a larger force of employees who can be required to work longer hours for less pay. This could also mean fewer opportunities for paid overtime for the workers who would remain eligible for it.

Who are these workers? They are veterans, registered nurses, journalists, financial services employees, assistant managers, team leaders, chefs, insurance claims adjusters, and computer employees, just to name a few. And several industries successfully lobbied the administration to include specific exemptions for their employees—exemptions that have been pending in Congress for a number of years and that have not been adopted. And the rule contains a roadmap for employers who wish to find ways around paying overtime to those workers who are still eligible for it.

The administration's public relations campaign on this rule does not reflect the reality of this rule. It will deny overtime to millions. It will, despite the administration's claims to the contrary, have a negative effect on veterans, on blue collar workers, and on union members. I find it interesting that the Department of Labor's materials for this rule call it ''Fair Pay: Overtime Security for the 21st Century Workforce.'' There is little that is fair about this rule for the millions of workers who are poised to lose their overtime pay if this rule takes effect as scheduled in August.

I am also deeply concerned about the process by which this rule was finalized. A small number of Members of Congress and the administration were able to run roughshod over the will of a bipartisan majority of the Senate and the House to resuscitate this proposal by deleting language that would have blocked it from the omnibus spending bill. I regret that the administration resorted to veto threats and backroom negotiations to save this proposal, which is the latest in a series of assaults on working Americans that have been perpetrated by this administration. Right out of the gate, the President made it his first legislative priority to overturn a federal ergonomics standard that was more than ten years in the making. In addition, this administration has launched a campaign to aggressively contract out Federal jobs, systematically dismantle the Federal civil service system, gut worker protections, and undermine collective bargaining rights. And this administration contends that outsourcing jobs to other countries is good for the American economy.

With so many long-term unemployed workers and others working more than one job and depending on overtime just to make ends meet, it is unfortunate that the administration dug in its heels on a proposal to deny overtime to many of those who need it most. And it is unfortunate that the final rule does so little to improve the proposed rule, which a majority of the Senate and the House are on record against.

I urge support for the Harkin amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

Mr. REID. Mr. President, I ask unanimous consent each side be allowed an extra 3 minutes. So the vote, instead of being at 3:30, would be at 3:36 or thereabouts.

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

Mr. REID. Mr. President, I ask that the time on this side be allotted 8 minutes to Senator HARKIN, 7 minutes to Senator KENNEDY, 7 minutes to Senator DODD, and 5 minutes to Senator SPECTER.

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

Who yields time?

Mr. SPECTER. Mr. President, I believe I have been yielded 5 minutes by the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. BAUCUS. The Senator has 5 minutes on this side and 5 minutes on the majority side, a total of 10.

Mr. SPECTER. Parliamentary inquiry: Is it true that I have 10 minutes?

Mr. BAUCUS. Mr. President, we will find it.

The PRESIDING OFFICER. The Senator may proceed for 10 minutes.

Mr. SPECTER. Mr. President, at the outset I wish to put on the record my concerns about not being protected on time. Through my deputy, I had called the cloakroom to advise that I wanted to speak on the bill. I had intended to come to the floor and to ask some questions of the Senator from Iowa, Mr. HARKIN, and the proponent from New Hampshire, Senator GREGG. I would have objected to a time agreement had I been notified, if I have to be on the floor to protect my rights at all times. My deputy asked for 10 minutes, which was not my instruction, but that is my problem. But then I didn't even have 10 minutes.

When I came out I found there was time allotted, but to get 10 minutes I had to negotiate with Senator GRASSLEY. Senator GRASSLEY didn't want to give me time because I would end up with Senator HARKIN, although I had intended to try to find out a little more about the two pending amendments. So I think we have to be a little more considerate about Senators who notify the cloakroom that they want time so their rights are protected so that every Senator does not have to sit here all day long.

The Appropriations subcommittee which I chair, the Subcommittee on Labor, Health and Human Services, and Education, had a hearing this morning. This is a very complicated regulation. I had intended to try to have a colloquy with a number of Senators to find out a little more about what this regulation really means.

On the face of it, as we had discussed at the hearing this morning, there is very little change between current regulation on administrative employees and the proposed final regulation. For example, the current regulation defines administrative employees as ''customarily and regularly exercises discretion and independent judgment.'' Compare that with the final regulation on administrative employees: ''Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.''

So in both instances they are talking essentially about exercising judgment and exercising discretion and independent judgment.

When we questioned the Department of Labor representative at the hearing this morning, there was very little added by the additional phrase ''with respect to matters of significance.'' That is so generalized as hardly to clarify anything to avoid litigation. In the context where the principal complaint for having a new regulation is to avoid litigation, it hardly changes or clarifies anything.

A similar situation exists with the definition of professional employees where it is stated on the current regulation, professional employee is defined ''primary duty of performing work requiring knowledge of an advanced type

in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.''

Contrast that with the new proposed final regulation defining professional employees: ''Primary duty of performing work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized instruction.'' It is virtually identical, hardly going to clarify matters to eliminate litigation.

Then on the proposed final regulation, defining customarily can mean the employee has attained the knowledge through ''a combination of work experience and intellectual instruction.''

The point is, the new proposed regulation adds virtually nothing to the regulation which is pending. It is true that it has been a long time since the regulation was amended. I subscribe to the generalized view that if we could make the regulation clearer to avoid litigation, that would be a very important objective. But in the course of an extended hearing this morning, where we heard from the representative of the Department of Labor and two witnesses who were for the final proposed regulation and two against, there is no indication that this new regulation is going to clarify anything at all.

One of the issues raised this morning was how many workers would be affected. The sum and substance of the testimony in an exchange among the witnesses was that the 1.3 million workers who were supposed to have additional overtime is an inflated figure. I don't have time in the 10 minutes allotted to go into greater detail on that particular point.

There has been added to the proposed regulation a new concept of a team leader which is not in existing law and would allow employers to deny overtime pay to workers who ''lead a team of other employees assigned to complete major projects,'' even if there is no direct supervisory responsibility.

Now, in addition, this term ''team leader,'' I think, is going to provide additional complexity, so that a proposed final regulation here, instead of simplifying and directing and being an effective instrumentality to eliminate litigation, appears to me to be no advance over the current regulation, and when you come down to the injection of a new concept of team leader, it creates additional complications.

To repeat—something I don't like to do—I hoped to have a discussion with the proponents of both measures to shed some light on it. This is a very important matter, regulating overtime pay, which deserves a lot more attention than it is getting on the floor of the Senate today. I wish my rights had been protected by the cloakroom, or I would have been here to object to a time agreement so I could have participated in drawing out some of these important issues to try to achieve a result based upon a fuller understanding of this proposed regulation.

On the current state of the record, I am opposed to the proposed regulation. I think the amendment offered by Senator GREGG is a step in the right direction. I intend to support the Harkin amendment.

I thank the managers of the bill for scraping together a full 10 minutes for me.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. There is no time to yield. There is a consent agreement.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, I commend our colleague from Iowa for his effort on the overtime pay issue. Clearly, he has attracted the attention of the administration and others. We in Congress have, on two recent occasions rejected the administration's proposals that would modify the overtime rules crafted back, as the Senator from Wyoming pointed out, in the 1930s, with the Fair Labor Standards Act.

Over the years, we have changed the Fair Labor Standards Act when it comes to overtime. Those changes have historically expanded how overtime could be used or under what job categories it could be used. There has not been a single instance in the nearly 70 years since the act was written where there has been a constriction of the overtime provisions.

This is a historic moment. The Senate will vote in 30 minutes as to whether this Congress will, for the first time since the 1930s, limit the ability of people who work to collect overtime in more than 800 job categories. The Senator from New Hampshire said we apologize, we are going to take 55 job categories and we are going to exclude them from being adversely affected by the rules when it comes to overtime. As my colleague pointed out, in fact there were some 889 different job categories that could be affected by this rule.

Clearly, what we are talking about is restricting the ability of people who work more than a 40-hour week to be able to collect overtime pay. For people who do collect overtime pay, that money amounts to 25 percent of the income they take home. Who are we talking about? Clerical workers, nursery school teachers, cooks, and nurses to name but a few. These are the people who depend upon overtime pay in order to make ends meet.

You don't have to have a Ph.D in economics to know what is going on with families and their incomes today and their abilities to make ends meet. It was reported a few years ago how much of the income families earn can be put aside for savings, or that they could apply to college tuition for their children in the future. Today we know the ability of the middle-income family to save, put money aside, and purchase necessary items for their families has been severely restricted. This is yet one further attempt to make it more difficult for these families who need the extra overtime pay to make ends meet.

People who are stripped of these overtime protections would end up working longer hours for less pay. Does anybody believe this administration's Department of Labor is trying to expand overtime pay? That is not why the business community is supporting this rule change, because they want to expand overtime pay. The administration clearly wants to restrict it and redefine job categories that will allow them to do so.

Also, I suggest the rule works adversely in terms of job creation. The Fair Labor Standards Act was enacted nearly 70 years ago to create a 40-hour workweek and require that workers be paid fairly for any extra hours. Especially in times like these, it is an incentive for job creation because it encourages employers to hire more workers, instead of forcing current employees to work longer hours. So it creates jobs.

Obviously, if you don't have to pay overtime, you can get that one person to work longer hours for less pay. We should be trying to create jobs in this country—instead, we have lost nearly 3 million in the last 39 months; in fact, some 8 to 10 million people are out of work in this country. Further, this is vitally important to the 40-hour workweek. If employers no longer have to pay extra for overtime, they will have incentive to demand longer hours, and workers will have less time to spend with their families. People already know how difficult it is to balance work and family. Many single parents raising children, or two income earners are holding more than one job to meet the family's financial obligations.

This is a very important issue to working families and it is important for them to know this Congress will stand up for them on something as basic as the ability for them to earn overtime pay when they put in the extra hours. I also want to add that the job classifications being proposed by my friend from New Hampshire in his amendment are too vague and will invite litigation. My friend from Wyoming pointed out we ought to be trying to discourage litigation. I agree. But the adoption of the Gregg amendment, without the Harkin amendment, seems to do nothing but open up that door to litigation.

For those reasons, I urge my colleagues to support the Harkin amendment and send a final message to the administration: Do not mess around with overtime pay. This Congress is going to stand up for workers' rights to get it.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, time will be charged equally to both sides.

Mr. DODD. Mr. President, I suggest the absence of a quorum to be charged equally against both sides.

The PRESIDING OFFICER. Is there objection? The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand I have 8 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, first of all, in my 8 minutes let me try to clear up some points. A couple of Senators talked about my amendment. I listened to them and wondered what they were talking about, that somehow this is convoluted and problematic.

Let's be clear. The amendment pending, which I have offered, does what the Department of Labor says they want to do. First, there will be two steps in my amendment. You check the old regulations. If the employee is required to be given overtime under the old regulations, that employee will continue to get overtime under the new regulations because the Department of Labor says they do not want to take overtime away from anyone now making it. My amendment clarifies it.

Secondly, if the employee is not getting overtime under the present regulations, but the new regulations allow the employee to get overtime, the employee gets overtime. So we expand it. They want to protect and expand overtime, and that is exactly what my amendment does. It is very clear and very concise.

Senator SPECTER is right, the new rule, at least what we heard about in the hearing this morning, is not a clarification. What we heard in the hearing is more ambiguous, and it is going to lead to much more litigation.

Let me also talk about the pending Gregg amendment. First of all, I note that the pending Gregg amendment is an acknowledgment, a real acknowledgment, that there is a long list of occupations and people who are in danger of losing their overtime. Obviously, why else would he have listed those 55. So there is an acknowledgment that a lot of people will lose their overtime. I thank him for that acknowledgment. But he lists in his amendment 55 occupations.

Senator DODD said there are 889 occupations listed by the Department of Labor. Senator GREGG has picked out 55 and said they will get overtime. What about the other 800-some occupations? The Gregg amendment sets up a two-tier system: The 55 who are in and the 834 who are out. That is a big problem with the Gregg amendment.

Secondly, it is definitional. For example, the Gregg amendment puts in team leaders, but we do not know what a team leader is because it has never been defined. What is a team leader?

The Gregg amendment puts in refinery workers. Does that mean oil refinery or does that cover ethanol plants in Iowa? That is a refinery. Who is covered by that? We do not know.

Technicians, what is a technician? There is no definition of a technician. The Gregg amendment covers funeral directors, but how about embalmers? We don't know. It looks as though the Gregg amendment was hastily put together. What they did was list 55 people we have talked about on the floor, but they exclude 834 others. That is a real problem.

The other point is what is missing. I just sat down and started drawing up a list of people not in the Gregg amendment: Sheriffs deputies—how about juvenile justice officers? How about correctional officers? How about reporters, bookkeepers, retail clerks, police lieutenants, computer services employees? None of these are covered under the Gregg amendment. I guess they are just out.

That is the problem with the Gregg amendment. It is a drastic change in the Fair Labor Standards Act. We have for 50 years said whether or not you get overtime is based upon the job you do, not upon what you are called. Senator GREGG now wants to say you will get overtime or not depending upon what you are called, not upon what you do. That is a big change.

These 55 that have been listed, I don't mind listing them. That is all right. But it does not go far enough. It does not cover all of the people who are out there. It narrowly excludes from exemption of overtime 55 occupations, some of which are not even well defined and not defined at all in the Gregg amendment.

I would say it like this: If you have a building and you have 10 entrances to that building and none of them are protected, but you want to protect the 10 entrances into that building, say, from terrorist activities—let's say someone comes along and says: I can't protect all 10 of them; I can protect 4. Fine, protect four, but I still have six others I have to protect. That is how I see the Gregg amendment. He protects 55, but there are 834 out there that are not listed.

My point is, you can vote for the Gregg amendment—in fact, I will vote for the Gregg amendment. I don't see it is that big a deal. It is kind of ridiculous to list 55, but I will vote for it and move the process along. But if you vote for the Gregg amendment, you can vote for the Harkin amendment, too, because we come in and cover all 10 doors in that building. We make sure all workers are covered, not just 55, not a narrowly construed list of 55 workers. We cover them all.

I hope my colleagues will support the Harkin amendment because it does, in fact, ensure that those who get overtime now will continue to get overtime, and it ensures if you don't get overtime now but the new rules allow you to get overtime, you will get overtime. The Harkin amendment covers all workers, not just the narrow list of 55.

Mr. President, I reserve whatever time I may have remaining.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The minority has 7½ minutes.

Mr. KENNEDY. Mr. President, I believe I have 7 minutes.

The PRESIDING OFFICER. Seven and a half minutes is reserved for the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask to be notified when there is 1 minute remaining.

The PRESIDING OFFICER. The Senator will be notified.

Mr. KENNEDY. Mr. President, let's look at exactly what this issue is about. This issue is about pay for hard-working Americans. Overtime represents a quarter of the pay for those individual Americans who receive overtime. It is a quarter of their pay; $33,000 is the average annual amount for the person who receives $161 a week in overtime—$33,000. That is the average. We can have higher, we can have lower, but those are basically the kind of workers about which we are talking.

I do not know what the average worker making $33,000 a year did to the Bush administration and why he is so opposed to them making a decent wage. I know the administration is against the increase in the minimum wage. They are against the extensions of unemployment compensation. And this is their third crack attacking overtime and reducing overtime pay. I say the average families, the working families are having a more and more difficult time than they have ever had in trying to make ends meet.

If we look at what has happened to average wages for new jobs, average wages for new jobs are down 21 percent. If we look at what the pressure has been on middle-income families during the Bush administration, the average income has gone down 2 percent; home prices have gone up almost 18 percent; health and other insurance costs have gone up 50 percent; tuition, 35 percent; and utilities, 15 percent. Their income has gone down, and this proposal and the Bush administration want it to go down further. How are they going to make ends meet?

What is on the other side? What is the relationship between corporations and workers during this period of time? Corporate profits have increased 57.5 percent during the period of the last 3 years, and workers' wages have gone up 1.5 percent. Still, this administration wants to increase the corporate profits. That is not right, it is not fair, it is not just.

This is about special interests. We hear a good deal on the floor of the Senate that we want to modernize the overtime rules. Let's look at what this issue is really about.

All we have to do is look at what has happened with the Restaurant Association. The National Restaurant Association in their letter to the Department of Labor says:

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

So they will not be eligible for overtime. What comes out just 10 days ago?

The Department concludes that to the extent a chef has a primary duty of work requiring invention, imagination, originality or talent, such chef may be considered an exempt creative professional from overtime.

There is the Restaurant Association trying to look out and feather its own nest, and there is the Bush administration complying with it.

Look at another special interest. Let's take the National Association of Mutual Insurance Companies, which supports the section of the proposed regulation that provides that claims adjustors, including those working for insurance companies, satisfy the FLSA administrative exemption. Sure enough, they make that request a little over a year ago, and 2 weeks ago out comes the Department of Labor's answer:

Insurance claims adjustors generally meet the duties requirements for the administrative exemption whether they work for an insurance company or other type of company. . . .

The insurance companies ask for these changes in order to increase the bottom line for the companies, and sure enough the administration complies. And they say this is about technical adjustments in order to modernize it? It is about the special interests. That is what has been happening right down the line with regards to the overtime. We understand what this is about. This is a blatant and flagrant effort of the administration in order to increase the bottom line for corporate America and to shortchange working families. These are workers who are working hard. They work longer and harder than any other industrial nation in the world. They are finding they are having a difficult time trying to make ends meet. This administration has been undermining them by denying them the unemployment compensation, they are denying an increase in the minimum wage, and now they are going ahead and denying them the overtime. It is not right.

Americans understand fairness, and we are talking about fairness in the job market. For 60 years, overtime has been in place. For 60 years, we have recognized the importance of paying overtime. The message that ought to go out to workers all over this country is, if we do not pass the Harkin amendment, workers beware.

The PRESIDING OFFICER. One minute.

Mr. KENNEDY. I understand I have 1 minute remaining.

Workers beware because without the protections of overtime, those workers are going to be forced to work longer and longer without getting the kinds of increases they deserve.

This is about fairness. This is about economic justice. This is about basically middle-class families. This is about family values in order to provide for working families to provide for their children. That is what the issue is. I hope we will support the Harkin amendment.

I am going to vote for the Gregg amendment. I am not really sure how much protection it applies, but at least it is worthy of support. Let's do what is really right for American workers and support the Harkin amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, how much is remaining?

The PRESIDING OFFICER. Fifty-two seconds on the minority side and 12 minutes on the majority side.

Is the Senator seeking recognition?

Mr. BAUCUS. No.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I believe we are about ready to vote. A lot of the debate has occurred, and I think it has been healthy and to the point. I do believe we should reiterate a couple of points.

First off, the original regulations are not what are at issue. The original regulations have been fundamentally changed. When the Senator from Massachusetts says, as I take it to be a fact if he represents it here, that $33,000 is the average income of people who have incomes which are overtime related, that is fine. Under this new regulation, those people are not going to be impacted because this regulation, first, raises the minimum where one is guaranteed overtime from $8,000 to $23,400. So anybody making $23,400 is guaranteed overtime no matter what their job classification is.

People between $23,000 and $100,000 are also exempt under this language because of the way the regulation has been proposed. The only people who are at risk under this legislation are people earning more than $100,000 who are working white collar jobs. Blue collar jobs over $100,000 of income are not at risk. There are potentially 6.7 million people who benefit from this regulation, directly immediately, because they are the people who are making up to $23,000. This is not even an accurate number—it may be much less—potentially 100,000 people making more than $100,000 may be impacted as a result of holding white collar positions which are no longer overtime related.

What is important to remember about this regulation is that the practical implication of it, beyond allowing 6.7 million people to get overtime for sure, is that it will clarify the playing field. Instead of having a litigious society where small businessmen and businesswomen especially have to spend a lot of money on litigation to address whether a person is getting overtime or is not getting overtime, that individual will have those dollars which they were going to spend on legal fees to give their employees benefits or to expand their activities as an employer and create more jobs. That is what is important.

We are trying to make it a more understandable playing field. Remember, the Department of Labor put out a proposal which had some structural problems. I admitted to that when it came out, but they listened. Eighty thousand comments later, they changed it. They changed it substantively to the point where it is now receiving favorable comment and favorable support from a broad range of different interest groups, including, for example, The Washington Post as was quoted today by the Senator from Wyoming when he was making his presentation earlier.

So it is a major step in the right direction toward first enfranchising 6.7 million people with a guarantee that they are going to get overtime, who do not get it today, and in addition making sure other individuals earning up to $100,000 will be getting their overtime, and in addition making it clear to the marketplace that people do not have to litigate and participate in class action suits all the time to figure out who gets overtime, who does not get overtime but, rather, there will be a clear path to making that decision which is so critical to the marketplace and creating certainty in the marketplace, which is the goal. That is the purpose, to create some certainty in the marketplace, which reduces the litigiousness and in turn converts the exercise to getting money into people's pockets versus creating lawsuits.

The problem with the Harkin amendment is it takes us back to the time of litigation. There is the old law. There is the new law. They are layered on top of each other, rolled into each other, so all the problems of the old law roll into the new law, and we are once again back into a litigation morass, a classic example of what will probably happen under the Harkin amendment.

There will be what I call a class ceiling. Businesses and employers are going to have an employee who is moving up through their system, who is doing well, who is starting to produce. That employee is suddenly going to get to a position where if they are given more responsibility it is going to draw into question whether they have to be paid overtime. It is going to draw in all of these rules, regulations, confusions, and Byzantine structures that are put in place today.

The employer is going to say, hold it, I am not going to promote that employee because there is just too much opportunity for lawsuits to occur. I am simply going to go out and hire a new employee to do that management-related activity or that administrative-related activity that may imply exemption from overtime rather than promote the up and coming employee because I do not want to buy the lawsuits that come with a promotion. A ceiling is going to potentially be created for people who are in the process of improving their lives in the employment structure. They are going to be frozen in place as a result of going the Harkin route.

What the new regulations as proposed by the Labor Department do is just the opposite. It gives certainty so

that employers know when they can move people up, when they can give them promotions, and what the impact of that is going to be on the overtime rules as they apply to that individual as they are promoted. Therefore, it is going to give a lot of employees a lot more upward mobility, which is positive. That is the way we should approach this.

So the Harkin amendment may be well intentioned. Obviously, it is well intentioned. Everything the Senator from Iowa does is well intentioned. As a practical matter, it is going to have very severe and unintended consequences, in my opinion, of limiting promotion within the marketplace.

I hope people would support my amendment, the purpose of which is to address all of the issues that have been raised over the last few months as we have debated this issue about specific areas of employment categories that have been alleged to have been negatively impacted by the originally proposed regulation. I listed them all. Every group that has been allegedly negatively impacted in the last few months by the proposed regulation has been listed, and it has been said that those folks in those categories will either get the best of the old law or the best of the new law. It is a ''win'' or a ''win more'' situation for those categories.

Why are there not more categories in here? Some people say there are only 40 or 50 categories. Well, it is because those are the categories that have been identified most often on this floor as being allegedly at risk under the old proposed regulation. This basically takes them off the playing field as being in play.

I happen to believe, and I think people who look at this with some objectivity believe, that maybe much of this language is redundant. But we want to make it absolutely clear that these people are not going to be negatively impacted. So that list of 55 are picked off, are taken out of play completely, by name. Why do we choose those? Because those were the ones who, it was alleged under the duties test, might be at risk. We didn't think they were but we wanted to make it clear they were not.

So the new proposed regulation, in our opinion, is a major step forward in giving certainty to the marketplace, in giving 6.7 million Americans who do not have the guarantee of overtime today a guarantee of overtime, and making it clear to the businesspeople of this country that they can invest in creating new jobs, they can move people up the promotion ladder, and they can spend more money on people's wages rather than having to spend more money on lawsuits.

Mr. President, at this time I am willing to go to a vote and yield the remainder of our time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I think I have about 50 seconds.

The PRESIDING OFFICER. The Senator has 37 seconds.

Mr. HARKIN. Senator GREGG has it all wrong. To respond, my amendment says ''duties''—if your duties remain the same, you get overtime. But if your duties change, there is no glass ceiling. If you are a secretary today but you become CEO next year, of course you won't get overtime. That is what my friend from New Hampshire is missing. That is what is wrong with this amendment. He does it job by job. What I say is, if your duties are the same, you ought to get overtime. But there is no glass ceiling. If you go up a ladder, become manager, owner, or CEO of the company, of course you don't get overtime. That is a bogus argument.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. GRASSLEY. Mr. President, before we vote, I have an unanimous consent request.

The PRESIDING OFFICER. The Senator will please state his request.

Mr. GRASSLEY. I ask unanimous consent that the Collins amendment, No. 3108, be modified with the changes that are at the desk and that the amendment be agreed to, and the motion to reconsider be laid upon the table; further, I ask that there then be 45 minutes of debate in relationship to the Wyden amendment, No. 3109, with 15 minutes under the control of Senator WYDEN and 30 minutes under the control of the chairman or his designee; further, I ask consent that following that time, the Senate proceed to a vote in relationship to the amendment, with no second degrees in order to the amendment prior to the vote; finally, I ask consent that following that vote, Senator ALLEN be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection? The Senator from Montana.

Mr. BAUCUS. Reserving the right to object—of course I will not—I thank all Senators for going the extra mile to help work out this agreement. We are taking steps. We are proceeding. I think we will get this bill passed this year.

The PRESIDING OFFICER. Hearing no objection, the request of the Senator from Iowa is granted.

The amendment (No. 3108), as modified, was agreed to, as follows:

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 50 percent of 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.—

''(1) IN GENERAL.—If there is an excess described in paragraph (2)(A) for any taxable year, the amount of credit determined under subsection (a) (without regard to this subsection)—

''(A) if the value of domestic production determined under section 199(g)(2) for the taxable year does not exceed such value for the preceding taxable year, shall be zero, and

''(B) if subparagraph (A) does not apply, shall be reduced (but not below zero) by the applicable percentage of such amount.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any taxable year, the percentage equal to a fraction—

''(A) the numerator of which is the excess (if any) of the modified value of worldwide production of the taxpayer for the taxable year over such modified value for the preceding taxable year, and

''(B) the denominator of which is the excess (if any) of the value of worldwide production of the taxpayer for the taxable year over such value for the preceding taxable year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) VALUE OF WORLDWIDE PRODUCTION.—The value of worldwide production for any taxable year shall be determined under section 199(g)(4).

''(B) MODIFIED VALUE.—The term 'modified value of worldwide production' means the value of worldwide production determined by not taking into account any item taken into account in determining the value of domestic production under section 199(g)(2).

''(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 AND SPECIAL RULE.—For purposes of this section—

''(1) IN GENERAL.—Any term used in this section which is also used in section 199 shall have the meaning given such term by section 199.

''(2) SPECIAL RULE FOR W–2 WAGES.—Notwithstanding paragraph (1), the amount of W–2 wages taken into account with respect to any employee for any taxable year shall not exceed $50,000.

''(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 ''May 31, 2004''.

Mr. GREGG. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 3111

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—99

Akaka	Dodd	Lincoln
Alexander	Dole	Lott
Allard	Domenici	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Edwards	Mikulski
Bennett	Ensign	Miller
Biden	Enzi	Murkowski
Bingaman	Feingold	Murray
Bond	Feinstein	Nelson (FL)
Boxer	Fitzgerald	Nelson (NE)
Breaux	Frist	Nickles
Brownback	Graham (FL)	Pryor
Bunning	Graham (SC)	Reed
Burns	Grassley	Reid
Byrd	Gregg	Roberts
Campbell	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hollings	Schumer
Chambliss	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wyden

NOT VOTING—1

Kerry

The amendment (No. 3111) was agreed to.

AMENDMENT NO. 3107

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3107.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—52

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Edwards	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham (FL)	Nelson (NE)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Campbell	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Chafee	Kennedy	Schumer
Clinton	Kohl	Snowe
Conrad	Landrieu	Specter
Corzine	Lautenberg	Stabenow
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—47

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

NOT VOTING—1

Kerry

The amendment (No. 3107) was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that once Senator ALLEN offers his amendment with respect to home mortgages, it be set aside only for the purpose of Senator CANTWELL offering an amendment, and that after the clerk reports the amendment by number, it be immediately set aside, and the Senate resume consideration of the Allen amendment.

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

AMENDMENT NO. 3109, AS MODIFIED

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Wyden amendment be modified with the text I send to the desk.

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

The amendment, as modified, is as follows:

At the end of the bill, add the following:

TITLE IX—TRADE ADJUSTMENT ASSISTANCE

Subtitle A—Service Workers

SEC. 911. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Equity For Service Workers Act of 2004''.

SEC. 912. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking ''firm)'' and inserting ''firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)''.

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (1), by inserting ''or public agency'' after ''of the firm''; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking ''like or directly competitive with articles produced'' and inserting ''or services like or directly competitive with articles produced or services provided''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles which are produced, or services which are provided, by such firm, subdivision, or public agency; or

''(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''agricultural firm)'' and inserting ''agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)'';

(B) in paragraph (2), by inserting ''or service'' after ''related to the article''; and

(C) in paragraph (3)(A), by inserting ''or services'' after ''component parts'';

(3) in subsection (c)—

(A) in paragraph (2), by adding at the end the following:

''(C) Taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.''.

(B) in paragraph (3)—

(i) by inserting ''or services'' after ''value-added production processes'';

(ii) by striking ''or finishing'' and inserting '', finishing, or testing'';

(iii) by inserting ''or services'' after ''for articles''; and

(iv) by inserting ''(or subdivision)'' after ''such other firm''; and

(C) in paragraph (4)—

(i) by striking ''for articles'' and inserting '', or services, used in the production of articles or in the provision of services''; and

(ii) by inserting ''(or subdivision)'' after ''such other firm''; and

(4) by adding at the end the following new subsection:

''(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

''(1) INCREASED IMPORTS.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive articles or services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) OBTAINING SERVICES ABROAD.—For purposes of subsection (a)(2)(B)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a firm in a foreign country based on a certification thereof from

the workers' firm, subdivision, or public agency.

''(3) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.''.

(c) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking ''$220,000,000'' and inserting ''$440,000,000''.

(d) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting ''or public agency'' after ''of a firm''; and

(B) by inserting ''or public agency'' after ''or subdivision'';

(2) in paragraph (2)(B), by inserting ''or public agency'' after ''the firm'';

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

''(8) The term 'service sector firm' means an entity engaged in the business of providing services.''.

(e) TECHNICAL AMENDMENT.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking '', other than subchapter D''.

SEC. 913. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) FIRMS.—

(1) ASSISTANCE.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting ''or service sector firm'' after ''(including any agricultural firm'';

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting ''or service sector firm'' after ''any agricultural firm'';

(ii) in subparagraph (B)(ii), by inserting ''or service'' after ''of an article''; and

(iii) in subparagraph (C), by striking ''articles like or directly competitive with articles which are produced'' and inserting ''articles or services like or directly competitive with articles or services which are produced or provided''; and

(C) by adding at the end the following:

''(e) BASIS FOR SECRETARY DETERMINATION.—

''(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for not less than 20 percent of the sales of the workers' firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

''(2) AUTHORITY OF THE SECRETARY.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The Secretary may exercise the authority under section 249 in carrying out this subsection.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''$16,000,000'' and inserting ''$32,000,000''.

(3) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking ''For purposes of'' and inserting ''(a) FIRM.—For purposes of''; and

(B) by adding at the end the following:

''(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.''.

(b) INDUSTRIES.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting ''or service'' after ''new product''.

SEC. 914. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary'' and inserting ''(a) MONITORING PROGRAMS.—The Secretary'';

(B) by inserting ''and services'' after ''imports of articles'';

(C) by inserting ''and domestic provision of services'' after ''domestic production'';

(D) by inserting ''or providing services'' after ''producing articles''; and

(E) by inserting '', or provision of services,'' after ''changes in production''; and

(2) by adding at the end the following:

''(b) COLLECTION OF DATA AND REPORTS ON SERVICES SECTOR.—

''(1) SECRETARY OF LABOR.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity For Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

''(2) SECRETARY OF COMMERCE.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.''.

SEC. 915. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.

IN GENERAL.—Section 246(a)(3) of the Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read as follows:

''(3) ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

''(A) is covered by a certification under subchapter A of this chapter;

''(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

''(C) is at least 40 years of age;

''(D) earns not more than $50,000 a year in wages from reemployment;

''(E) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

''(F) does not return to the employment from which the worker was separated.''.

(b) CONFORMING AMENDMENTS.—(1) Subparagraphs (A) and (B) of section 246(a)(2) of the Trade Act of 1974 (19 U.S.C. 2318(a)(2) (A) and (B)) are amended by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)'' each place it appears.

(2) Section 246(b)(2) of such Act is amended by striking ''subsection (a)(3)(B)'' and inserting ''subsection (a)(3)''.

SEC. 916. CLARIFICATION OF MARKETING YEAR AND OTHER PROVISIONS.

(a) IN GENERAL.—Section 291(5) of the Trade Act of 1974 (19 U.S.C. 2401(5)) is amended by inserting before the end period the following: '', or in the case of an agricultural commodity that has no officially designated marketing year, in a 12-month period for which the petitioner provides written request''.

(b) FISHERMEN.—Notwithstanding any other provision of law, for purposes of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) fishermen who harvest wild stock shall be eligible for adjustment assistance to the same extent and in the same manner as a group of workers under such chapter 2.

SEC. 917. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall take effect on October 1, 2004.

(b) SPECIAL RULE FOR CERTAIN SERVICE WORKERS.—A group of workers in a service sector firm, or subdivision of a service sector firm, or public agency (as defined in section 247 (7) and (8) of the Trade Act of 1974, as added by section 912(d) of this Act) who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm or public agency occurred on or after November 4, 2002 and before October 1, 2004.

(c) SPECIAL RULE FOR TACONITE.—A group of workers in a firm, or subdivision of a firm, engaged in the production of taconite pellets who—

(1) would have been certified eligible to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if the amendments made by this Act had been in effect on November 4, 2002, and

(2) file a petition pursuant to section 221 of such Act within 6 months after the date of enactment of this Act,

shall be eligible for certification under section 223 of the Trade Act of 1974 if the workers' last total or partial separation from the firm or subdivision of the firm occurred on or after November 4, 2002 and before October 1, 2004.

Subtitle B—Data Collection

SEC. 921. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance Accountability Act''.

SEC. 922. DATA COLLECTION; STUDY; INFORMATION TO WORKERS.

(a) DATA COLLECTION; EVALUATIONS.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 249, the following new section:

''SEC. 250. DATA COLLECTION; EVALUATIONS; REPORTS.

''(a) DATA COLLECTION.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

''(b) PERFORMANCE EVALUATIONS.—The Secretary shall establish an effective performance measuring system to evaluate the following:

''(1) PROGRAM PERFORMANCE.—A comparison of the trade adjustment assistance program before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002 with respect to—

''(A) the number of workers certified and the number of workers actually participating in the trade adjustment assistance program;

''(B) the time for processing petitions;

''(C) the number of training waivers granted;

''(D) the coordination of programs under this chapter with programs under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

''(E) the effectiveness of individual training providers in providing appropriate information and training;

''(F) the extent to which States have designed and implemented health care coverage options under title II of the Trade Act of 2002, including any difficulties States have encountered in carrying out the provisions of title II;

''(G) how Federal, State, and local officials are implementing the trade adjustment assistance program to ensure that all eligible individuals receive benefits, including providing outreach, rapid response, and other activities; and

''(H) any other data necessary to evaluate how individual States are implementing the requirements of this chapter.

''(2) PROGRAM PARTICIPATION .—The effectiveness of the program relating to—

''(A) the number of workers receiving benefits and the type of benefits being received both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

''(B) the number of workers enrolled in, and the duration of, training by major types of training both before and after the effective date of the Trade Adjustment Assistance Reform Act of 2002;

''(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

''(D) reemployment rates and sectors in which dislocated workers have been employed;

''(E) the cause of dislocation identified in each petition that resulted in a certification under this chapter; and

''(F) the number of petitions filed and workers certified in each congressional district of the United States.

''(c) STATE PARTICIPATION.—The Secretary shall ensure, to the extent practicable, through oversight and effective internal control measures the following:

''(1) STATE PARTICIPATION.—Participation by each State in the performance measurement system established under subsection (b).

''(2) MONITORING.—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.

''(3) RESPONSE.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

''(d) REPORTS.—

''(1) REPORTS BY THE SECRETARY.—

''(A) INITIAL REPORT.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Accountability Act, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

''(i) describes the performance measurement system established under subsection (b);

''(ii) includes analysis of data collected through the system established under subsection (b); and

''(iii) provides recommendations for program improvements.

''(B) ANNUAL REPORT.—Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clause (ii) of subparagraph (A).

''(2) STATE REPORTS.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).

''(3) PUBLICATION.—The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under subsection (b).''.

(b) CONFORMING AMENDMENTS.—

(1) COORDINATION.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking ''Departments of Labor and Commerce'' and inserting ''Departments of Labor, Commerce, and Agriculture''.

(2) TRADE MONITORING SYSTEM.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking ''The Secretary of Commerce and the Secretary of Labor'' and inserting ''The Secretaries of Commerce, Labor, and Agriculture''.

(3) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249, the following new item:

''Sec. 250. Data collection; evaluations; reports.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

Subtitle C—Trade Adjustment Assistance for Communities

SEC. 931. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance for Communities Act of 2004''.

SEC. 932. PURPOSE.

The purpose of this subtitle is to assist communities negatively impacted by trade with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

SEC. 933. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''SEC. 271. DEFINITIONS.

''In this chapter:

''(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, service provider, farmer, rancher, fisherman or worker representative (including associations of such persons) that was affected by a finding under the Antidumping Act of 1921, or by an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

''(3) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State that the Secretary certifies as being negatively impacted by trade.

''(4) COMMUNITY NEGATIVELY IMPACTED BY TRADE.—A community negatively impacted by trade means a community with respect to which a determination has been made under section 273.

''(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 for assistance under this chapter.

''(6) FISHERMAN.—

''(A) IN GENERAL.—The term 'fisherman' means any person who—

''(i) is engaged in commercial fishing; or

''(ii) is a United States fish processor.

''(B) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(7) JOB LOSS.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 247.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

''SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Within 6 months after the date of enactment of the Trade Adjustment Assistance for Communities Act of 2004, the Secretary shall establish a Trade Adjustment Assistance for Communities Program at the Department of Commerce.

''(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this chapter.

''(c) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall—

''(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

''(2) coordinate the Federal response to an eligible community—

''(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

''(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

''(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning economic adjustment for an eligible community; and

''(D) by identifying and strengthening existing agency mechanisms designed to assist eligible communities in their efforts to achieve economic adjustment and workforce reemployment;

''(3) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

''(A) identify serious economic problems in the community that are the result of negative impacts from trade;

''(B) integrate the major groups and organizations significantly affected by the economic adjustment;

''(C) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

''(D) diversify and strengthen the community economy; and

''(E) develop a community-based strategic plan to address economic development and workforce dislocation, including unemployment among agricultural commodity producers, and fishermen;

''(4) establish specific criteria for submission and evaluation of a strategic plan submitted under section 274(d);

''(5) establish specific criteria for submitting and evaluating applications for grants under section 275;

''(6) administer the grant programs established under sections 274 and 275; and

''(7) establish an interagency Trade Adjustment Assistance for Communities Working Group, consisting of the representatives of

any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, and any other Federal, State, or regional department or agency the Secretary determines necessary or appropriate.

"SEC. 273. CERTIFICATION AND NOTIFICATION.

''(a) CERTIFICATION.—Not later than 45 days after an event described in subsection (c)(1), the Secretary of Commerce shall determine if a community described in subsection (b)(1) is negatively impacted by trade, and if a positive determination is made, shall certify the community for assistance under this chapter.

''(b) DETERMINATION THAT COMMUNITY IS ELIGIBLE.—

''(1) COMMUNITY DESCRIBED.—A community described in this paragraph means a community with respect to which on or after October 1, 2004—

''(A) the Secretary of Labor certifies a group of workers (or their authorized representative) in the community as eligible for assistance pursuant to section 223;

''(B) the Secretary of Commerce certifies a firm located in the community as eligible for adjustment assistance under section 251;

''(C) the Secretary of Agriculture certifies a group of agricultural commodity producers (or their authorized representative) in the community as eligible for adjustment assistance under section 293;

''(D) an affected domestic producer is located in the community; or

''(E) the Secretary determines that a significant number of fishermen in the community is negatively impacted by trade.

''(2) NEGATIVELY IMPACTED BY TRADE.—The Secretary shall determine that a community is negatively impacted by trade, after taking into consideration—

''(A) the number of jobs affected compared to the size of workforce in the community;

''(B) the severity of the rates of unemployment in the community and the duration of the unemployment in the community;

''(C) the income levels and the extent of underemployment in the community;

''(D) the outmigration of population from the community and the extent to which the outmigration is causing economic injury in the community; and

''(E) the unique problems and needs of the community.

''(c) DEFINITION AND SPECIAL RULES.—

''(1) EVENT DESCRIBED.—An event described in this paragraph means one of the following:

''(A) A notification described in paragraph (2).

''(B) A certification of a firm under section 251.

''(C) A finding under the Antidumping Act of 1921, or an antidumping or countervailing duty order issued under title VII of the Tariff Act of 1930.

''(D) A determination by the Secretary that a significant number of fishermen in a community have been negatively impacted by trade.

''(2) NOTIFICATION.—The Secretary of Labor, immediately upon making a determination that a group of workers is eligible for trade adjustment assistance under section 223, (or the Secretary of Agriculture, immediately upon making a determination that a group of agricultural commodity producers is eligible for adjustment assistance under section 293, as the case may be) shall notify the Secretary of Commerce of the determination.

''(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—Immediately upon certification by the Secretary of Commerce that a community is eligible for assistance under subsection (b), the Secretary shall notify the community—

''(1) of the determination under subsection (b);

''(2) of the provisions of this chapter;

''(3) how to access the clearinghouse established by the Department of Commerce regarding available economic assistance;

''(4) how to obtain technical assistance provided under section 272(c)(3); and

''(5) how to obtain grants, tax credits, low income loans, and other appropriate economic assistance.

"SEC. 274. STRATEGIC PLANS.

''(a) IN GENERAL.—An eligible community may develop a strategic plan for community economic adjustment and diversification.

''(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:

''(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used.

''(2) A description of the commitment of the community to the strategic plan over the long term and the participation and input of groups affected by economic dislocation.

''(3) A description of the projects to be undertaken by the eligible community.

''(4) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

''(5) A description of how the plan will achieve economic adjustment and diversification.

''(6) A description of how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

''(7) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

''(8) A description of how the plan will address the occupational and workforce conditions in the eligible community.

''(9) A description of the educational programs available for workforce training and future employment needs.

''(10) A description of how the plan will adapt to changing markets and business cycles.

''(11) A description and justification for the cost and timing of the total funds required by the community for economic assistance.

''(12) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

''(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The Secretary, upon receipt of an application from an eligible community, may award a grant to that community to be used to develop the strategic plan.

''(d) SUBMISSION OF PLAN.—A strategic plan developed under subsection (a) shall be submitted to the Secretary for evaluation and approval.

"SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, upon approval of a strategic plan from an eligible community, may award a grant to that community to carry out any project or program that is certified by the Secretary to be included in the strategic plan approved under section 274(d), or consistent with that plan.

''(b) ADDITIONAL GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in order to assist eligible communities to obtain funds under Federal grant programs, other than the grants provided for in section 274(c) or subsection (a), the Secretary may, on the application of an eligible community, make a supplemental grant to the community if—

''(A) the purpose of the grant program from which the grant is made is to provide technical or other assistance for planning, constructing, or equipping public works facilities or to provide assistance for public service projects; and

''(B) the grant is 1 for which the community is eligible except for the community's inability to meet the non-Federal share requirements of the grant program.

''(2) USE AS NON-FEDERAL SHARE.—A supplemental grant made under this subsection may be used to provide the non-Federal share of a project, unless the total Federal contribution to the project for which the grant is being made exceeds 80 percent and that excess is not permitted by law.

''(c) RURAL COMMUNITY PREFERENCE.—The Secretary shall develop guidelines to ensure that rural communities receive preference in the allocation of resources.

"SEC. 276. GENERAL PROVISIONS.

''(a) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter. Before implementing any regulation or guideline proposed by the Secretary with respect to this chapter, the Secretary shall submit the regulation or guideline to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives for approval.

''(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $100,000,000 for each of fiscal years 2005 through 2008, to carry out this chapter. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

SEC. 934. CONFORMING AMENDMENTS.

(a) TERMINATION.—Section 285(b) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by adding at the end the following new paragraph:

''(3) ASSISTANCE FOR COMMUNITIES.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2008.''.

(b) TABLE OF CONTENTS.—The table of contents for title II of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting after the items relating to chapter 3 the following new items:

''CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

''Sec. 271. Definitions.

''Sec. 272. Community Trade Adjustment Assistance Program.

''Sec. 273. Certification and notification.

''Sec. 274. Strategic plans.

''Sec. 275. Grants for economic development.

''Sec. 276. General provisions.''.

(c) JUDICIAL REVIEW.—Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking ''section 271'' and inserting ''section 273''.

SEC. 935. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2004.

Subtitle D—Office of Trade Adjustment Assistance

SEC. 941. SHORT TITLE.

This subtitle may be cited as the ''Trade Adjustment Assistance for Firms Reorganization Act''.

SEC. 942. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following new section:

''SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Trade Adjustment Assistance for Firms Reorganization Act, there shall be established in the International Trade Administration of the Department of Commerce an Office of Trade Adjustment Assistance.

''(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities of the Secretary of Commerce described in this chapter.

''(c) FUNCTIONS.—The Office shall assist the Secretary of Commerce in carrying out the Secretary's responsibilities under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255, the following new item:

''Sec. 255A. Office of Trade Adjustment Assistance.''.

SEC. 943. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the earlier of—

(1) the date of the enactment of this Act; or

(2) October 1, 2004.

TITLE X—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 1001. EXPEDITED REFUND OF CREDIT FOR PRORATED FIRST MONTHLY PREMIUM AND SUBSEQUENT MONTHLY PREMIUMS PAID PRIOR TO CERTIFICATION OF ELIGIBILITY FOR THE CREDIT.

Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following:

''(e) EXPEDITED PAYMENT OF PREMIUMS PAID PRIOR TO ISSUANCE OF CERTIFICATE.—The program established under subsection (a) shall provide for payment to a certified individual (or to any person or entity designated by the certified individual, under guidelines developed by the Secretary to achieve the purposes of this section) of an amount equal to the percentage specified in section 35(a) of the premiums paid by such individual for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months (as defined in section 35(b)) occurring prior to the issuance of a qualified health insurance costs credit eligibility certificate not later than 30 days after receipt by the Secretary of evidence of such payment by the certified individual.''.

SEC. 1002. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date that is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).''.

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date that is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).''.

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following:

''(D) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date which is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).''.

SEC. 1003. CLARIFICATION OF ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) IN GENERAL.—Subsection (b) of section 35 of the Internal Revenue Code of 1986 (defining eligible coverage month) is amended by adding at the end the following:

''(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer.''.

(b) CONFORMING AMENDMENT.—Section 173(f)(5)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(5)(A)(i)) is amended by inserting ''(including with respect to any month for which the eligible individual would have been treated as such but for the application of paragraph (7)(B)(i))'' before the comma.

(c) APPLICATION PERIOD.—The amendments made by this section shall only apply during the period beginning on January 1, 2005, and ending on January 1, 2007.

SEC. 1004. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''75''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 1005. EXTENSION OF NATIONAL EMERGENCY GRANTS TO FACILITATE ESTABLISHMENT OF GROUP COVERAGE OPTION AND TO PROVIDE INTERIM HEALTH COVERAGE FOR ELIGIBLE INDIVIDUALS IN ORDER TO QUALIFY FOR GUARANTEED ISSUE AND OTHER CONSUMER PROTECTIONS; CLARIFICATION OF REQUIREMENT FOR GROUP COVERAGE OPTION.

(a) IN GENERAL.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) USE OF FUNDS.—

''(A) HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS IN ORDER TO OBTAIN QUALIFIED HEALTH INSURANCE THAT HAS GUARANTEED ISSUE AND OTHER CONSUMER PROTECTIONS.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used to provide an eligible individual described in paragraph (4)(C) and such individual's qualifying family members with health insurance coverage for the 3-month period that immediately precedes the first eligible coverage month (as defined in section 35(b) of the Internal Revenue Code of 1986) in which such eligible individual and such individual's qualifying family members are covered by qualified health insurance that meets the requirements described in clauses (i) through (iv) of section 35(e)(2)(A) of the Internal Revenue Code of 1986 (or such longer minimum period as is necessary in order for such eligible individual and such individual's qualifying family members to be covered by qualified health insurance that meets such requirements).

''(B) ADDITIONAL USES.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used by the State or entity for the following:

''(i) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual's qualifying family members in enrolling in health insurance coverage and qualified health insurance.

''(ii) ADMINISTRATIVE EXPENSES AND START-UP EXPENSES TO ESTABLISH GROUP COVERAGE OPTIONS FOR QUALIFIED HEALTH INSURANCE.—To pay the administrative expenses related to the enrollment of eligible individuals and such individuals' qualifying family members in health insurance coverage and qualified health insurance, including—

''(I) eligibility verification activities;

''(II) the notification of eligible individuals of available health insurance and qualified health insurance options;

''(III) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

''(IV) providing assistance to eligible individuals in enrolling in health insurance coverage and qualified health insurance;

''(V) the development or installation of necessary data management systems; and

''(VI) any other expenses determined appropriate by the Secretary, including start-up costs and on going administrative expenses, in order for the State to treat the

coverage described in subparagraph (C), (D), (E), or (F)(i) of section 35(e)(1) of the Internal Revenue Code of 1986, or, only if the coverage is under a group health plan, the coverage described in subparagraph (F)(ii), (F)(iii), (F)(iv), (G), or (H) of such section, as qualified health insurance under that section.

''(iii) OUTREACH.—To pay for outreach to eligible individuals to inform such individuals of available health insurance and qualified health insurance options, including low cost options, outreach consisting of notice to eligible individuals of qualified health insurance options made available after the date of enactment of this clause, and direct assistance to help potentially eligible individuals and such individual's qualifying family members qualify and remain eligible for the credit established under section 35 of the Internal Revenue Code of 1986 and advance payment of such credit under section 7527 of such Code.

''(iv) BRIDGE FUNDING.—To assist potentially eligible individuals purchase qualified health insurance coverage prior to issuance of a qualified health insurance costs credit eligibility certificate under section 7527 of the Internal Revenue Code of 1986 and commencement of advance payment, and receipt of expedited payment, under subsections (a) and (e), respectively, of that section.

''(C) RULE OF CONSTRUCTION.—The inclusion of a permitted use under this paragraph shall not be construed as prohibiting a similar use of funds permitted under subsection (g).''; and

(2) by striking paragraph (2) and inserting the following:

''(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (g), the term 'qualified health insurance' has the meaning given that term in section 35(e) of the Internal Revenue Code of 1986.''.

(b) FUNDING.—Section 174(c)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2919(c)(1)) is amended—

(1) in the paragraph heading, by striking ''AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002'' and inserting ''APPROPRIATIONS''; and

(2) by striking subparagraph (A) and inserting the following:

''(A) to carry out subsection (a)(4)(A) of section 173—

''(i) $10,000,000 for fiscal year 2002; and

''(ii) $200,000,000 for the period of fiscal years 2004 through 2005; and''.

(c) REPORT REGARDING FAILURE TO COMPLY WITH REQUIREMENTS FOR EXPEDITED APPROVAL PROCEDURES.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended by adding at the end the following:

''(8) REPORT FOR FAILURE TO COMPLY WITH REQUIREMENTS FOR EXPEDITED APPROVAL PROCEDURES.—If the Secretary fails to make the notification required under clause (i) of paragraph (3)(A) within the 15-day period required under that clause, or fails to provide the technical assistance required under clause (ii) of such paragraph within a timely manner so that a State or entity may submit an approved application within 2 months of the date on which the State or entity's previous application was disapproved, the Secretary shall submit a report to Congress explaining such failure.''.

(d) CLARIFICATION OF REQUIREMENT TO ESTABLISH GROUP COVERAGE OPTION.—Subsection (g) of section 35 of the Internal Revenue Code of 1986 (relating to special rules) is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following:

''(9) REQUIREMENT TO ESTABLISH GROUP COVERAGE OPTION.—

''(A) IN GENERAL.—If any State has not elected to have treated as qualified health insurance under this section at least—

''(i) the coverage described in subparagraph (C), (D), (E), or (F)(i) of subsection (e)(1), or

''(ii) only if the coverage is under a group health plan and the plan satisfies the applicable requirements of section 9802, the coverage described in subparagraph (F)(ii), (F)(iii), (F)(iv), (G), or (H) of subsection (e)(1),

the State, not later than 2 years after the date of the enactment of this paragraph, shall develop in consultation with representatives of eligible individuals and their qualifying family members, coverage options that are to be treated as qualified health insurance under this section and that include at least one of the coverage options described in clause (i) or (ii).

''(B) OPM.—In the case of any State that fails to satisfy the requirement of subparagraph (A), the Director of the Office of Personnel Management is authorized to establish group health plan options, including low cost options, for eligible individuals and qualifying family members of such individuals in the State that shall be treated as qualified health insurance under this section.''.

(e) TECHNICAL AMENDMENT.—Effective as if included in the enactment of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 933), subsection (f) of section 203 of that Act is repealed.

SEC. 1006. TECHNICAL AMENDMENT RELATING TO OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Effective as if included in the enactment of the amendment made by section 201(b) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 959), section 2745(d) of the Public Health Service Act (42 U.S.C. 300gg–45(d)) is amended by inserting after ''2744(c)(2)'' the following: '', except that with respect to subparagraph (A) of such section a State may elect to provide for the enrollment of eligible individuals through an acceptable alternative mechanism,''.

SEC. 1007. NOTICE REQUIREMENTS.

Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals), as amended by section 1001, is amended by adding at the end the following:

''(f) INCLUSION OF CERTAIN INFORMATION.—The notice by the Secretary (or by any person or entity designated by the Secretary) that an individual is eligible for a qualified health insurance costs credit eligibility certificate shall include—

''(1) the name, address, and telephone number of the State office or offices responsible for determining that the individual is eligible for such certificate and for providing the individual with assistance with enrollment in qualified health insurance (as defined in section 35(e));

''(2) a list of the coverage options, including the low cost options, that are treated as qualified health insurance (as so defined) by the State in which the individual resides; and

''(3) in the case of a TAA-eligible individual (as defined in section 4980B(f)(5)(C)(iv)(II)), a statement informing the individual that the individual has 63 days from the date that is 5 days after the postmark date of such notice to enroll in such insurance without a lapse in creditable coverage (as defined in section 9801(c)).''.

SEC. 1008. ANNUAL REPORT ON ENHANCED TAA BENEFITS.

Not later than October 1 of each year (beginning in 2004) the Secretary of the Treasury, after consultation with the Secretary of Labor, shall report to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives the following information with respect to the most recent taxable year ending before such date:

(1) The total number of participants utilizing the health insurance tax credit under section 35 of the Internal Revenue Code of 1986, including a measurement of such participants identified—

(A) by State, and

(B) by coverage under COBRA continuation provisions (as defined in section 9832(d)(1) of such Code) and by non-COBRA coverage (further identified by group and individual market).

(2) The range of monthly health insurance premiums offered and the average and median monthly health insurance premiums offered to TAA-eligible individuals (as defined in section 4980B(f)(5)(C)(iv)(II) of such Code) under COBRA continuation provisions (as defined in section 9832(d)(1) of such Code), State-based continuation coverage provided under a State law that requires such coverage, and each category of coverage described in section 35(e)(1) of such Code, identified by State and by the actuarial value of such coverage and the specific benefits provided and cost-sharing imposed under such coverage.

(3) The number of States applying for and receiving national emergency grants under section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) and the time necessary for application approval of such grants.

(4) The cost of administering the health credit program under section 35 of such Code, by function, including the cost of subcontractors.

TITLE XI—MORTGAGE PAYMENT ASSISTANCE

SEC. 1101. SHORT TITLE.

This title may be cited as the ''Homestead Preservation Act''.

SEC. 1102. MORTGAGE PAYMENT ASSISTANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Labor (referred to in this section as the ''Secretary'') shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) ELIGIBILITY.—To be eligible to receive a loan under the program established under subsection (a), an individual shall—

(1) be—

(A) an adversely affected worker with respect to whom a certification of eligibility has been issued by the Secretary of Labor under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); or

(B) an individual who would be an individual described in subparagraph (A) but who resides in a State that has not entered into an agreement under section 239 of such Act (19 U.S.C. 2311);

(2) be a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) be enrolled in a job training or job assistance program.

(c) LOAN REQUIREMENTS.—

(1) IN GENERAL.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) ACCOUNT.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) REPAYMENT.—

(1) IN GENERAL.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2005 through 2008.

TITLE XII—MISCELLANEOUS

SEC. 1201. DEFINITION OF VALID TAXPAYER IDENTIFICATION NUMBER FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(m) of the Internal Revenue Code of 1986 is amended to read as follows:

''(m) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number assigned by the Social Security Administration—

''(1) to a citizen of the United States, or

''(2) to an individual pursuant to subclause (I) (or that portion of subclause (III) that relates to subclause (I)) of section 205(c)(2)(B)(i) of the Social Security Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, Senator CANTWELL is here. If I can have the attention of the two managers of the bill, all she is going to do is offer her amendment. It is not going to change where she is. She is following ALLEN, anyway. Can she offer her amendment now? It is only going to be reported by number, and then she can leave.

Mr. BAUCUS. Mr. President, according to the agreement, I think that will be good. That is fine.

Mr. GRASSLEY. Yes.

AMENDMENT NO. 3114

Ms. CANTWELL. Mr. President, on behalf of myself and Senator VOINOVICH, I call up our amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself and Mr. VOINOVICH, proposes an amendment numbered 3114.

Ms. CANTWELL. 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 extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes)

At the end, add the following:

TITLE ___—UNEMPLOYMENT COMPENSATION

SEC. ___01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3) and the Unemployment Compensation Amendments of 2003 (Public Law 108–26; 117 Stat. 751), is amended—

(1) in subsection (a)(2), by striking ''December 31, 2003'' and inserting ''November 30, 2004'';

(2) in subsection (b)(1), by striking ''December 31, 2003'' and inserting ''November 30, 2004'';

(3) in subsection (b)(2)—

(A) in the heading, by striking ''DECEMBER 31, 2003'' and inserting ''NOVEMBER 30, 2004''; and

(B) by striking ''December 31, 2003'' and inserting ''November 30, 2004''; and

(4) in subsection (b)(3), by striking ''March 31, 2004'' and inserting ''February 28, 2005''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. ___02. ADDITIONAL REVISION TO CURRENT TEUC–X TRIGGER.

(a) IN GENERAL.—Section 203(c)(2)(B) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''(B) such a period would then be in effect for such State under such Act if—

''(i) section 203(d) of such Act were applied as if it had been amended by striking '5' each place it appears and inserting '4'; and

''(ii) with respect to weeks of unemployment beginning after December 27, 2003—

''(I) paragraph (1)(A) of such section 203(d) did not apply; and

''(II) clause (ii) of section 203(f)(1)(A) of such Act did not apply.''.

(b) APPLICATION.—Section 203(c)(2)(B)(ii) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as added by subsection (a), shall apply with respect to payments for weeks of unemployment beginning on or after the date of enactment this Act.

SEC. ___03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

For purposes of conforming with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), a State may, during the period beginning on the date of enactment of this Act and ending on June 30, 2004, waive the application of either subsection (d)(1)(A) of section 203 of such Act or subsection (f)(1)(A)(ii) of such section, or both.

AMENDMENT NO. 3109, AS MODIFIED

The PRESIDING OFFICER. Who yields time on the pending Wyden amendment? The Senator from Oregon.

Mr. WYDEN. Mr. President, I would like to briefly outline this bipartisan amendment. This is cosponsored by my colleague from Minnesota, Senator COLEMAN. We are joined by Senator SNOWE and Senator BROWNBACK, and on our side by the distinguished ranking member, Senator BAUCUS, and Senator ROCKEFELLER. There is a strong bipartisan coalition for this amendment because the fact is under our trade adjustment laws, millions of our workers have been left behind.

This law has been of great benefit to those in the manufacturing sector for more than three decades, but for millions of our workers who work in the service sector, who work, for example, in the high-technology sector, the safety net the Trade Adjustment Act provides has not been there. So all of the benefits offered by the trade adjustment legislation in terms of help with retraining, assistance with health care, a bit of income to get by—all of the services that make it possible for one to use this critical law as a trampoline to get back into the private sector economy have not been available in the service sector and in the high-technology sector, and that is what our bipartisan amendment would change.

In the last few hours apparently there has been one letter from an insurance company that has been offered up as an argument against this. It states that in some way our legislation would damage the opportunity for private insurance companies to deliver health benefits under this legislation. Senator COLEMAN and I would never support something like that, and I wish to outline exactly why our amendment does not damage the opportunity for private insurance companies to deliver health care under our proposal.

Our amendment states that all current private sector health care delivery systems would be continued in every State in America. So let me start with that.

Under our bipartisan amendment, in every State in America the private sector options that are offered now could be continued.

We do state in our proposal that if there is discrimination, say, on the basis of genetic history or disability or other concrete examples of discrimination, then the Office of Personnel Management would be given the discretion—not required but they would be

given the discretion—to step in and ensure that there is an affordable alternative.

Second, we protect the option of private health insurers participating in the system by stipulating that our amendment will not override State decisionmaking. This is very important because, again, in every State in our country, State insurance law allows for private insurers to be involved in the health care delivery system.

Third, apparently there was a concern raised that in some way this amendment would encourage adverse selection and then there would be a disproportionate number of those who are needy and ailing going to private insurers.

The fact is that the bipartisan amendment will reduce adverse selection. It will reduce adverse selection by increasing the subsidy that is available for health care in America. It will expand outreach, which will be beneficial, and make it easier for people to sign up. So the prospect that this will encourage adverse selection and damage private insurers is also incorrect.

So I want to be clear because there was one letter that was brought up recently in the last few hours opposing all of the good bipartisan work that has been done on this for months and months, and I wanted to set the record clear that for the three reasons I have outlined our bipartisan legislation will do no damage to the important private sector health delivery options that are available now in every State in America and will be continued under our legislation.

I believe I will have a bit more time later. I think Senator COLEMAN did an incredibly good job yesterday of outlining the case for why it is so important to help these workers. I know in my home State, folks do not understand why if one is hurting in Beaverton, OR, or they have lost their job as a result of trade they cannot be in a position to compete against somebody in Bangalore. That is what this issue is all about.

I see our friend, the distinguished chairman of the Finance Committee, is in the Chamber. He has done such good work over the years with respect to the training and other programs that are essential. With this legislation that has been produced by a bipartisan group, including Senators COLEMAN, BROWNBACK, SNOWE, ROCKEFELLER, and BAUCUS, we are giving a chance to that great bulk of workers in the service sector and in the high-technology sector to have a chance to use this program as a trampoline to get back into the economy. They are not going to get that chance under other programs. There is no other program that gives that same kind of opportunity to folks who are hurting in this way. We have done it in a bipartisan way. We have done it in a cost-effective way. We have done it in a fashion so as to not damage the right of private health insurers in every State in the country to deliver the benefit.

I will have a bit more to say as we get into the debate, but I also conclude this portion by thanking my colleague, the distinguished Senator from Minnesota. He has been a great champion of a bipartisan effort.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WYDEN. I yield time to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I thank my colleague from Oregon for his efforts in working in a bipartisan way and simply trying to do the right thing.

I happen to be a very strong supporter of trade. I understand that if one does not trade, they do not grow and the economy does not grow. In the end, I have always believed the best thing we can do as public officials, moms and dads, is give people the opportunity to work. Trade has been an opportunity for jobs. Trade has created those opportunities.

Along the way, there have been some casualties. Along the way, due to policy choices we have made, not because of lack of productivity, not because of inefficiency but because of policy decisions regarding trade, workers have had jobs impacted.

A couple of years ago, in 2002, my colleagues did a review and relooked at this whole issue of trade adjustment assistance, something that has been around since the times of John Kennedy, and said we should strengthen this. In doing so, one of the things that was done is it focused simply on the production of goods on manufacturing. Now, when I talk to many of my colleagues and say if someone is providing a service, if they are driving a truck to a facility that is no longer to be manufacturing lawnmowers, then they are not eligible for trade adjustment assistance, they are not eligible for retooling, for retraining, for health insurance, for tax credits. If one is providing the janitorial service for the lawnmower production facility, they are not eligible for the kind of assistance that would allow them to train for a job so they can be back in the workforce and taking care of their family.

As my colleague from Oregon has indicated, in the course of the last few hours we received one letter from one insurance company raising some concerns. Again, I am not going to repeat what my colleague has said, except to reiterate we are not changing the opportunity that exists now in any State. It is still there. There is a provision which provides discretion for OPM, a Federal agency, to come in under limited circumstances. They probably do not want to come in, but again this is not the wholesale change that some have talked about.

There were two other issues that came up today that I want to make very clear what the facts are to my colleagues. No. 1, there has been discussion about retroactivity. It has been mentioned along the way that we are going to provide retroactivity for 10 years or 12 years. No. TAA was established—if we go back, I believe it was 2 years in two limited circumstances, service workers being the principal one, but it is not 12 years of retroactivity.

Then the other issue that has been raised that I want to make very clear is we are only talking about providing TAA, trade adjustment assistance, to folks who lose their jobs because of trade. This is not open-ended, that if one loses their job all of a sudden they are going to be eligible for all sorts of Federal benefits. That is not the case.

Under current law, if one loses their job and it is with countries that have a trade agreement with the United States, Canada and Mexico, then one is eligible. Under this improvement, this modification, if one loses their job because of trade with China or India, they are now eligible, as it should be. That is Minnesota common sense; that is American common sense; but it is not an open-ended expansion of a Federal program. It is specifically focused on job loss that is related to trade, and I think that is important.

If my colleagues believe in trade, they should support this because what this does is it allows those of us who believe in trade to say that workers who are harmed are going to have some opportunities for health insurance by way of a tax credit. They are going to have an opportunity for wage insurance which will get them back into the marketplace quicker, get them back to being more productive, get them back to taking care of their families. That is the right thing to do.

Regardless of one's position on trade, the bottom line is we all should agree that those who are negatively impacted should have access to the opportunity to be retrained and reschooled and get back into the workplace, to be able to take care of their family, and it should not depend on whether one is manufacturing a lawnmower or whether one is providing a service, a call center, whether one is involved in a software firm. The nature of the job should not be the difference. What is important here, common sense and I think consistency would say, if job loss is due to trade, we are going to make these opportunities available.

We have identified an area in the budget which would offset the cost. It has to do with the earned-income tax credit and the way that is applied. There is, I believe, $5.7 billion we have identified. By correcting and dealing with this issue of earned-income tax credit, who is eligible, we should more than offset the opportunity we are creating here for folks who are involved in service kinds of jobs to get the kind of coverage that would allow them to take care of their families, get back into the workplace, be productive, and help move this economy forward.

I urge my colleagues to support this amendment. I urge them not to be swayed at the last minute by some arguments that, if you look at them carefully, simply do not hold up to the light of day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, how much additional time, if any, do I have?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. WYDEN. I ask unanimous consent for up to 5 additional minutes. I ask that the distinguished chairman of the Finance Committee, Senator GRASSLEY, would also have that additional time if my unanimous consent request was agreed to. We have 2½ minutes remaining. I ask that I have up to 5 additional minutes and that the distinguished chairman of the Finance Committee would also have up to 5 additional minutes.

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

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask the Chair to alert me after I have used up 15 minutes.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. GRASSLEY. First of all, I hope the proponents of this amendment know that as a conferee 2 years ago when health benefits were added to trade adjustment assistance, I was a conferee and I worked to make sure these health benefits were included. We have a program before us adopted 2 years ago but operational for about no more than 9 months. Now what we are doing is we are being asked to make a dramatic expansion of these programs with only 9 months' experience.

It seems to me to be a little bit early to be making these sorts of changes in a program that was a fundamental change in trade adjustment assistance 2 years ago. But of course it was a reasonable change to make because we are always trying to find ways to help people who previously had health insurance, who are unemployed through no fault of their own. We did that through the trade adjustment assistance expansion before.

I would like to respond to the first point made by the Senator from Oregon, and that is about the letter from BlueCross BlueShield Association that they have sent to all Members of the Senate voicing their concerns about this very dramatic expansion. I want to make it clear that it is legitimate for them to raise their concerns because it is their members, the Blues, who have stepped up to the plate to serve those eligible for the credit. They are the ones out there serving the public the way Congress intended. So if they have some concerns that they are just 9 months into a program and having a very dramatic change in the program, yes, wouldn't you expect them to voice some concerns?

In addition, though, to the BlueCross BlueShield Association, I have had expressed to me—not in letter form, but I hope my colleagues will take this into consideration in voting—I have had expressed concerns about this amendment from the America's Health Insurance Plans and the National Association of Health Underwriters as well.

I have to say I reluctantly oppose this amendment. I was hoping we would be able to work out further bipartisan agreement behind this amendment than what has come out. While I am not opposed in general to making some service workers eligible for trade adjustment assistance and to making improvements to the Trade Act health tax credit, this amendment goes too far too soon. I had hoped we could reach a more bipartisan compromise on TAA for service workers, and I am extremely disappointed that we could not do that.

This amendment started out with a few pages as a simple and straightforward idea to extend trade adjustment assistance to low-skilled service workers who might be displaced by trade. The original bill, S. 2157, reflected that idea. That idea appealed to me, I say to the Senator from Oregon, and it is certainly something that merits serious consideration today. Yet at some point that idea mutated to something much more than adding service workers to the existing trade adjustment assistance plus the health benefits expansion we adopted 2 years ago.

The original Baucus bill, S. 2157, was 10 pages long. In short, by just the number of pages, it was a limited approach but good in substance. This amendment, which purports to do the same thing as the Baucus bill, is, in fact, 57 pages long. Clearly it does not require 57 pages of legislation to extend trade adjustment assistance to service workers. So what happened? How did 10 pages grow to 57 pages? The answer is quite simple. In the guise of extending trade adjustment assistance to service workers, the amendment makes numerous and fundamental changes to the current Trade Adjustment Assistance Program. These changes go so far that I feel the very fabric of trade adjustment assistance for workers is at risk.

I will put the changes in context. Just 2 years ago Senator BAUCUS and I worked together in a bipartisan way to expand and reform trade adjustment assistance. We accomplished this through the Trade Act of 2002. In doing so, we nearly doubled the program and took the unprecedented step of extending trade adjustment assistance to a whole new class of workers called secondary workers. Secondary workers are those whose job loss might not be directly related to imports, so it was a major expansion.

We also made a number of other changes to the program, including consolidating trade adjustment assistance programs, increasing the funding cap for training, increasing the job search allowance, establishing a new unprecedented wage insurance program for older workers, and establishing a new Federal health subsidy, a health tax credit to help dislocated workers and pension recipients get health coverage.

Now, with these new programs barely up and running, some of them just 9 months, supporters of this amendment want to stretch trade adjustment assistance even further, expanding the program to a whole new loosely defined class of service workers and changing the tax credit in various ways. I am afraid that trade adjustment assistance for workers is being stretched to the breaking point.

The definitions being proposed could provide 2 years of income support, health and training benefits to service professionals, including attorneys, accountants, engineers, as well as business consultants and advertising agents.

Allowing upper-class highly skilled professionals access to trade adjustment assistance does not make sense. In fact, this could actually hurt the program by seriously slowing the provisions of assisting services and benefits for lower skilled manufacturing workers who truly need skills training under trade adjustment assistance.

Can you visualize a lawyer or an accountant with their job loss associated to trade adjustment assistance going back and learning some new skill after they have been through law school? I don't think so.

But perhaps what is even more troubling is the number of fundamental and permanent changes that are being made to trade adjustment assistance in the guise of extending the program to service workers.

I would like to give you some examples. The amendment expands the definition of downstream products to include testing as well as finishing operations. The amendment creates a special eligibility rule for producers of taconite pellets. It includes a special retroactive rule for producers of taconite pellets to November 4, 2002. It doubles the authorization for training benefits to $440 million annually. It lowers the age for workers eligible to participate in the Wage Insurance Program, basically a wage subsidy for older workers, from 50 years and older, to 40 years and older.

Let's look at that. Originally, we wanted to help people who were maybe too old to get some job retraining to move into another industry. Generally, that is 50 years and up. But are you going to offer this wage insurance to people who are 40 years old and have 25 more years to work where the benefit of job retraining is a worthwhile investment? This amendment does that.

It establishes a whole new trade adjustment assistance program for communities. It completely reorganizes the trade adjustment assistance for firms by establishing an Office of Trade Adjustment Assistance within the Department of Commerce. It adds a new class

of firms—service firms—eligible for benefits under the program. It further relaxes current eligibility criteria for manufacturing workers deemed eligible for trade adjustment assistance. It requires the Secretary of Labor to establish a new performance measuring system as well as a number of other new data collection projects.

The program may be pushed to the breaking point.

That is the third time I have said it.

We have a program that was expanded 2 years ago getting underway 9 months ago. Here we are doing all these things I just mentioned, and doing it on a bill that is meant to create jobs in industry. We are holding up a bill that should have been passed 3 months ago to get jobs in manufacturing.

If this weren't enough, the amendment would change the health tax credit.

Again, because that program is young, the advanceable credit has only been running for 9 months. We do not know what issues may need to be addressed or the best ways to address them.

When is it going to reach the point around here when we pass a law in one Congress, it is in operation one day, and we start changing it? When is enough enough? Or when, at least, is enough enough for a while?

Yet here we have an amendment that claims to have some sort of definitive solutions.

Changing the rules in a piecemeal fashion, especially now in the early stages, will be unsettling for those at the Federal and State levels who, along with private insurers, are working diligently to get their tax credit off the ground.

By accepting this amendment, we would be sending them a loud and clear message: Thanks for all your hard work, but we are going to change the ground rules. By the way, do not be surprised if we come back tomorrow and tell you later that because we have better, more complete information, these changes being made and suggested today aren't somehow the right changes. So we are going to give you more.

That information will be coming in the very near term.

The General Accounting Office will issue a report in early fall on the health tax credit. I plan to hold a hearing in the Finance Committee to discuss the General Accounting Office's findings and recommendations. Treasury also has survey work underway. It will be important for us to judge the progress of this new program that was adopted just 2 years ago and which has been in effect for 9 months.

These reports—when we get them—will better inform efforts to improve the health tax credit at the right time with some information that is worthwhile so we can make a judgment that we will use the taxpayers' money wisely.

Now is not the time. This amendment will destabilize the Trade Act tax credit and undermine the availability of affordable coverage choices for people eligible for that credit—the exact opposite outcome that anyone would want.

A number of Blue Cross-Blue Shield association members cover those who receive the credit. They wrote:

> This represents a major and problematic change in a program that has been operational for less than one year.

They go on to say:

> Many Blue Plans would be forced to reconsider offering their products if this amendment passed placing at risk the coverage of many TAA eligibles.

Some would say that is a threat coming from somebody who is just looking out for Members in this body who oppose your amendment. But you ought to give some consideration, it seems to me, to people who are offering a service. When we passed this bill 2 years ago, we didn't know we would be prepared to do it, but people have stepped up to the plate.

Let us be clear about what is at stake. If we weaken the effectiveness of the Trade Adjustment Program for manufacturing workers, public support for that program will be lost and truly trade-impacted workers may be hurt.

If we expand the Trade Adjustment Program and change the health tax credit in a less than a thoughtful and deliberate manner, we could jeopardize programs for current beneficiaries.

We should make sure proposals to further expand trade adjustment assistance and to change the health tax credit are done in a fiscally prudent way and that any changes made will work in practice. In other words, approach this the same way that Senator BAUCUS and I did 2 years ago when we got into the program.

What we have in this amendment is a bunch of ideas with no coherent direction except being bigger and bigger, more and more, and higher and higher.

Such an approach surely is good politics, but it certainly can result in bad policy. I figure that good policy is the best politics. I am afraid that is what we have in this amendment—bad policy.

The price tag for all of these special rules, retroactively, and new benefits, comes to about a $5.3 billion price tag. Where I come from that is a lot of money. I think we have an obligation to make sure it is spent wisely.

While well-intentioned, this amendment goes too far. It could weaken the current program, and it could put the recently enacted health tax credit at risk.

I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, how much additional time do I have remaining?

The PRESIDING OFFICER. Seven minutes.

Mr. WYDEN. I yield 2 minutes at this time to Senator COLEMAN.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, my colleague, the distinguished chairman of the Finance Committee, shares the same objective; that is, strong adjustment assistance.

I maintain that what we are trying to do in this amendment is to simply strengthen what we have seen over 2 years has not been working. That is what is going on here.

Fewer than 5 percent of eligible TAA workers are using the existing tax credit. That is not what we intended. I don't believe my colleagues intended that when it was originally passed. When this was originally passed, we focused on manufacturing jobs. We have all come to understand that about 80 percent of the jobs today in America are service jobs.

We are simply looking at something with which we had experience over 2 years, identifying those things that are not working, those things where folks are not taking advantage of the opportunities which were our intent to provide, and giving them that opportunity in a way which will work.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Oregon.

Mr. WYDEN. I have enormous respect for the distinguished chairman of the Finance Committee. I will take a minute or two to touch on the issue being raised.

The distinguished chairman of the committee has repeatedly said: The program would be stretched too far; the program is already at its limits; when would enough be enough?

I say to my distinguished friend, when we are only covering 5 percent of the people eligible for the health care benefit, we have to do better. By any calculation, that is not something that reflects well on our bipartisan desires.

The chairman of the committee knows I have been supportive of these trade agreements the Senator from Iowa and the distinguished Senator from Montana have championed. They have opened up the opportunity for U.S. companies to set up shops overseas and generate jobs and investment.

Senator COLEMAN and I want to open up the trade adjustment program so when our U.S. workers are hurt, they are not left behind. Senator COLEMAN and I have said this is a question of bringing the law in line with the times. It made sense more than three decades ago when it focused on manufacturing.

The chairman of the committee, the distinguished Senator from Iowa, has hit the key question: When is enough enough? We believe, on a bipartisan basis, it is not enough when you are covering only 5 percent of the workers for health care and you are leaving four-fifths of the economy, people in the service sector and the high-technology sector, behind.

There is a reason why business and labor have come together to support our amendment. This amendment is supported by the Business Roundtable. It is supported by the Technology Industry Association. The two key business groups, the Business Roundtable, the Technology Industry Association, and the labor sector, have come together because they have seen a bipartisan effort that has gone on for months, led by the distinguished Senator from Montana and the Senator from Minnesota, to bring the Senate together.

If Members vote against this amendment, I believe it is a vote that will continue discrimination under law against those who work in the high-technology and service sector. It will keep the door closed to millions of our workers in the technology and service sector. I know no Senator intends that, but that will be the practical effect.

We will have only one vote in this session of the Senate as to whether we will have a chance to stand up for these workers who have been hammered as a result of unfair trading practices or simply competition, when we pay $40 or $50 an hour and competitors overseas pay vastly less.

I am very hopeful the bipartisan efforts that have been made will not be in vain. The distinguished Senator from Iowa has put his hand on the key question: When is enough enough? We respectfully say, if we are only covering 5 percent of the workers and leaving four-fifths of the economy behind and the support of the Business Roundtable and the Technology Industry Association, it is not enough. We can do better.

The distinguished Senator from Iowa, the chairman of the committee, and the distinguished ranking minority member, Senator BAUCUS, know I have been very supportive of their policies in the past and expect to be in the future, particularly with respect to these trade agreements. When the trade agreements open up the opportunities for our companies, we have to open up the opportunity for the Trade Adjustment Assistance Program to help our workers when they have been left behind.

This will be the one chance to stand up for millions of workers in the high-tech and service sector. I hope our colleagues will support this bipartisan amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, 30 seconds, one to correct and one for thoughtful reaction.

The thoughtful reaction is this: When a new program has been in effect for only 9 months, is it unusual that only 5 percent of the people would take part in it? No, they are learning about it. They are going to get involved over a period of time. Only 5 percent in 9 months.

Second, as to the Business Roundtable supporting this amendment, I know the Business Roundtable has called some of the offices of various sponsors of this bill to tell them to quit saying the Business Roundtable supports this amendment.

I yield to the Senator from Oklahoma whatever time he may consume.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Iowa for his statement. I hope our colleagues paid attention to it.

I see my friend from Oregon. Before I make my statement, I have a question because I am trying to determine who is eligible. How many weeks does a worker have to work in a service industry before he would be eligible for this trade adjustment assistance?

The PRESIDING OFFICER. Is there objection to asking a question?

Mr. NICKLES. I am asking a question.

Mr. WYDEN. Same as current law.

Mr. NICKLES. That is how many weeks?

I reclaim my time. If my colleague from Oregon finds an answer to that, I appreciate hearing it. I have asked our staff the answer to that question and it came back that a person only had to work 26 weeks of the previous 52 to qualify for the benefit.

Mr. WYDEN. That is current law.

Mr. NICKLES. I wanted to make sure. We are saying if you work in service, manufacturing, we will give you trade adjustment assistance. What is the benefit? The benefit is equal to 2 years of unemployment compensation. For what? A person worked 26 weeks—one half of a year—and now under this proposal, we are expanding it.

It was too generous in the first place. We are expanding it to say a person is entitled to receive very generous benefits, benefits equal to 2 years of unemployment compensation, 26 weeks by the State, and a year and a half under the Federal program, all federally paid unemployment compensation. That is more generous. All other States have 26 weeks.

We have debated that back and forth, but now we are saying for this group of employees, you get 2 years, mostly paid for by the Federal Government. That is too generous.

Mr. WYDEN. Will the Senator yield?

Mr. NICKLES. No, I want to make a few comments. Then I will be happy to engage in a dialog.

What is the cost of this proposal? I have heard somebody say it is paid for. It is not, according to the scoring rules we use in the Senate. The cost of it—and we got a copy of this from the Congressional Budget Office. The total budget authority over 10 years is $5.3 billion; estimated outlay is $5 billion, and a revenue decrease, because of the insurance tax credit, of $669 million. So it is a total cost of 7.6 billion over 10 years.

Now let's look at a couple of other provisions in the bill. This bill says we will take the present program and expand it. We will give basically refundable tax credits for insurance. The present program says the Federal Government will pay 65 percent of it, two-thirds. This bill says we will replace that and have the Federal Government pay 75 percent. That is three-fourths, if you are not real quick in math. And there is no limit on the cost.

So a person in high tech, as I heard my colleague say, could maybe have a very generous health care plan, maybe it costs $10,000 a year and the Federal Government will pay $7,500 because there is not a limit in the cost.

Wow. This thing is just growing. And maybe some people get some support from this union or that union, and it sounds good. But you start looking at it and you say: What are we doing? It purports to make some changes in the earned-income tax program. I am happy to make changes in the earned-income tax program, but I don't think this gets it done.

Basically what I see this doing is expanding an entitlement, saying, if you happen to be unemployed, either through manufacturing or through service workers, and somebody can say it is because those jobs went overseas—and that is somewhat discretionary in the assessment of it—the Federal Government is going to pick up three-fourths of your health care cost for the next 2 years and you are entitled to 2 years of unemployment compensation.

Unemployment compensation for most States averages about $260, $280, maybe $300 a week. In some States it is up to $700 a week. Again, there is no limit. If you are looking at $700 a week, you are talking about real money. You do that for 104 weeks, that is a pretty generous benefit paid by the Federal Government.

Guess what, folks. We have a little deficit problem around here. This is going to add to it. In fact, this would add to it to the tune of about $7 or $8 billion—$7.3 billion, I believe. At the appropriate time, I am going to make a budget point of order.

Let me give a little facts on trade adjustment assistance. Again, for all of our fiscal conservatives who say we need to get a handle on Federal spending, trade adjustment assistance cost $350 million in the year 2001. The year 2004, it cost $800 million. If we do this expansion, it is going to grow dramatically.

There are lots of reasons to vote against this proposal. I urge my colleagues at the appropriate time to vote against it, and at the appropriate time I will be making a budget point of order.

Mr. BAUCUS. Mr. President, will the Senator yield for a question?

Mr. NICKLES. First, I yield to my colleague from Oregon.

Mr. WYDEN. Mr. President, I will let the Senator from Montana ask a question, and then I have a minute.

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The majority controls 10 additional minutes.

The Senator from Oregon controls 1 minute.

Mr. NICKLES. I am happy to yield to my colleague from Montana for a question.

Mr. BAUCUS. Isn't it true that under this basic law and also this amendment, benefits only accrue prospectively; that is, no benefits accrue retroactively? That is, the only retroactive application is as to whether somebody qualifies, but the actual benefits only accrue prospectively. So it is not accurate to say there is a lump sum that is paid to a worker because of past employment.

Mr. NICKLES. The Senator is correct. I believe you do provide trade adjustment assistance to workers in companies where it is 20 percent and you are looking backward to see whether they qualify.

Mr. BAUCUS. That is correct. But, again, the payments—that is, the trade adjustment assistance payments—would only be prospective.

Mr. NICKLES. That is correct.

Mr. BAUCUS. That is for persons, after today, for example, talking about service employees, who are out of a job on account of trade.

Mr. NICKLES. Mr. President, I agree.

Mr. BAUCUS. So it is true there is no lump sum payment.

Mr. NICKLES. I didn't say there was a lump sum. I said the facts are the benefits under this Trade Adjustment Assistance Program, which was an amendment that was added to the fast-track promotion bill to maybe encourage some people to vote for it, in my opinion, is fatally flawed. Because it has a tax credit where the Federal Government is going to pay two-thirds of the health care costs, 65 percent of the health care cost if somebody is in this category. You only have to work 26 weeks out of the previous year and yet you can get your health care benefits paid for under current law 65 percent by the Federal Government. This makes it three-fourths paid for by the Federal Government. That is a serious mistake. It benefits, frankly, those plans and those companies that have very high health care costs. In some cases that would be union plans that maybe overpromised, and they have very expensive plans.

It also would benefit those people who say: Wait a minute. I lost my job. I lost my job because now that job is being done in India. Maybe somebody is a programmer or maybe somebody is a computer programmer or maybe they are a telephone solicitor and now maybe that job is being done some in the States and some overseas. But the company had a tough time. Maybe it is a telecommunications company and they reduced their employment. But there happens to be some employment overseas. You could see a whole lot of people saying: My job was lost because it went to India, because it went to China. Therefore, even though I have only worked there for 26 weeks out of the last year, pay for my health care for the next 2 years, Uncle Sam. And yes, I want unemployment compensation for the next 2 years. Thank you very much. And incidentally, I want cash. Give me $5,000 cash for the next 2 years.

That is all in this system. It expands it greatly. That is the reason why the Congressional Budget Office says over the next 10 years it is going to cost $6 billion. At the appropriate time, I will be making a budget point of order that it is not paid for. I am going to make a pay-go point of order.

For the information of my colleagues who are very confused on budget points of order, I have used committee allocation points of order. I could use that on this one, or I could use pay-go. Most of the time I have used committee allocation. I may start using pay-go so people become more familiar with it.

I understand people are in favor of pay-go. I would like for them to become more familiar with that particular budget point of order. We will be making it.

This amendment also increases the wage assistance that Senator GRASSLEY mentioned, which is supposed to be for older workers who might have a hard time being retrained, down to 40 years. So all they have to do is work for 26 weeks and then we are going to give them wage assistance, wage insurance.

How socialistic do you have to get? People come to this floor and say, I believe in the free enterprise system, but if you have a change in jobs, we want the Federal Government to come in and give you your wage difference. We want to make up the difference. Oh, we are going to take care of your health care for the next 2 years. Yes, we are going to give you unemployment compensation for 2 years. Everybody else in the country has 26 weeks. But since you have determined maybe yours is because of overseas competition, we are going to give you 2 years. I don't think it is affordable. I don't think it makes sense. I think it was crafted in a way to maybe buy votes.

I look at these 57 pages and I am saying: Why don't we just call this an entitlement expansion? Let's expand all these programs. Let's tax and spend. How are we going to pay for it? It says we will do something with the earned-income tax credit. We will get those undocumented workers.

Joint Tax says that doesn't count. Joint Tax says that is a technicality, and so you don't get scoring for that. And we use Joint Tax around here.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, to respond very briefly, we pay for it as essentially outlined in the President's budget. According to OMB and the Treasury Department, we would close the loophole that would save taxpayers approximately $5.7 trillion over 10 years. That is the way we pay for the program. The people who are going to be eligible for the program are going to get the same opportunities as those in the manufacturing sector, the same number of weeks.

The Senator from Oklahoma has talked about unemployment compensation. This is about retraining people. This is about health care benefits.

If you think we are doing enough today when 5 percent of the people get access to the health care program, then I guess that is a rationale for voting against this amendment. I would hope the bipartisan work that has been done on this legislation by myself, Senator COLEMAN, Senator BROWNBACK, Senator SNOWE, and Senator BAUCUS would warrant the support of our colleagues.

Mr. BINGAMAN. Mr. President, I speak in strong support of the trade adjustment assistance amendment to the JOBS Act. I will keep my comments short and to the point.

Although there continues to be a significant debate in Congress concerning the efficacy of the administration's economic policies, I believe the majority of my colleagues agree on one thing: training for American workers in critical technologies remains the key to our economic security.

It is undeniable that the process of globalization has created dramatic shifts in the job opportunities available for American workers.

It is unwise to assume the labor market will adjust by itself. I firmly believe that Congress must look carefully at where we are going and what we should be doing to remain competitive in the future.

Two years ago the Senate passed an expanded Trade Adjustment Assistance Program as part of the Trade Act of 2002. I introduced that trade adjustment assistance legislation with Senators BAUCUS, DASCHLE, ROCKEFELLER, and a number of other colleagues as original co-sponsors.

Included in that legislation were a range of provisions that we considered to be essential to any effective TAA system—TAA for service workers, TAA for shifts in production to all countries, TAA for communities, TAA data collection, wage insurance, significant health care coverage for workers, and so on.

Unfortunately, all of these provisions were either outright deleted or seriously narrowed when the legislation went to conference.

The amendment today remedies that mistake. It recognizes that the United States does face an immediate problem related to negative impacts from trade and we need to better prepare workers for the future. Significantly, it recognizes that long-term trade policies have short-term costs for Americans and puts in place a coherent strategy to give them the skills required for job security.

I have said this before and I say it again because it matters: Contrary to the assertions of some of my colleagues, we cannot measure the success of our trade policy only by the cost of

the products we buy. We also have to look at whether our workers are more economically secure.

By this I mean whether they have a high-wage job, whether they can buy a home, whether they can afford an education for their children, whether they can afford health insurance, and whether they have retirement security. Without these things, we are poor by any measure.

I have always argued that while strong trade agreements lie at the core of a coherent trade strategy, an effective TAA program is essential for our country. It is a fair and appropriate approach for those American workers who lose their jobs as a result of trade. American workers are not looking for handouts. They are looking for a step-up to something better. They are looking for a chance to provide for their families and contribute to our country's economic welfare.

This amendment offers them a chance to do just that. It is common sense, and it is the least we can do for our neighbors and friends back home.

It is time to do what has to be done to get this legislation passed. There is too much at stake for American workers and communities to wait any longer.

Ms. SNOWE. Mr. President, I rise today to join my colleagues, Senators WYDEN, COLEMAN, BAUCUS, BROWNBACK, and ROCKEFELLER to offer an amendment in recognition of the critical need to provide economic development assistance to Americans across this nation that have been negatively impacted by trade. Trade Adjustment Assistance—TAA—programs are essential in bringing short-term financial and retraining assistance to workers who have been displaced due to imports or shifts in production. I have long supported the TAA program as it has helped those in Maine and across the Nation who are unemployed because of trade to find new employment and gain the appropriate skills these new jobs require, and this amendment builds upon this crucial program.

What we have before us is an amendment which recognizes that our desire to trade should be balanced with our ability to assist those adversely affected by trade. Our amendment is a comprehensive package of TAA improvements and additions that further seeks to better the conditions for America's workers and communities who find themselves negatively impacted in the wake of rapid international trade liberalization.

Our amendment contains provisions to assist trade-impacted communities similar to those included in my bill, The Trade for America's Communities Act, which I introduced last year. My legislation gives the Department of Commerce the authority to use the revenue collected from tariffs—which currently goes to corporations—to provide technical assistance to communities that have been negatively impacted by trade. The bill—and portions of this amendment—helps communities to develop strategic plans that would focus on the creation and retention of jobs and to promote economic diversification.

Our amendment also makes critical TAA changes in relation to the service sector. We need to recognize that trade affects not just manufacturing sectors of the economy, but service industries as well. Current TAA provisions cover manufacturing workers but exclude the 80 percent of American non-farm jobs in the service sector. Our amendment makes existing TAA benefits available to service workers whose jobs move overseas and increases training funds to match anticipated enrollment. This provision is sorely needed in places like Lewiston, ME, where 84 service sector layoffs occurred at the ICT call center, or 30 workers at Prexar in Bangor, ME—all service sector workers.

When you start adding these types of layoffs to that of production in small towns across the country, the impact is sizable, making the distinction between service and production workers irrelevant. These dynamic changes that are outgrowths of trade are similar to technological advances in productivity that leave workers out of jobs, or plants out of operation.

Beyond these provisions, the amendment also provides important improvements to the refundable health care tax credit for laid-off workers and retirees that was originally created in 2002 as part of the Trade Promotion Authority Act.

Two years ago, I was proud to work closely as a member of the Finance Committee with Chairman BAUCUS and Senator GRASSLEY to create the HCTC as a means for displaced workers to continue receiving the health care benefits they lost as a consequence of trade. I worked to bring this benefit to fruition to help these displace workers get the health coverage they need when faced with the loss of employment because the assistance option at that time, namely COBRA, was too expensive to be feasible. I will continue my efforts to see that it is properly administered and adequately received by TAA-certified beneficiaries. There have been countless situations prior to introducing the HCTC where the workers were left without health care insurance, and this is a situation that we have only begun to remedy by creating the HCTC.

Unfortunately, recent studies have demonstrated that the tax credit has not been widely utilized by workers. Just last month, the U.S. Department of Labor reported that only about 10 percent of workers certified under the TAA program have applied for the health care tax credit since its enactment. In fact, according to Blue-Cross/Blue-Shield, only about 100 people in Maine are signed up for the HCTC.

In 2002, the original Senate version that I worked on called for a 75 percent HCTC benefit. Unfortunately this benefit was reduced to 65 percent in conference. That is why I am pleased that our amendment today will restore this benefit to its originally proposed level. This adjustment to the HCTC will allow more TAA-certified workers to take advantage of the tax credit by making health care more affordable as they seek new employment. As many of my colleagues would agree, TAA-certified workers may still find it difficult to cover 25 percent of the cost of premiums, but it is surely a step in the right direction to making the HCTC more accessible.

This past February, I met with union members in my state who were laid off as a result of the shutdown of the Eastern Pulp and Paper mills in Lincoln and Brewer, ME, to talk about their needs. During the meeting, I heard first hand that the 35 percent of the cost of the health insurance premiums under the HCTC program is still too high when most displaced workers are only receiving a maximum of $292.00 per week in unemployment insurance—and premiums can be as high as $559.91 per month for an individual and as high as $1,483.75 for a family. The union officials also informed me that in the case of the Brewer, ME, mill, of the 350 employees affected by the shutdown, only 6 took advantage of the HCTC. Frankly, if the credit is unworkable and unattainable, then there is no point in having it in the first place. This cost is a real stumbling block for displaced workers, and we must look at this program on a basic level of affordability for impacted individuals.

Another problem that was identified to me during this meeting is that the statute is unclear and too restrictive. This has made administration of the credit difficult. For example, while the HCTC is refundable, the IRS currently does not advance the first month's tax credit, which means the displaced worker must pay for the entire health care premium the first month—100 percent of the cost. This, in many cases, causes the worker to not take advantage of the HCTC because they simply cannot afford that first payment. In the case of the Eastern Pulp and Paper mills, a worker and his or her spouse would have to come up with $1,500 that first month. Clearly this would turn a prospective beneficiary away right at the beginning. The need to streamline the administrative process of the HCTC is paramount to making it more accessible.

We attempt to remedy this situation in this amendment by improving access to the credit as well as making it more effective. Not only does the amendment increase the credit percentage from 65 percent to 75 percent of the individuals' health care premiums, but it also instructs the IRS to provide an expedited refund of the first month's tax credit. Workers in my home state of Maine who are being laid off have told me that they just cannot afford the cost of health insurance. This amendment will make health care more accessible for this population.

Beyond expanding the size of the credit, our amendment also provides important outreach initiatives to get the word out to eligible workers about the existence of the credit. For example, the amendment allows states, to use funds from a National Emergency Grant, to provide outreach and marketing to inform individuals of the available health insurance options, including low cost options, that qualify for the health care tax credit. Maine has already done this with great success which is a testament to why we need to make this a viable option nationwide. While this may seem like a simple change, it is one of great impact, as too many eligible workers are unaware that these benefits even exist.

Overall, these reforms to this vital health care tax credit are critical to get workers and retires the information and the access they need to ensure health insurance coverage.

The cost of this amendment is estimated to be about $5 billion over the next 10 years for the expanded TAA benefits and the improvements to the health care tax credit for TAA recipients. Our amendment proposes to offset this cost by closing a loophole in the administration of the earned income tax credit—EITC—that is allowing individuals to inappropriately claim refundable tax benefits.

Current, Social Security numbers are provided for to individuals for employment and to obtain Federal and State benefits. Under current law, individuals are required to have a work related Social Security in order to claim the earned income tax credit in every situation but one: individuals who have attained a Social Security number solely in order to gain State benefits.

Currently, the IRS is unable to differentiate between an individual who has a work or non-work related Social Security number. Therefore, individuals who are not working but have a non-work related Social Security number are able to receive EITC without having been qualified to do so.

The offset provision in this amendment would require every individual claiming the EITC to have a Social Security number that is valid for employment. Thus, individuals with non-work related Social Security numbers, regardless of why they were offered, would not qualify.

This provision was included in the President's budget and is estimated to raise about $5.7 billion over 10 years, by the IRS, Treasury Department and Office of Management and Budget and fully offsets the cost of this amendment by recouping the lost revenue from this unintended loophole in the law.

I understand that there is technical discrepancy between Joint Tax and the Treasury on the scoring of this offset. While its clear that it will provide billions in savings to the Government, I intend to work with Chairman GRASSLEY and Ranking Member BAUCUS to ensure that this entire bill meets the requirements of the Budget Act and is fully offset according to the Joint Committee on Taxation and the Congressional Budget Office; the official score keepers for Congress, as well as the Department of the Treasury.

The fact is trade results in both the formation of new jobs as well as the loss of others. These assistance programs recognize this reality and help give the American worker the education, training and skills they need to find another job and continue in gainful employment—while at the same time assisting them with the financial means to sustain their families as they pursue the necessary retraining. Since 1997, over 10,000 Mainers have applied for TAA benefits. Clearly the need for these programs is as strong as ever.

In small towns where the livelihood of the local economy depends on one industry, one plant or one company that is suffering under trade liberalization, it can cause devastation when that steel mill, paper mill, or textile mill shuts down. I have personally witnessed time and time again the hardship that trade liberalization policies can cause.

In towns like East Millinocket and Millinocket, ME, where Great Northern Paper went bankrupt; in Waterville, ME, where Hathaway Shirt shut down as a result of shirt production being moved overseas; or most recently the Eastern Pulp & Paper mills in Lincoln and Brewer, ME, local economies were sent into disarray. These closures have a ripple effect throughout the region. Efforts were made in these communities to form transition teams to assist the impacted workers find the assistance resources necessary to survive financially through these difficult times. I helped lead the way to these assistance resources, but I continue to recognize that these communities need much broader assistance. That is just part of the reason I have been so adamant in my support for improvements in Trade Adjustment Assistance.

With the momentum provided by the passage and implementation of Trade Promotion Authority, the President has moved aggressively on an agenda of bilateral, regional and global agreements that promote the liberalization of trade and seek to grow the U.S. economy. As the President has argued, this policy agenda creates new opportunities for prosperity and growth. But in order for this to work, free trade has to be fair and we must be diligent in enforcing the rules to ensure we are operating on a level playing field.

At the same time, we must never forget that opportunities of market access, improved consumer choice, and availability of manufacturing inputs come with the price of transitions, dislocations, and shifts in the U.S. economy. America's workers—both manufacturing and service sector—and communities are often faced with difficult realities in the rapidly changing nature of international trade liberalization.

However, while technological advances are the initiative of private enterprise, trade liberalization and enforcement is the chosen policy of government. Change and progress can be good, but we must never ignore or forget those Americans who find themselves unfairly treated in an era of global commerce. Congress must make the difficult decisions to turn these challenges into opportunities for this Nation.

I am proud to be an original cosponsor of this amendment and join my colleagues as we continue to recognize and address the oft-ignored consequences of international trade liberalization. At the end of the day, it is the people and communities of this nation that matter most, and when policies which hurt their economic livelihoods are promulgated by government, it is incumbent upon all of us to find ways to help.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, might I ask how much time is left on both sides?

The PRESIDING OFFICER. The time of the Senator from Oregon has expired. The Senator from Iowa controls 4 minutes 45 seconds.

Mr. BAUCUS. Mr. President, I ask unanimous consent that both sides be given an additional 3 minutes on this amendment.

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

The PRESIDING OFFICER (Mr. ALLEN). Who yields time?

Mr. BAUCUS. Mr. President, if we go into a quorum call, I ask unanimous consent that the time be divided proportionately.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS. Mr. President, I will use my time.

Mr. President, the point is this. It is quite simple. We in America are faced with immense competitive pressure worldwide. We are concerned about a lot of jobs being lost in America. Some are being lost within America; some are being lost in other countries. It is an offshore issue. It is a big question in America.

There are a lot of Senators here who are trying to address this question but who are trying not to vote for so-called protectionist amendments; that is, amendments which say a company cannot do this or that. I agree with that sentiment. But I also think—and I daresay that most Senators would agree with this next point—that we should do something for our employees who lose their jobs through no fault of their own.

We already have a very small program called trade adjustment assistance for manufacturing industry jobs that are lost on account of trade. We do not provide for service industry workers who lose their jobs on account of trade. Service jobs are lost by a larger margin than in the past simply because so much information in America

is now being digitized and because of the advance of broadband telecommunications. So a lot of service industry jobs—analyzing programs, reading x rays, and other jobs—go overseas from American companies. Orders come over at the speed of light and the product goes back at the speed of light.

What we are saying is this is a constructive, positive response by the Congress to deal with and help those people who lose their jobs on account of trade. It is not a massive program as has been described. Only about 150,000 people qualify today for TAA. Only 5 percent of American workers use it. We are saying just expand it to the service industry. That is not a big expansion. A very small percentage is going to be able to use it.

It has not been pointed out by the other side that you have to be enrolled in a retraining program to use these benefits. The key is to have enough of a benefit so people don't just run off and who want to go into retraining to avoid taking a McDonald's job or some minuscule minimum wage job.

I urge my colleagues to put this in the context of what is really going on and not get sidetracked by a lot of arguments that get down in the weeds but which really don't address the larger issue, which is that this is the one opportunity—and it is very minuscule—to help American workers who lose their jobs, and not only manufacturing but service industry jobs. It is a positive, constructive response; it is not a protectionist response.

I urge my colleagues to support this one chance we have this year.

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

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I just spoke for 30 seconds to get in the point that the Business Roundtable had called the offices of the various sponsors of this amendment saying that the Business Roundtable does not support this amendment. We were also told by the authors that the Information Technology Industry Council supported the amendment. I have had contact, through staff, with a Joe Pasetti of the Information Technology Industry Council, who made it clear they have not taken a position on the Wyden amendment. I think it would be incorrect to quote them as saying they support this amendment.

There are a couple of points I want to make about the points the proponents have made. The proponents, in opening debate, were concerned about the affordability of coverage. Yet their changes will make coverage less affordable. The amendment creates a back door exception to a requirement to have 3 months of coverage. This requirement is consistent with HIPAA standards and was agreed to when we adopted this original expansion of TAA in August 2002.

The changes to the rule will require health insurers to offer coverage to higher risk individuals. Health insurers, like the BlueCross BlueShield plans, will either have to increase premiums or not offer coverage. I have said many times that you ought to be concerned about affordability. The authors of the amendment say they are concerned about affordability, but the amendment will make coverage more unaffordable. Fewer people will be able to use the credit.

Proponents of the amendment also have made the claim that I have referred to before where they said only 5 percent of the people are making use of this new program. Well, what do you expect after just 9 months being operational—just 9 months before the massive expansion of this program? But they refer to this 5 percent. They would make it broader and say we have a low uptake rate and that this signals failure of the program we adopted 2 years ago, which is now just being undertaken for 9 months.

Let me repeat that this program is a very young program. The enrollment numbers only reflect those who have signed up for the advanceable credit. The numbers don't include dependents. The numbers don't include people who claim the credit on their yearend return. We would not even know that yet. Treasury is trying to analyze that data of the people who claimed the yearend credit. Just like I said, we don't have complete data. What would you expect after only 9 months? I hope our colleagues will take this into consideration when looking at a massive expansion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes 40 seconds. The time of the Senator from Oregon has expired.

The Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield me the remainder of the time?

Mr. GRASSLEY. Yes.

Mr. NICKLES. Mr. President, for the information of my colleagues, we are going to vote in a moment. I have two or three quick comments I want to make. My very good friend from Oregon—and he is my good friend—as he is trying to find another vote said, wait a minute, we should not treat service workers differently than those in manufacturing. I used to run a manufacturing company. Manufacturing, frankly, in this country has been on about a 40-year decline, almost straight, on the number of jobs. The service industry, on the other hand, has been quite volatile, but jobs are increasing—frankly, increasing in lots of different and exciting ways.

But to say we are going to have a Federal benefit if somebody works in a job for 26 weeks and somebody says, I lost my job and I think I lost it because of overseas competition, therefore, I am entitled to 2 years of unemployment compensation, I am entitled to a refundable, advanceable tax credit, and basically to have the Federal Government pay for my health care—three-fourths of it—for the next 2 years, and to get cash assistance of up to $5,000 a year for each year, I think is going over board. It costs a lot of money.

The Congressional Budget Office scored this. We just got this. You ask, why? We just got the amendment, so we just got the score from CBO. It says the outlays to this are $5.3 billion in BA, or obligation authority. The tax credit would cost $669 million over the next 10 years. The cost is about $6 billion. According to Joint Tax, it is not paid for.

I don't really think we should have the Federal Government using our resources, which are limited—and we have an enormous deficit—for paying three-fourths of the cost of a worker's health care costs for 2 years because they happened to work for 6 months. I don't think that makes good sense for a lot of reasons. I don't think it makes good sense to lower the eligibility on this wage insurance program and that we are going to pay people $5,000 a year because they might take a lower paying job. I think that sounds so socialistic. Somebody says that is better than unemployment comp. This is in addition to unemployment comp. So we are going to do unemployment comp, do your health care, give you cash in the meantime, and do your retraining.

I don't think the Federal Government can do it all. This program has grown from 300-some-million dollars in 2001 to $800 million in 2004. If this amendment passes, it would be a billion dollars plus. I urge my colleagues to vote in favor, of supporting the budget although there may be a motion to waive this pay-go point of order.

I yield back the remainder of my time.

I make a point of order that the amendment offered by my good friend, the Senator from Oregon, Senator WYDEN, increases mandatory spending and, if adopted, would cause an increase in the deficit in excess of the levels permitted in the most recently adopted budget resolution. Therefore, I raise a point of order against the amendment pursuant to section 505 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, pursuant to section 505(b) of House Concurrent Resolution 95, the concurrent resolution on the budget for fiscal year 2004, I move to waive section 505 of that concurrent resolution for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The yeas and nays resulted—yeas 54, nays 45, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—54

Akaka	Dole	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Graham (FL)	Nelson (NE)
Byrd	Graham (SC)	Pryor
Cantwell	Harkin	Reed
Carper	Hollings	Reid
Clinton	Inouye	Rockefeller
Coleman	Jeffords	Sarbanes
Collins	Johnson	Schumer
Corzine	Kennedy	Smith
Daschle	Kohl	Snowe
Dayton	Landrieu	Specter
DeWine	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NAYS—45

Alexander	Crapo	McCain
Allard	Domenici	McConnell
Allen	Ensign	Miller
Bennett	Enzi	Murkowski
Bond	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee	Hatch	Stevens
Chambliss	Hutchison	Sununu
Cochran	Inhofe	Talent
Conrad	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner

NOT VOTING—1

Kerry

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized.

The Senate will be in order.

The Senator from Virginia.

AMENDMENT NO. 3113

Mr. ALLEN. Mr. President, I call up amendment No. 3113.

The PRESIDING OFFICER. The clerk will report the amendment.

The journal clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself and Mr. EDWARDS proposes an amendment numbered 3113.

Mr. ALLEN. I ask unanimous consent 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 mortgage payment assistance for employees who are separated from employment)

At the end add the following:

TITLE IX—HOMESTEAD PRESERVATION ACT

SEC. 901. SHORT TITLE.

This title may be cited as the ''Homestead Preservation Act''.

SEC. 902. MORTGAGE PAYMENT ASSISTANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Housing and Urban Development (referred to in this section as the ''Secretary'') shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) ELIGIBILITY.—To be eligible to receive a loan under the program established under subsection (a), an individual shall be—

(1) an individual that is a worker adversely affected by international economic activity, as determined by the Secretary;

(2) a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) enrolled in a training or assistance program.

(c) LOAN REQUIREMENTS.—

(1) IN GENERAL.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) ACCOUNT.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) REPAYMENT.—

(1) IN GENERAL.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2005 through 2009.

Mr. ALLEN. Mr. President, I ask unanimous consent to add Senator LINDSEY GRAHAM of South Carolina as a cosponsor of this amendment.

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

Mr. BAUCUS. Mr. President, I ask my good friend from Virginia, since he has such a good amendment, is the Senator prepared to go to a vote in favor of this amendment? This Senator is inclined to vote for the amendment, and I encourage all of my colleagues to vote for the amendment. Because we are going to accept this amendment, I wonder if the Senator could agree to a voice vote on his amendment so we can get to the spouses' dinner more quickly.

Mr. ALLEN. Mr. President, I certainly wouldn't want to do anything to harm the ability of Senators to be with their spouses, and I certainly consider that a pressing question. Yes, I would accept that offer and that proposal. I will only make a few comments so people know what they are voice voting on. I will take no more than a few minutes. That is a kind offer.

Mr. BAUCUS. I thank the Senator.

Mr. ALLEN. Mr. President, this amendment has to do with the Homestead Preservation Act. I filed this amendment to this underlying legislation to repeal the FSC/ETI tax regime.

I support the JOBS bill which should be focused on helping our manufacturers here in this country and also help increase jobs. The efforts made in the prior amendment were very commendable in many regards. This amendment would provide displaced workers access to short-term, low-interest loans to help meet monthly home mortgage payments while training for or seeking new employment.

This is a commonsense, compassionate amendment designed to help working families who through no fault of their own were adversely affected or lost their jobs due to international competition.

We have seen across this country—whether in the Southeast, or the Northeast, or the Midwest—uneasy times for everyone. Many regions of this country, from the Southeast, the Northeast and the Midwest and especially in places like southwest Virginia where we see a lot of job losses in the textile and apparel industry as well as furniture manufacturing, which has been especially hard hit. Any time one of these factories closes, it is a devastating blow to all the families and businesses in that community and in the region.

I was proud to actually see the response of close-knit communities in southwest Virginia where everyone came together to help those who had lost a job. When companies like Pluma, Tultex, Pillowtex and others closed their doors and thousands of jobs were

lost; not one or two, but multiples of thousands.

Most recently in Galax, VA—otherwise known as the home of the ''Old-Time Fiddlers Convention''—Webb Furniture Enterprises closed their doors due to international competition. This amendment will help those families—not just in Virginia but across this country. The proposal would direct the Department of Housing and Urban Development—HUD—to help through these tough times.

I understand no government loan or government assistance will substitute for a job. But there are ways we can assist in this regard. We ought to find ways to ease the stress and turmoil for people whose lives are unexpectedly thrown into transition after years of steady employment with a company that suddenly disappears.

While they are looking for jobs and getting retraining, people are worrying about their homes. Often the biggest financial investment in someone's life is their home. They have a lot of equity built into that home. Again, while they are getting training and looking for another job, those mortgage payments are still there.

When I saw this sort of economic disaster hit Martinsville a few years ago, it struck me so much like a natural disaster as far as the devastation. But in many regards it is worse than a natural disaster because after a natural disaster there is a buildup. There is hope for the future. In an economic disaster with the loss of thousands of jobs, there is no clear rebuilding process.

The point is the Federal Government, in my view, ought to make similar assistance available to homeowners in economic disasters as is available when there is a natural disaster.

That is the rationale behind my amendment—the Homestead Preservation Act. This legislation will provide temporary mortgage assistance to displaced workers by helping them make ends meet during their search for a new job. Specifically, the Homestead Preservation Act authorizes HUD to administer a low-interest loan program at 4 percent for workers displaced due to international competition. The loan is for up to an amount of 12 monthly mortgage payments—only 12, 1 year—for home mortgage payments only. The program is authorized at $10 million per year for 5 years. The loan would be paid off.

These are not grants. They are loans to be repaid over a period of 5 years. No payments, though, would be required until 6 months after the borrower has returned to work full time, or 1 year, whichever is applicable. The loan is available only for the cost of the monthly home mortgage payment, and covers only those workers displaced due to international competition. It requires individuals seeking to avail themselves of this loan program to be enrolled in job training or job assistance programs.

The Homestead Preservation Act provides temporary financial tools necessary for displaced workers to get back on their feet and to succeed. It is logical and, in my view, a responsible response.

This measure garnered strong bipartisan support the last time it was considered by the Senate. I respectfully urge my colleagues to recognize the value Americans place on owning a home, and support this caring and needed initiative.

If no one has anything further to say about it, I urge adoption of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3113) was agreed to.

Mr. ALLEN. Thank you, Mr. President.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFORM

Mr. BAUCUS. Mr. President, there is another point that I would like to discuss with the chairman for the record, regarding a form of restitution that is often authorized for rebates in the case of regulated utility providers whose rates to consumers are regulated. Due to a change of circumstances or other factors, the rates that were charged for a particular period may be determined to be greater than should have been charged if all relevant factors had been known and properly accounted for. Due to the large number of customers and the relatively small amounts involved, the regulatory authority frequently permits the utility to adjust rates to provide compensatory rebates for all current customers. This avoids, for example, tracing former occupants of an address served by the utility or otherwise tracing former customers for relatively small amounts. It is my understanding that this type of procedure would qualify as restitution because substantially all the payments are directed to the actual parties that overpaid.

Mr. GRASSLEY. Yes, that is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, we have once again had a productive day. I thank all Senators. We adopted several amendments. First is the overtime amendment, an issue which has occupied the Senate for some good amount of time. The Senate also adopted the amendment of the Senator from Maine, Ms. COLLINS, her manufacturing jobs credit amendment. The Senate has also addressed the trade adjustment assistance amendment.

We have a number of major amendments pending. In the morning, we hope to have debate on Senator DORGAN's runaway plant amendment which is already pending. Senator GRAHAM of Florida has an amendment already offered, as well as Senator BREAUX's repatriation amendment. We hope to vote early in the afternoon on all those pending amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

BURMA'S ICON STILL NEEDS HELP

Mr. MCCONNELL. Mr. President, if my colleagues doubt that the pen is mightier than the sword, they need to take 5 minutes to read Rena Pederson's May 2 Dallas Morning News column entitled ''Burma's Icon Still Needs World's Help.''

When it comes to continued repression in Burma, and a largely muted world response, Ms. Pederson hits a bullseye.

She is right to demand the U.S. Congress to expeditiously renew sanctions against Burma, which I fully expect us to do over the next few weeks, and to take the United Nations to task for its weak and tepid response to the State Peace and Development Council's, SPDC, recalcitrance to implement U.N. General Assembly and Commission for Human Rights resolutions.

I share Ms. Pederson's disbelief that the U.N. Security Council has yet to bring the Burmese crisis up for debate and sanction. We already know that Burma poses an immediate and grave threat to its neighbors, whether through refugees fleeing persecution, the spread of HIV/AIDS or the proliferation of illicit narcotics.

Unfortunately, the U.N.'s misguided ''wait and see'' approach serves to further exacerbate a regional crisis that is a direct result of these undesirable Burmese exports and that neighboring countries, out of political expediency, refuse to face. Thailand, China, India and other regional neighbors can only bury their heads in the sand for so long.

As three Burmese were recently sentenced to death for merely talking to