evening, we could stack votes early in the morning and have a departure which would not be too late to accommodate the schedules of many Members who would like to understandably depart going back to their home States.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The assistant Democratic leader.

Mr. REID. Mr. President, I say through you to the manager and distinguished majority leader that we are going to cooperate in every way we can to move this most important piece of legislation. We have eight appropriations bills and a short time to complete them. We will do the best we can to wrap them up as soon as possible.

Mr. FRIST. Mr. President, if I could ask that a few minutes be devoted to accommodate the Senator from Texas with comments on the guest Chaplain.

The PRESIDENT pro tempore. The Senator from Texas is recognized.

PASTOR MAX LUCADO

Mr. CORNYN. Mr. President, I appreciate the indulgence of the majority leader, the bill's managers, and Senator NELSON and Senator REID. Before we get on to the business of the day today, I wish to say a couple of words about our guest Chaplain, Max Lucado, who opened the Senate with prayer this morning.

Max is a longtime friend of mine and our family and is the minister of the Oak Hills Church in San Antonio. He has a wonderful wife, Denalyn, and he is a loving father to their children: Jenna, Andrea, and Sara.

Most people will know Max because of his best-selling books. Currently, he has more than 33 million books in print, and is America's leading inspirational author.

A half century ago, Dietrich Bonhoeffer wrote about the difference between ''cheap grace'' and ''costly grace'' when it comes to our faith. Cheap grace, he said, requires nothing of us but vague sentiment—but costly grace requires a lifetime of faithful sacrifice and service.

Someone who understands and embraces that kind of costly grace with a whole heart is a true disciple. By that definition, Max Lucado is a man who exemplifies what a disciple is and can be.

I thank Max for his service to Texas, to America, and today to the Senate, and also to his Creator who chose to set a disciple like him among us for such a time as this.

Thank you, Mr. President. I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2660, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Specter amendment No. 1542, in the nature of a substitute.

Byrd amendment No. 1543 (to amendment No. 1542), to provide additional funding for education for the disadvantaged.

Akaka amendment No. 1544 (to amendment No. 1542), to provide funding for the Excellence in Economic Education Act of 2001.

Mikulski amendment No. 1552 (to amendment No. 1542), to increase funding for programs under the Nurse Reinvestment Act and other nursing workforce development programs.

The PRESIDENT pro tempore. The Senator from Florida is recognized.

AMENDMENT NO. 1557 TO AMENDMENT NO. 1542

Mr. NELSON of Florida. Mr. President, I send to the desk an amendment.

The PRESIDENT pro tempore. Is there an objection to setting aside the pending amendments? If not, without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 1557.

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

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

The amendment is as follows:

(Purpose: To provide for a study and report on the propagation of concierge care)

On page 61, between lines 14 and 15, insert the following:

SEC. ___. GAO STUDY AND REPORT ON THE PROPAGATION OF CONCIERGE CARE.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act (42 U.S.C. 1395a(b)(5)(A))); and

(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) CONCIERGE CARE.—In this section, the term ''concierge care'' means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

(b) REPORT.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

Mr. NELSON of Florida. Mr. President, this is an amendment that I think is noncontroversial, that I am led to believe will be accepted by both sides. It calls for a study by the GAO of a practice that is going on in health care today that I have considerable concerns with, which could cause the beginning of the demise of a major part of Medicare, which is our health insurance system provided by the Federal Government for senior citizens.

The practice, interestingly, started in my State of Florida. It has spread to other States. We do not know the extent of this practice. That is one of the reasons for the GAO study that would take place over the next year and a half.

But here is what happens: Let's say a doctor has a patient list of some 3,000 patients, and the doctor wants to constrict his or her practice. So the doctor writes all of the patients—and what I am recounting right now is in fact what has happened in Florida—the doctor writes all of the patients and says: Henceforth, I am going to limit my practice. If you want to continue with me, you must pay an entrance fee of $1,800 per year. In some cases it has been noted in articles that have appeared in periodicals such as the Los Angeles Times, the Washington Post, and the New York Times that that entrance fee is as high as $20,000 per patient.

So what happens is, patients who have enjoyed the services of that physician in the physician-patient relationship, and who cannot afford the entrance fee, suddenly have to go elsewhere to seek their health care services.

You may say: Well, that sounds reasonable because we ought to have the opportunity for individuals to charge what they want for the services they provide as a physician. And, of course, that is our free market system way of doing things. But when part of the equation is a health insurance system funded by the Federal Government for senior citizens, and the doctor wants to continue to receive reimbursement by that health insurance system called Medicare, and the doctor is limiting the access of patients with an entrance fee which that patient must pay, then what we start to create under Medicare is a two-tier system of those who can afford it and those who cannot. It was never contemplated that is what Medicare would be.

Let me give you an example in the private sector. If Blue Cross/Blue Shield has a panel of doctors, and those doctors on that panel are entitled to receive reimbursement from the health insurance company—in this case in the private sector my example is Blue Cross/Blue Shield—if those doctors say, ''Well, I will be glad to see you, enrollee of Blue Cross/Blue Shield, insured by Blue Cross/Blue Shield, but you have to pay me $1,800 a year before I will see you,'' do you think Blue Cross/Blue Shield is going to keep that doctor on its panel of physicians who are going to handle those insureds of that insurance company? The answer to that is, of course not.

If that will not occur in the private sector, then why, in the public sector, in a health insurance system funded by the Federal Government for senior citizens, should the Federal Government close its eyes and look the other way while the physicians limit their practice with that entrance fee?

We have already addressed this. The Senate took its first step in opposing the use of these access fees by doctors who treat Medicare patients by including a provision in last year's budget resolution that expressed the Senate's preference that Federal funds should not reimburse doctors who charge their Medicare patients any unnecessary fees.

What has happened in the meantime is the doctors who practice this, of course, want these entrance fees because they can now limit their practice. But, oh, by the way, they still want to continue to receive the insurance benefits from Medicare, so naturally they are going to fight this. And they have engaged all kinds of lobbyists to fight it.

So what I am asking for is a study. It is my understanding that both sides of the aisle have agreed to have this provision. This is a study by the GAO over the next year and a half that will look at how extensive this is and whether there is any diminution in the service through Medicare to the Medicare recipients we are trying to help. I maintain there is.

What the doctors will tell you is: No, no, no; what we are doing is we are adding all kinds of different services. We are adding an annual health checkup, a physical exam. We are going to give them hot towels. There won't be any waits in a waiting room. They will have a special private waiting room.

I do not have any problem with that if that is what the patient wants to pay. But to say no patient can come to that doctor who is receiving Medicare reimbursement unless that patient is, at the same time, paying them that entrance fee—which ranges across America from $1,800 per patient in Florida to $20,000 per patient that was noted by the New York Times and the Los Angeles Times in a case out in California—then I think it is beginning to establish a dangerous precedent that in effect could impose a means test to access Medicare providers. That would further increase the gap between those who can afford health care and those who cannot. That is not the purpose of Medicare.

The purpose of Medicare is to assist all seniors, not just some seniors. The purpose of Medicare is a health insurance system funded by the Federal Government for all senior citizens, not just some. I think the logical extension of this practice is, as you go down the line, with access limited, we are going to create a two-tier system, and that is not what Congress had in mind.

So what I am offering is an amendment that would get at the heart of this. Let's be fair. If the doctors can make their case to GAO, then so be it. I personally believe strongly that it is the beginning of the disintegration of the main principle of Medicare, which is to have access to health care for all senior citizens.

Mr. President, that is the essence of the amendment. I will abide by the leaders of the bill as to how they want to dispose of it. If the leader of the committee, the chairman, would like me to call for a vote, I would be happy to do so. It is whatever is the pleasure of the distinguished chairman of the committee, the Senator from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Senator from Florida for offering this amendment. I think he has articulated good reasons for a study by the General Accounting Office. These are important issues which could have a significant impact on health care delivery in our country. We are prepared to accept the amendment.

Mr. NELSON of Florida. Mr. President, I am grateful to the Senator from Pennsylvania.

The PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. SPECTER. Trying to be brief in acceptance to give plenty of time for other amendments to be offered, but as the Chair can observe, there are no Senators in the Chamber seeking to offer amendments. If we are to proceed, as I said earlier, to get this bill considered and acted upon, we will have to have people coming to the floor with amendments.

I urge the adoption of the amendment.

The PRESIDENT pro tempore. Is there any further debate?

The question is on agreeing to amendment No. 1557.

The amendment (No. 1557) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, we are having a little down time. We expect a significant number of Senators to have their schedules arranged so they will be here, but it is not right now; it probably won't be until 45 minutes or so. We will see what we can do to try to get someone to come. We have people who have indicated they will offer their amendments today, a dozen Senators. But we have had difficulty getting people to come during the 10 o'clock hour.

The PRESIDENT pro tempore (Ms. MURKOWSKI). The Senator from Florida.

AMENDMENT NO. 1543

Mr. NELSON of Florida. Madam President, with the permission of the two leaders, I would like to speak to another amendment that is pending. That is Senator BYRD's amendment. Since we have no one else in the Chamber ready to offer an amendment, I would like to do so at this time.

Senator BYRD's amendment, on which we will be voting probably later today, will allow us to fulfill the promises we made when we passed 2 years ago the No Child Left Behind Act which was the additional educational assistance from the Federal Government to the States and local governments in order to help children by increasing title I for disadvantaged children. Let me go back and cite a little of the history.

The Federal Government has had a very limited role in education. Today, of all the expenditures for education—be it at the university level all the way down to the beginning of school, pre-K and K—the Federal Government only engages in 7 percent of those expenses. Ninety-three percent is borne by the governments you would expect to carry the load in education—the State and the local governments, mainly through the school boards.

Along about 20 years ago or so, when we set up the Department of Education—and I don't remember the exact time title I was set up—it was believed that there was a particular role for the Federal Government to play in assisting State and local government on educational expenses by helping the children who had disadvantaged backgrounds, and thus was born title I which sends money to help children who come from disadvantaged backgrounds. Indeed, an example is the School Lunch Program. It is clearly an acknowledgment that a child cannot learn if the child is hungry—and a whole host of other kinds of moneys that flow from the Federal Government to try to reach that principle that every child should have an equal opportunity to an education.

In the Senate 2 years ago—fortunately, then, we were looking at a surplus in our Federal budget—we crafted, in a give and take, not only with the other body, the House of Representatives, but also with the White House—especially with the White House—this act that is referred to as No Child Left Behind. It had additional provisions of accountability, testing so that you could measure the progress of children

in those school districts in those States. It was authorized at a specific level. It was authorized at approximately $18 billion, whereas at the time the funding was about $11 billion. That was the clear intent when we passed it.

But when we got around to appropriating the moneys, for whatever reason, the White House decided it was not going to support the increased funding to the level authorized in the bill, the No Child Left Behind Act, of $18 billion, but instead was only going to support an increase of roughly $1 billion, to the tune of somewhere around $12 billion, from $11 billion.

As a result, I had about 25 townhall meetings when I was home in August. When those school board members came, when that superintendent of the schools came to that townhall meeting or when I met, in one case, in Volusia County, with the entire school board, they were crying the blues that they have all kinds of requirements under this new law we enacted but the money did not flow with it.

Senator BYRD has offered an amendment to take that level of funding up to what was worked out with the President and the Senate in our negotiations in a bipartisan way in the Senate as well as between the leadership of the Senate—at that time it was under the leadership of Senator DASCHLE, as majority leader—and the White House. That is what Senator BYRD's amendment does. It increases it roughly about $6 billion to the level authorized.

Folks back home—and I believe it is this way all over America, not just in Florida—are crying the blues about how the No Child Left Behind Act was not funded as promised. Title I schools provide education to the most disadvantaged children in our country. These are the very children we pledged not to leave behind. Typically they use those funds to buy educational material, to provide afterschool programs, to provide professional development to teachers, all of these things aimed at that special category of children, the disadvantaged children. This is separate and apart from the disabled children.

We had an amendment yesterday, which unfortunately did not pass, to bring up the level of funding on the program known as IDEA which is special funding from the Federal Government for disabled children. Think of all the problems that a school board, that a school, that a classroom teacher has to confront these days—disabilities, as well as children coming from disadvantaged backgrounds. We were not able to pass that amendment yesterday on disabled kids. I hope we will be able to pass this one for disadvantaged children.

Why we would deny the most needy schools, providing education in the most difficult circumstances, the resources they need to make a difference in the lives of those disadvantaged kids is, to use a southern expression, beyond me. Why would we pass a law that claims to leave no child behind and then underfund the very reforms that were included in the bill to reach all of those students? In order to ensure that every child, no matter where that child comes from, has the opportunity to achieve, we simply have to stop paying lipservice to educational reform and we have to start funding it. That is what I promised my people back home in Florida that I was going to come back up here and try to articulate to this Senate.

It doesn't make any sense, given all the budgets we have, that our education budget is any lesser priority, especially given that this is the future of America. So with Senator BYRD's amendment, we have the opportunity to reach a little over 2 million more disadvantaged students. I simply don't want us to pass up this opportunity.

HEAD START

Madam President, as long as I don't see any other Senators seeking recognition, I want to bring something else to the attention of the Senate. It came home to me loudly and clearly when I was home. The last week before the August recess, the House of Representatives passed a bill by a one-vote margin that is starting the demise of another one of the most successful and tremendously popular programs, the Head Start Program.

What the House of Representatives passed in late July before they left—and most people around the country don't know this. There was a simple one-line mention in the newspapers that the House of Representatives had passed, by a vote of 217 to 216, a bill to take the funding formula for Head Start and change it in eight States, to be determined, instead of in those eight States sending the funding directly to those Head Start centers—instead, to package it in a block and send it to the Governor and the legislatures of eight States, yet to be determined.

Now, let me tell you why I think this is the beginning of the demise of Head Start. Head Start is a wildly popular program because it has been so successful over three decades of doing what? Of bringing 3-year-olds, 4-year-olds, and 5-year-olds who come from disadvantaged and poor backgrounds up to the level that, by the time they enter school at prekindergarten and the first grade, they are not so far left behind that they have a chance to compete and they don't become discarded in the system and then, of course, so much more expensive in the long run because of the cost to society of the dropout, and so forth.

I visited a Head Start center and you should have seen it. It was down in Boynton Beach in Florida. It has this happy little classroom environment where these 3, 4, and 5-year-olds are beginning to learn their numbers, beginning to learn the alphabet, beginning to interact in a classroom setting, beginning to learn self-discipline, respect for property, respect for others, and respect for themselves—a wildly successful and, therefore, enormously popular program. There are 19,000 Head Start centers all over America, and the funding formula—since this was a program that was set up by the Federal Government over three decades ago, again, with that principle that we are trying to achieve that of giving each child an equal opportunity for an education—the funding was set up by the Federal Government to try to assist the States.

Now, let me tell you—well, I don't have to; just go talk to your school board members, talk to the principals and the teachers in those elementary schools. Ask them whether they think it is of extremely high value—the Head Start Program—when those kids are in pre-K and the first grade and they see their progress throughout the elementary school system. They will give you an earful of just how important it is to keep it.

But that is not what the House of Representatives did. The House of Representatives, by that one-vote margin, decided they were going to fund it in a different way. Instead of the money, as it has for over 30 years, going straight to the Head Start center based on a formula of how many children and what kind of background, instead, they are going to ball up all that money for all of the Head Start centers in eight States, yet to be chosen—by the way, you can pick eight States that have well over half of the population of the entire country—and they are going to give that in a block grant to the Governor and legislature of those States. Well, have we missed reading all of the chronicling on the front pages of the newspapers of how 48 of the 50 States are in fiscal cardiac arrest, how they are hurting so much they don't have enough funds? Can you imagine the temptation, even though we might try to put requirements on it, to find ways around it to siphon off some of those funds from Head Start into other educational programs? I am telling you, if we did that, in this Senator's judgment, that would be the beginning of the demise of one of the most successful and popular programs in America, the Head Start Program.

I have enough confidence in the common sense of this Senate and in the sensitivity of the Members of this body in listening to their people back home—even though what the House did didn't get a lot of press attention—that this Senate would not even consider the change of that funding formula. But we have to speak out on it because it hasn't gotten a lot of attention.

It is appropriate that while we are debating the question of funding on education, particularly with Senator BYRD's amendment that goes to title I, which is getting at those disadvantaged kids, we also ought to talk about Head Start, which is getting at the very beginning of the educational process of those disadvantaged kids before they ever get to the elementary level of education.

So I wanted to share with the Senate—to again use a southern expression—that I had received an earful back home. I am glad I did and I am glad I could share this with the Senate. When that bill comes over from the House they passed in the last week of their session, I hope we will tell them nothing doing, we are not messing with an extremely popular program. Instead, what we are going to do with that popular and successful program is expand it because today it only, as successful as it is, reaches 60 percent of the eligible children. Even of the earlier ones that we can start working on below age 3, we are only reaching about 3 percent of that eligible population. We have a lot of room to help these little folks as they get ready to compete so they don't get so far behind once they enter school.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, since the issue of education has been brought up not only this morning but over the last couple of days, and I have listened to some wailing and comments, I feel compelled to talk a little bit about education myself.

This week, many of my colleagues have come to the floor to criticize the President and criticize his administration and even to criticize the Senate leadership for their commitment to education. This is a discussion we need to have every time the Senate debates spending, but every time we seem to plow the same old ground. There are a lot of platitudes and myths out there that keep being regenerated. It takes a lot of time, and it keeps us from completing the spending bills. I hope I can say a few words that will put this debate in perspective.

My colleagues have argued that the current appropriations bill cuts education spending and it underfunds the No Child Left Behind Act. They have suggested, and I suppose will continue to insist, that the bill contains harsh and unacceptable cuts to education and that it will somehow leave students and teachers on their own. That is simply not the case.

The bill contains over $12 billion for title I programs, the third straight year it has had an increase. That is a total increase of 45 percent in title I funding since 2001.

It also contains $1 billion for Reading First, close to $700 million for State education technology grants, and over $1.1 billion for impact aid programs. All told, this bill contains about $56 billion for education programs, over $12 billion more—$12 billion more—than fiscal year 2001. Yet my colleagues insist that this bill cuts too much from education. They argue it does not go far enough and that we must increase our Federal deficit by several billion dollars more to assure we have adequately funded education. Where are these disastrous cuts? How is a $12 billion increase in education funding over 4 years a harsh and unacceptable cut?

Before I came to the Senate, I worked as an accountant. I learned how to balance accounts and read ledgers, and I am astounded to see my colleagues insisting that a $12 billion increase in education funding for over 4 years somehow constitutes a cut. I guess that kind of gives you an idea why we have some problems. It does not take special training in accounting to understand that a $3.9 billion increase in title I spending since 2002 is not a cut. Even without my training as an accountant, I am confident I would understand, as do families across America, that a $12 billion increase is not a cut, no matter how you frame it.

It is interesting to see how many of my colleagues are now criticizing the President and this administration for recommending less than the authorized amounts—authorized amounts—under No Child Left Behind. Let me explain authorized amounts.

We go through a three-step process around here. We have a budget process. A budget is something the President has to present to us by February so that we can approve a massive outline of how we are going to do spending by April 15. It is a Federal statute. It has been complied with twice in the history of the country. Once was this year. The other one was many decades ago. We did a budget.

Then there is a second part to the process. It does not necessarily have to come after the first part. It can be contiguous or it can be before the first part. It is called authorization. Authorization is when a bill is drafted by the committee of jurisdiction, the ones that have the knowledge and the concentration and focus on the problem. They do an authorization bill. It is usually a 6-year authorization, and it is an authorization for the maximum amount that will be spent, not minimums.

I hope everybody catches that. The authorization bill does not give minimums of spending, it gives the authorization for the maximums of spending, and that is the maximums of spending over a 6-year period.

Taking into account inflation, new programs, and issues such as those, nobody ever starts at the maximum and hopes they can sustain and increase that through the period of the authorization bill. That is not how it works. We always start at less than the authorized amount, and we build up to it over the 6-year period.

Let's take a look at some history because I seem to recall that this body did the exact same thing last year when they were doing No Child Left Behind in this particular bill.

My colleagues, of course—now they are in the minority—held all of the leadership positions at that time. They were in charge of doing this appropriations bill. They were the ones in charge of figuring out how much of that authorization could logically be tucked into this appropriations bill.

If we look at the appropriations bill reported out of committee last year, we find that it contained $3.5 billion less than the authorized level in title I funding. Somehow the administration is now being taken to task for recommending more than the colleagues on the other side of the aisle who were in charge last year recommended, even though they both recommended less than the fully authorized amounts. That is not unusual, and it shows that both sides of the aisle understand how this works.

Remember, we will find that the appropriations bill reported out of committee last year contained $3.5 billion less than the authorized level in title I funding, and the administration is now being taken to task for recommending more than the other side of the aisle did. I guess that should cut both ways. You cannot accuse the President of cutting education spending because he asked for less than the fully authorized amount when the other side of the aisle has done the same thing.

Even though my colleagues approved a bill last year that left a gap between appropriations and the fully authorized amounts, it has now become unacceptable in their eyes to fund No Child Left Behind at less than the fully authorized levels. In Wyoming, we have a lot of expressions we use to describe that kind of behavior, but the only one I can probably use on the floor of the Senate is doubletalk.

I also want to point out that we never made it to an Education appropriations bill last year. We never passed a budget last year. That was when the other side of the aisle was in the leadership. And it took us until this spring, under our current leadership, to pass any increase in title I and the No Child Left Behind Act. I think that bears a little bit of extra description.

Yes, I have held town meetings in Wyoming, and I have had to answer to education, and I have had to explain to them that a year ago we could not even pass a budget. A year ago, we did not even take up Education appropriations. Yes, we had this new authorization bill for No Child Left Behind, but, Madam President, do you know what. You cannot appropriate any additional dollars if you do not do an appropriations bill, and that appropriations bill never got done under the leadership last year. There was not a dime of increase passed last year.

When Senator FRIST became the majority leader this year, we went to work on getting the appropriations done, and with the cooperation across the aisle, we were able to get nine bills approved in 8 days. I think that is about how it was.

That was the first funding for education under No Child Left Behind. When did that happen? The President signed it into law on February 26, and the bureaucratic machine moved faster than it ever has. By March 26, the checks went out to the States. Miraculous. But school in this country ends at the end of May or the middle of June at

the latest. So on March 26, the mail went out. Eventually the States got those checks. Then the States had to do the allocation out to the school districts.

I do not imagine they got that done in one day. I do not imagine they got that done in a month. So now we are talking about the end of April, and school is going to end the next month. What kind of education funding is that?

So nobody got an increase for last year. They had to operate on the budget that they had from the year before. We never passed a budget. It took us until this spring, under our current leadership, to pass any increases in title I and the No Child Left Behind Act.

The current Senate leadership can point to two separate increases in funding for education compared to last year when this body did not approve any increases in education funding. If this issue is such a priority for my colleagues, why did we adjourn last fall without passing an additional dollar for education? As I am sure my colleagues will recall, we left Washington last year without a single dime more for education than was available the year before. Incidentally, because of this delay, when the President made his budget recommendation to Congress—that is that first step of the process I mentioned—we were still working on fiscal year 2003 appropriations; we had not finished them.

Those appropriations should have been the base for the President's recommendation, but we require him to have that in by February, and he did. That is the only way we can get our work done by April. He complied. So what figures could the President use?

The present administration is being blamed for this body's failure to pass an appropriations bill last fall, and that seems preposterous to me. Of course, he had to base his budget on what we had done for 2002, and he did, and he made substantial increases.

I want to mention just a little bit about the budget process we went through, too. During the budget process, we had an interminable number of votes attempting to do unprecedented earmarking. Well, that is not really what it was designed to do. What it was designed to do was to make it look as if a majority of the Senators who were doing responsible budgeting were actually voting against key programs that are normally not outlined specifically with earmarking. So the responsible Senators did the right thing and voted against what looked like voting against kids, and that is exactly politically how it was designed to be. But they did it so that we could have a responsible budget.

Now here we go again with the interminable number of votes I am sure we will be expected to take that will earmark an increase and change, and all of them are outside of the budget process that has already been approved.

Fortunately, I am sure the people across America are educated enough—I am sure our system has done that—to see through what is happening. We all know the Senate's budget process and we know the President is required to make that recommendation in February. When this body does not pass the appropriations bill that normally serves as the basis for the President's recommendation, it is unconscionable to then criticize the President for his recommendations.

The bottom line is that this body passed last year's appropriations bill 6 months late, and only then under the current Senate leadership. A better comparison would be the President's recommendations on the fiscal year 2002 appropriations, which were the only figures available at the time the President submitted his recommendation to Congress.

Clearly, this discussion is not about funding levels, it is about politics. This body has too much important business before it to waste time playing politics, particularly playing politics on education. There are students and teachers depending on this body to give them additional funding, and that is what my colleagues on the Appropriations Committee have done. Let us get the business of the Senate completed so these students and teachers can get what they need this year, rather than another day, another week, or another month of debate that could once again push the dollars into the following year.

Let us get our work done timely. Let us give some consideration to what kind of amendments are being offered. Let us put the politics behind for our kids and let us get this bill done.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 1558 TO AMENDMENT NO. 1542

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

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 1558 to amendment No. 1542.

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

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

The amendment is as follows:

(Purpose: To provide additional funding for the ombudsman program for the protection of vulnerable older Americans)

At the appropriate place insert the following:

SEC. ____. In addition to any amounts otherwise appropriated under this Act under the heading of ADMINISTRATION ON AGING, there are appropriated an additional $1,000,000: *Provided*, That in addition to the amounts already made available to carry out the ombudsman program under chapter 2 of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.), there are made available an additional $1,000,000.

Mr. KOHL. Madam President, this is a noncontroversial amendment I hope will be accepted later today. It addresses the tragedy of abuse and neglect in our Nation's nursing homes and other long-term care settings.

Our seniors made our country what it is today, and they have earned the right to live out their days with dignity and the best possible care.

For most seniors in long-term care, they have that opportunity. The vast majority of nursing homes, home health agencies and other long-term care providers do a good job taking care of their patients under difficult circumstances. But too often across this country, there have been and continues to be cases in which our elderly and disabled are abused, beaten, starved, or neglected.

Last year, a House Government Reform Committee report found that nearly one-third of nursing homes had been cited for an abuse violation in the past 2 years. Ten percent of nursing homes had violations that caused actual harm or placed residents in immediate jeopardy of injury or death. The Senate Aging Committee, on which I serve, has repeatedly heard from the GAO that abuse and neglect are a major problem in our Nation's nursing homes.

Tucked away in this appropriations bill is a little program that has a big impact on these problems. The State Long-Term Care Ombudsmen Program places caring people throughout each State to assist elderly and disabled patients who have been abused or neglected. The ombudsmen have the responsibility to make sure that patients' complaints are investigated and addressed. They help these vulnerable people and their families navigate the complicated system and get the help they need.

In addition, the ombudsmen work with nursing homes to improve care. They also serve a large number of patients in home health care and assisted living. In cases where a nursing home must be closed because it cannot or will not improve, the ombudsmen help patients relocate to the best possible setting.

Unfortunately, a lack of funding and staff make it difficult for the ombudsmen to serve the large number of people who need their services—leaving patients vulnerable to substandard care.

A recent Administration on Aging report found that complaints to ombudsmen increased 48 percent from 1996 to 2001. Yet funding still lags far behind what is needed. Ombudsmen are being asked to do more and more, and Congress should make sure they have the resources to do their jobs.

I greatly appreciate the chairman and ranking member's willingness to work with me over the past several

years to increase funding for the ombudsman program. Through our efforts, we have increased funding by $6 million since fiscal year 2000.

This is a great start. But I have been advised by the National Association of Ombudsman Programs that it would take a $36 million increase to adequately fund the program. I realize that such a large increase is not possible in a single year—especially a year that has such tight fiscal constraints as this one. But I am concerned that the bill before us includes no increase at all.

This amendment would take another small but real step forward by increasing the program by $1 million this year. This increase will help ombudsmen keep up with the growing demand for their services. And it will help make sure that patients are better protected from abuse at the hands of those who are supposed to care for them.

I thank the chairman and ranking member for working with me. I know we all have the same goal of making sure our seniors are adequately protected in law term care.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator from Wisconsin for offering this amendment. I share his concern about adequate care for seniors in nursing homes. That account is currently funded at $13.361 million. I note that the Senator from Wisconsin wants to add $1 million. We would like to be accommodating. However, as Everett Dirksen once said, a million here and a million there add up.

I would be interested to know if the Senator from Wisconsin would care to respond why he picks $1 million instead of $2 million or $750,000? Where does the Senator from Wisconsin see the need for an additional $1 million when there already is $13.361 million? I am searching for some rationality as to why this million should be added.

Mr. KOHL. I do appreciate that. As I say, it will take $36 million, in our judgment, to adequately fund the entire program. I know very well that is not possible. That is not going to happen. I could pick out a figure larger or smaller than a million, and it was Senator Dirksen who did say a million or a billion added up to quite a bit of money. I do recognize $1 million is a lot of money, but considered in the context of what we are talking about and the importance of the program, which I know the Senator from Pennsylvania agrees, $1 million is a reasonable number.

I would not impose on the Senator the burden of having to make a difficult decision if that number were considerably larger. So I am asking for the support of the Senator with respect to a rather nominal number when we are considering the people we are talking about and the need for our service to them.

Mr. SPECTER. Madam President, the difficulty which I have as manager, we are now up to our 302(b) allocation. To find another $1 million, we have to take it from somewhere. It is a matter of evaluating whether $1 million means anything significant on top of $13 million which we already have.

However, I understand the interests of the Senator, the thrust of the argument by the Senator from Wisconsin. It is a worthwhile program. I will sharpen my pencil and pull down my green eyeshade and see if we can find some money to accommodate what the Senator from Wisconsin would like to have done. No commitments, but we will take a close look.

Mr. KOHL. I thank the Senator.

Mr. SPECTER. Madam President, the Senator from Georgia is on the floor and has requested an opportunity to speak for a few moments on another subject. From the manager's point of view, this would be a good time to do that. There is no other Senator on the floor now. I see Senator MURRAY is on the floor, but I think we can accommodate the Senator from Georgia for 7 minutes. I ask unanimous consent the Senator from Georgia be permitted to speak as if in morning business for 7 minutes.

The PRESIDING OFFICER. The Senator from Georgia.

(The remarks of Mr. MILLER are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I ask the pending amendment be laid aside so I may offer an amendment.

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

AMENDMENT NO. 1559 TO AMENDMENT NO. 1542

Mrs. MURRAY. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1559.

Mrs. MURRAY. 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 restore funding for certain programs under the Workforce Investment Act of 1998)

In the matter under the heading "TRAINING AND EMPLOYMENT SERVICES" under the heading "EMPLOYMENT AND TRAINING ADMINISTRATION" in title I, add at the end the following:

Subject to the following sentence, for necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998, $801,000,000, of which—

(1) $100,000,000 is available to carry out activities described in section 132(a)(1) of that Act (relating to adult employment and training activities);

(2) $159,000,000 is available to carry out activities described in subparagraphs (A) and (B) of section 132(a)(2) of that Act (relating to dislocated worker employment and training activities and other activities for dislocated workers);

(3) $99,000,000 is available to carry out chapter 4 of subtitle B of title I of that Act (relating to youth activities);

(4) $250,000,000 is available to carry out section 169 of that Act (relating to youth opportunity grants);

(5) $23,000,000 is available to carry out section 167 of that Act (relating to migrant and seasonal farmworker programs);

(6) $20,000,000 is available to carry out section 166 of that Act (relating to Native American programs); and

(7) $150,000,000 is available for the acquisition and improvement of one-stop center infrastructure, including acquisition of real estate, payment of rent or utilities, improvement of technology, and staff development.

The amount $6,895,199,000 in section 305(a)(1) of this Act shall be deemed to be $7,696,199,000 and the amount $6,783,301,000 in section 305(a)(2) of this Act shall be deemed to be $5,982,301,000: *Provided*, That of the funds appropriated in this Act for the National Institutes of Health, $370,000,000 shall not be available for obligation until September 30, 2004.

Mrs. MURRAY. Madam President, I come to the floor this morning to offer an amendment to help some of the millions of Americans who are looking for work in this very tough economy. The amendment I am offering right now provides an additional $801 million for critically needed worker training and retraining programs under the Workforce Investment Act. I am proud that Senators KENNEDY, DODD, LEAHY, JEFFORDS, and BINGAMAN are cosponsors of this important amendment.

Today our Nation faces both a jobs crisis and a skills crisis. There are 9.1 million Americans searching for jobs and another 5 million more Americans are working part time because they cannot find full-time work in this stagnant economy. Those millions of workers need training and skills to get good jobs that are going to last, and that is what this amendment before us provides.

I am proud that a wide range of organizations have endorsed my worker training amendment, including the U.S. Conference of Mayors, the National Association of Counties, the National Workforce Association, the Paralyzed Veterans of America, and the National Association of Workforce Boards.

My office has also received hundreds of letters of support from local workforce boards, mayors, county executives, employers, and just ordinary Americans. They all want this Senate to provide additional training opportunities for our workers.

The amendment before us would provide training opportunities for an additional 200,000 adults, young people, dislocated workers, Native Americans, and migrant and seasonal farmworkers. Most of these workforce and training programs have not had any—none—increases in funding for the entire last decade.

Think about that. We are in the middle of a jobs and skills crisis but most of our training programs have not had any funding increases in a decade.

My amendment will increase funding for adults by $100 million; for dislocated workers by $159 million; for youth by $99 million; for youth opportunity grants by $250 million; for migrant and seasonal farmworkers by $23 million; for Native Americans by $20 million; and for one-stop infrastructure by $150 million. That funding is going to make a huge difference.

I think any Senators who spent time with their constituents during the August recess from which we have just returned will recognize the urgent need for jobs and job training.

Last month when I was home I visited two of our one-stop employment centers in my State and I met with staff members who are working to train residents. I met with local employers who want to hire people in the community if they have the right skills. I met with workers, from young people who are just starting their careers to established workers who have been displaced by much larger economic forces. All of them want the skills they need to find a good job. But for many of them it is very tough going.

In King County, where Seattle is located, there is currently a 10,000 person waiting list for training. That is appalling. These are people who want to work. They desperately want training. But in King County alone they are stuck on a waiting list with 10,000 other people. They have been waiting a long time. In King County, the freeze on training services began last January. It has been a very long and very difficult year for everyone on that waiting list. They need our help and the Murray amendment will provide it.

Residents of the State of Washington continue to suffer with the third highest unemployment in the country, 7.5 percent. Since January of 2001, my State alone has lost 73,000 good-paying jobs in areas such as technology, aerospace, and manufacturing. Workers who were accustomed to earning $30 to $40 an hour as engineers in my State are now forced to accept warehouse jobs that pay $8 to $12 an hour.

Today, one-stop employment centers across the country are being asked to serve more people than ever before, yet their funding remains below what it was in fiscal year 2001 when our country was still experiencing relative economic prosperity. As a result, workers who are searching for jobs are taking longer than in previous recessions to find work. In 2000, it took an average of 12 weeks to find a new job. Currently, it takes approximately 20 weeks, and that is only if there are jobs to be found.

According to the Center on Budget and Policy Priorities, some 1.1 million workers have exhausted their extended unemployment benefits with no employment prospects on the horizon. These workers have worked hard and they have played by the rules, yet they are losing their homes in record numbers and even foregoing medical treatment for their children. Unfortunately, there is no guarantee these jobs are going to return, making it even more crucial that this Senate provide the retraining dollars to help those workers find jobs in the industries and sectors of the economy that have the greatest potential for growth.

Unfortunately, young people seem to be the hardest hit by the current job crisis. The youth unemployment rate has hit a 10-year high of 19.3 percent. The minority youth unemployment rate continues to hover around 30 percent.

Recent studies have shown that nearly 50 percent of the job losses in this recession have occurred to young people who are 16 to 24 years old. Young people desperately need help but our Federal workforce dollars currently serve only about 7 percent of our eligible youth nationally.

My amendment would increase the youth formula grant money to States and localities, and would fully fund the Youth Opportunity Grant Program, which has a real track record of success in many communities and on Indian reservations around the country. My amendment also provides desperately needed modest increases for some of our most vulnerable populations—migrant and seasonal farmworkers and Native Americans. These two groups often have unemployment rates above 50 percent with few prospects for jobs that will provide a sustainable income to support themselves and their families.

As a nation, we have to place a higher priority on helping these chronically underserved populations. My amendment does just that.

Finally, my amendment provides critical infrastructure funding for our national network of 1,900 one-stop employment centers. These one-stop employment centers integrate nearly 20 Federal workforce and social service programs at the local level.

In the HELP Committee, we have been working very hard to reauthorize the Workforce Investment Act, and to include more related programs such as TANF, small business, and transportation into the one-stops with an additional emphasis on program integration and seamless service delivery for all eligible Americans.

In summary, the Murray amendment that is before this body will provide additional hope and opportunity for citizens who need jobs today. Given the employment trends we will face over the next decade, we cannot afford to waste the talents of any worker as we continue to compete in the global economy.

I hope all Senators will agree with me that taking care of the training needs of our workers at home should be a top priority for our Government. The rest of the world is monitoring how we train our workforce because these foreign governments are looking for every advantage to capture additional market share for goods and services that are currently produced in the United States.

Let us not give our competitors a leg up. Let us support the Murray amendment so we can continue to have the most highly skilled and productive workforce in the world and so we can put our Americans back to work in good jobs that will last.

I urge my colleagues to support the Murray amendment.

Mr. KENNEDY. Madam President, will the Senator yield?

Mrs. MURRAY. I am happy to yield to the Senator.

Mr. KENNEDY. The Senator from Washington has just made an excellent presentation on an issue which is the heart and soul of our economic challenge; that is, to ensure that we are going to have continued upgrading of skills for workers to be able to compete in the world economy.

On Labor Day, I heard the President of the United States talk about the importance of job training and the importance of continuing education in the employment field. Yet it is my understanding, in terms of the administration's request, that there was actually a reduction in funding for this program—not that money in and of itself is the sole answer. But the Senator is very aware that the job training program that has been worked out and is in place at the present time is really the result of a very strong, bipartisan effort by Senator Kassebaum, Senator MURRAY, myself, and others involved in trying to work out one-stop shopping working with labor, work, and business. We finally got a program that is effective, and now the resources are really needed. We find that workers getting the training are able to find employment. It is really a key issue in terms of our economy today and in terms of the future.

Is the Senator not somewhat perplexed, given the statements by the President that we would have a reduction in funding of the program, which program reflects strong bipartisan effort, passed overwhelmingly in the House and Senate, and supported by the President, and which is so necessary in terms of having people getting the skills necessary for them to get back to work?

Mrs. MURRAY. The Senator from Massachusetts is correct. I heard the President on Labor Day. I was delighted to hear that he was facing up to the fact that our economy is struggling, with thousands of people out of work. I am very perplexed that he is not willing to add additional money to train our workers.

As the Senator from Massachusetts knows, when a young man or woman is laid off, they don't have the money to provide for their family. It impacts not just themselves but their entire family and their entire community as they

struggle. They are not going to find the same jobs. Our economy is changing. The only way they are going to get back into the workforce is if we give them the skills and training to get into the economic sectors that have job openings. These programs are critical in getting our economy back on track. They are fundamental to getting our economy back on track.

It is very perplexing to me that the President has not asked for nor supports the amendment before us that will help those workers.

Mr. KENNEDY. The Senator also understands that we are talking about a different aspect in terms of the need for training. We have the youth, we have the adult workers, and we have those who are laid off because of skills. There are a variety of different challenges out there, are there not? What we want to try to do is make sure we are going to take scarce resources and use those resources in ways which will result in giving skills to individuals—whether they are young, whether they are dislocated, whether they are the adult workers—and get them back into gainful employment, paying taxes and really returning resources to the economy in a very constructive and productive way.

I understand the Senator's amendment attempts to do that. Am I correct?

Mrs. MURRAY. The Senator from Massachusetts is absolutely correct. As I traveled around in August to talk to people in my State, where we have been severely impacted—we have the third highest unemployment in the Nation—I talked to students just out of high school who cannot afford to go college because of tuition increases and who do not have the skills to simply enter the workforce. It is very different than talking to a young father who is 35 years old with three young kids, who was an engineer at Boeing, who will not get that job back and doesn't have the computer training skills to get into another job that will provide him with the income to sustain a family with three children.

There are different programs funded in my State which we have worked on and which were supported in the HELP Committee. They are different for dislocated workers or for adults or for youth.

Mr. KENNEDY. Beyond that, as I understand it, some of the resources could be used to retain individuals actually in school rather than retraining young workers who drop out of school.

This has an important relationship to what we have been trying to do in terms of focus, attention, and support for strengthening our education process to reach out to those individuals who may be tempted to drop out but can be retained in school and perhaps acquire some skills.

This effort is reflective of a long experience—not that there shouldn't be some changes and alterations in a program.

I see our good friend from Wyoming, Senator ENZI, on the other side of the aisle who is an expert in terms of training programs, OSHA, and otherwise.

We have tried to work this out in a bipartisan way. This is really a key to our economic recovery.

I thank the Senator from Washington for bringing this to the attention of the Senate. I hope we will have strong bipartisan support. We have had bipartisan support in the past. This certainly is an amendment that deserves it. I thank her for offering it on the appropriations bill.

Mrs. MURRAY. I thank the Senator from Massachusetts for his support, his words of wisdom, for his longstanding commitment to people in this country who do not have the opportunities, and for making sure that every American, no matter who they are, where they come from, or what circumstances have hit them in their lives, gets the opportunities for the American dream that all of us want. Certainly this amendment is part of that effort.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, as chairman of the Subcommittee on Employment, Safety, and Training of the Health, Education, Labor, and Pensions Committee, I have enjoyed working with the Senator from Washington, the ranking member. I appreciate all of her efforts on the Workforce Investment Act, and, of course, the ranking member of the full committee, Senator KENNEDY, who has been working with us, and his staff who have been working in great detail to be sure we have a Workforce Investment Act we can pass this year so that we can make sure the money is funneled through the proper channels and the most people are taken care of for the money. It is up for reauthorization this year. It is particularly critical that we do it. It is landmark legislation that is a priority for both myself and my colleague from Washington. I am pleased that they worked so closely on getting this bipartisan bill to this point. I think we will be able to finish it and get it marked up sometime this month.

During the reauthorization process, we have considered how resources are most effectively used for the people who need it most. There is no problem for anybody to see that there is a problem.

Having said that, I need to explain that I will be opposing this amendment. I want to carefully explain that. I am not questioning the importance of job training in these difficult economic times, nor am I questioning the importance of the Workforce Investment Act as our Federal workforce development system. But I am opposing the amendment that increases funding for job training without appropriately offsetting such increased amount. At the appropriate time, I will be taking that action.

The way this appears to be offset but really isn't is through what we use rather liberally in some of the amendments, even a couple pending before us now, which is advance funding. That means that we steal a little bit out of another year's appropriations so we can spend it in this year's appropriations, and, oddly enough, spend it in that year's appropriations, too. You can see if we get into a process of spending money twice, we are going to be in some real trouble.

This amendment increases funding that is not targeted to individuals who are in most need of job training and assistance. Of the $801 million increase in funds, only $159 million will go to the dislocated workers program—those individuals most in need of assistance to get back to work.

So we are going to throw $801 million at the dislocated worker problem. Granted, there are uses for that money in those other areas, but we are going to do that to take care of $159 million that will go to dislocated worker programs. I don't think that is the right way for us to go about the process.

The committee bill provides $5.1 billion for job training and employment services, and that is $164 million above the budget request. Of this total amount, the committee bill provides $1.43 billion for dislocated worker activities.

We went through this during the process of the budget. We approved a budget. A change in the budget is what results in budget points of order. So the Labor-HHS bill must seek to address a lot of important needs, not the least of which is job training funding to ensure American workers are equipped to contribute and succeed in a changing economy. Of course, we always want that to happen faster than it is ever possible for it to happen.

The committee bill does reduce job training funding from fiscal year 2003 by $85 million, but I explained in a speech just a little while ago how that comes about. The President had to submit his budget before he knew what we were going to do in 2003, because we did not do a budget for the previous year; and then we did not pass the appropriation. So what we were going to be doing was not known until after he had to submit a budget to us. So he had to base his budget on what had been done for 2002, and there was a significant increase from 2002. Again, we raised it a little bit, and did so again in the appropriation.

So unless that can be offset, I am going to have to reluctantly oppose the amendment. Again, I don't think we ought to spend $801 million trying to solve a $159-million problem. I ask my colleagues to oppose this amendment.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Wyoming, and I understand he is opposing the amendment. I just say we are in a crisis in this country. We are in a crisis

when there are 10,000 people on a waiting list in King County alone to try to get into a training program in order to get the skills they need to get back to work. We are in a crisis when our economy continues to struggle and people are unable to put food on the table, send their kids to college, and to be able to feel secure when it comes to their jobs.

We all know we are spending $1 billion a week in Iraq in order to reconstruct that country. It seems to me totally reasonable to ask for $801 million for next year to help train our workers, to get our economy back on track, and to give American families the security they need in their homes to know they can take care of their own.

Mr. President, I encourage my colleagues to support this amendment at the appropriate time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the amendment offered by the Senator from Washington addresses a very important issue on job training, beyond any question. In structuring this appropriations bill, it has been very difficult, given the budget resolution and the allocation which we had.

We have at the present time in the Senate bill $3,564,436,000 on this line. With respect to the dislocated workers assistance, this committee increased the recommendation of the President, which had been at $1,383,040,000, and we put it back up to the funding of 2003 at $1,431,340,000.

The youth opportunity grants is a program which had a 5-year sunset. The President did not ask for funding for migrant farm workers, but we reinstated more than $77 million there.

We maintained the funding for Native Americans, and maintained the funding for one-stop centers.

Now, in an ideal world, with more funds, the amendment offered by the Senator from Washington might well be the thing to do. But the subcommittee is faced with the constraints, and we structured the very best we could in allocating, as I say, in excess of $3.5 billion for job training.

Unless we can find some offset—and we are constantly taking a look at the long list of items which we have where the appropriations are recommended for the total of $137 billion—it is very difficult to see how the amendment can be accepted, without some offset, without exceeding the limits which we have under our allocation from the Budget Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I take the floor for a few minutes to discuss an amendment Senator KENNEDY and I and others plan to offer to address a very important issue, one that affects the livelihood of millions of American workers and their families. It is an issue that bubbled up earlier this year when the Department of Labor—and I choose this word carefully—sort of surreptitiously issued proposed regulations, changes in regulations that would affect the 40-hour workweek and take away overtime protection for millions of American workers.

They did not have one hearing on that. They published it, put this out as a proposed change in the rules and regulations. Not too many people knew about it. However, I am now aware that over 78,000 comments have come in on this issue from around the country. So now the Department of Labor is hearing back, and more and more Americans are beginning to find out about this proposal.

Senator KENNEDY and I, and a number of our colleagues, will offer an amendment to protect the 40-hour workweek and to make sure overtime protections are there for American workers.

What the administration has proposed is a change in our regulations that would eliminate the 40-hour workweek by allowing employers to deny millions of workers overtime pay, workers who are currently covered and guaranteed overtime pay protections under the Fair Labor Standards Act of 1938.

This proposal by the administration is antiworker, it is antifamily, and it is bad economic policy. It is an attack on America's middle class. It won't create one job in our struggling economy. In fact, it will do just the opposite. It will cost us jobs. It is part of what I call the ''economic malpractice'' of this administration. And it is working Americans who are the victims.

Unemployment continues to climb. It is now at 6.2 percent, the highest level since 1994. That means 9.4 million people looking for work can't find any.

Since President Bush was sworn in, we have lost 3.1 million private sector jobs. We are losing jobs every month. The economy is limping along. Our deficit continues to bloom. It is now over $450 billion, I am told, by the end of this year and may be $500 billion by the end of next year. So the administration passed two record tax cuts for the wealthy to explode the deficit. And instead of trying to put money in the pockets of working Americans, the administration now wants to take it away, taking money out of the pockets of hard-working Americans, hard-working Americans who may be working overtime to help pay some extra bills.

Late last month, the Economic Policy Institute issued a report that analyzed the reach of this administration's proposal. It found that up to 8 million workers who currently are eligible for overtime pay will lose that eligibility. And as they noted, overtime pay for many of these workers can make up to 25 percent of the family's income. We are talking about people such as nurses, police officers, firefighters, retail managers, journalists, medical technicians, surveyors, among a whole host of others. For most of these men and women, that overtime pay is not spare change or for frivolous spending; it is essential. It helps pay the mortgage, feed the kids, and maybe put a little bit away for college for their kids or save a little bit for retirement.

I have a recent letter from the National Association of Police Organizations that represents thousands of law enforcement officers from across the country. They oppose the administration's proposal because, as they said:

> [U]nder such regulations, America's State and local law enforcement officers, already strained by countless overtime hours ensuring community safety from terrorist threats, could lose their basic benefit accorded for their efforts.

A recent national survey shows that working Americans are now becoming more aware of this proposal and have great concerns about it. A survey released this past week by Peter D. Hart Research Associates, pollsters, found that Americans overwhelmingly disagree with the Bush administration proposal. By 17 to 1, the public believes that Federal laws governing overtime should be changed to cover more employees rather than fewer. Fifty-one percent said it should cover more employees. Only 3 percent said it should cover fewer employees. Seventy-four percent of Americans in this poll oppose the Bush administration's proposal to eliminate several million employees' legal right to overtime pay.

I would like to take a few minutes to explain briefly how the rules work right now under the Fair Labor Standards Act of 1938. Hourly workers are generally guaranteed overtime pay when they work more than 40 hours a week. That has been accepted since 1938. Many salaried workers are also eligible for overtime pay under current law.

So what the administration's proposal would do would be to make it much easier for employers to deny salaried workers overtime pay protection. The result is that millions of salaried workers, earning more than $22,100 a year, currently eligible for overtime will be denied overtime under these proposed changes. This proposal will keep workers from spending time with their families, working longer hours without compensation. Employers will be able to force workers to work longer hours without pay.

In case someone says that isn't happening, I suggest they might want to go back and read the story in the Sunday Post of August 31 by Kirstin Downey, who documented some of the things that are happening in the country today.

For example, Wal-Mart Stores, Incorporated, the Nation's largest retailer, is facing 37 lawsuits in 29 States from employees who allege they were illegally forced to work extra hours free to meet corporate productivity demands. In December, a Federal jury in Portland, OR, found Wal-Mart guilty of asking workers to clock out and then return to work unpaid. About 400 current and former Wal-Mart employees

participated in the lawsuit, with some workers testifying that they falsified their time records to keep their jobs because they live in small towns with few other jobs.

About 270 insurance claims adjusters have filed suit in U.S. District Court in Washington, DC, alleging that their employer, GEICO, broke the law by improperly classifying them as workers exempt from overtime pay.

Stan Fortune, quoted in this article, age 47, a former Wal-Mart manager in Weatherford, TX, said he felt driven to climb into store management ranks during the 17 years he worked there. On one temporary assignment in Las Vegas, he said he worked 13 to 14 hours a day from September 1 through December 26 with only 1 day off. Said Fortune:

> It builds up to where that's the norm. You get three or four hours' sleep. It becomes what you are used to. Now that I look back it is pretty sad.

That is happening around the country today. More and more workers are being asked to work longer hours. What the administration wants to do is say: We will make that legal. We are just going to exempt them.

American workers already work longer hours than any other industrialized country. Right now, according to this article in the Washington Post, according to the International Labor Organization, American workers work more than other people in developed economies. They found that American workers put in an average of 1,825 hours per year. French workers, by comparison, average 1,545 hours per year; German workers, about 1,444 hours per year. According to Lawrence Johnson, chief of the ILO's employment trends team:

> The European Union and the United States have two different systems and react to economic conditions differently. . . . A lot of what Europeans have—longer vacations, shorter hours—are legislated, and in the United States, it is handled through collective bargaining.

The problem is now only 13 percent of American workers are covered under collective bargaining. So most workers are not in the collective bargaining agreements that cover overtime.

Major women's organizations, including the National Partnership for Women and Families and the American Association of University Women, oppose this proposal because they fear that an increase in mandatory overtime would take time away from families and disrupt the schedules of working parents as well as impose additional childcare and other expenses.

Ross Eisenbrey of the Economic Policy Institute has shown that this proposal, probably more than anything else, affects women in this country. It is women who are working in these jobs that are about at that level, but it is also the women who have to take their children to childcare. So get this: What the administration is saying is that you will have to leave your child in childcare longer hours during the day. You will be forced to work overtime, longer hours, but you won't get one more nickel for it. Talk about fairness. Talk about compassion.

This proposal will not create one new job. It will do just the opposite. What it will do is give employers a disincentive to hire people because it will allow them to work their current workers longer hours, force them to work longer hours without any extra pay.

When President Roosevelt signed the Fair Labor Standards Act into law in 1938, he made that exact point, that if a worker is working 50 hours a week and not getting paid for that, it does two things—takes him away from his family and, secondly, it is a disincentive to hire anyone else to work. So that is what this proposal will do. It will add to the unemployment figures in America, not put people to work.

As columnist Bob Herbert recently wrote in the New York Times:

> You would think that an administration that has presided over the loss of millions of jobs might want to strengthen the protections of workers fortunate enough to still be employed. But that's not what the administration is about.

Again, as I said in my opening, the administration does not want the American worker to find out what they are doing. They didn't hold one hearing on its proposed rule. Maybe they thought they would slip it through and people would not know about it.

I don't think we should in the shadows set policy that would affect millions of workers and their families. We need to do it in the open. That is why I plan to offer this amendment.

My amendment is very simple. It would prohibit any money, any taxpayer dollars, from being spent to in any way implement any administration proposal that would exempt more workers from overtime pay protections, who are now currently eligible. Very simple and straightforward. It would allow the administration today, tomorrow, or at any time, to increase the number of workers who are eligible for overtime pay.

Again, I wish to take a couple of minutes to clarify some of the claims that some of the opponents of our amendment have made about the administration's proposal.

The first claim is that the proposed regulation will only result in denying overtime pay protection to 644,000 workers, not 8 million. Well, that is because the administration is only counting people right now who are getting overtime pay. There are millions more eligible for overtime pay but they are not getting it because the employers don't want to pay the overtime. However, if you now exempt them, the employer has no disincentive whatsoever. They can work those people longer than 40 hours per week and not have to pay them one additional nickel. So the administration's estimate completely ignores the incentive that will be built in for employers to work these eligible people longer hours per week.

Claim No. 2: The administration's proposal will actually guarantee an additional 1.3 million low-income workers overtime pay.

This is an overstatement. They are saying it because they are raising the current income threshold from $8,060 a year to $22,100 a year—no one is opposed to that—and it is long overdue. Of course, it has been raised several times since 1938.

According to the National Employment Law Project—a coalition representing the interests of low-wage workers—most, if not all, of those 1.3 million workers were already covered by overtime protections because they were working in low-paying nonexecutive jobs. They add that the DOL's proposed threshold increase ''does not help nearly enough workers, because 80 percent of the workforce still makes over the proposed threshold [of $22,100], and workers earning more than the threshold are barely making ends meet in today's economy.'' Again, I point out that my amendment does not affect the increase in the threshold limit.

The third claim they make is that first responders—police and firemen—will not lose their overtime protection with this proposal. They have been making this claim all along. Unfortunately, the proposed regulation as written would, in fact, put many first responders—police and firefighters and others—at risk of losing overtime eligibility. There is no specific carve-out for first responders. This proposed regulation is so vague that it would apply to many first responders who may have minimal supervisory duties.

The National Association of Police Officers and the International Union of Police Associations both oppose the regulations as written.

The fourth claim: This proposal simplifies current regulations, and it will make it easier for employers to determine who qualifies for overtime and who doesn't. It will also reduce litigation.

Well, perhaps that is so. It would reduce litigation because it is going to exempt all these people from overtime protection. But it is not going to make it easier. In fact, it would make the rules more confusing by replacing well-established standards with vague and ambiguous language and would spawn litigation over the meaning of these new rules.

According to the Chicago Tribune:

> The Labor Department's [Wage and Hour Administrator] Tammy McCutchen predicts a deluge of lawsuits as employees and employers press for clarifications once the new rules go into effect.

Also, a recent analysis by the Congressional Research Service found that the proposal is vague—it will be largely up to the interpretation of employers and the Labor Department to determine who qualifies and who doesn't qualify for overtime pay protection.

So what that says to me is that employers will have wide discretion—compared to what they have now—to reclassify and disqualify all kinds of

workers from overtime pay protection in order to make them work longer hours without compensation. I don't really expect the Labor Department to proactively go around and check on these employers. They don't do it now. What if a worker complains? How many workers are going to risk losing their jobs by complaining? As a person who worked for Wal-Mart said, ''In a small town there are no other jobs. Therefore, when they want you to work overtime without any extra pay, that is what you do.''

I close by saying that I also believe this proposed regulation is designed to give cover to employers that are already abusing standing overtime laws. Lawsuits by the hundreds—cases pending before the Labor Department that are now months and years backlogged—will be wiped off the books because now the employers that are denying overtime pay will be legal in doing so.

So why do we want to make it easier to deny American workers overtime pay? How does it help the economy to take money away from millions of low- and middle-income men and women?

Again, the administration's proposal will do nothing to put money in the pockets of working Americans. It will not create new jobs. It will keep people away from their families longer hours. It is a slap in the face to millions of hard-working Americans—men and women who are starting to make ends meet and yet spend some time with their families. It is bad policy. We have an opportunity to stop it with my amendment. I plan to offer that shortly. I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

WITHDRAWAL OF ESTRADA NOMINATION

Mr. FRIST. Mr. President, a few moments ago we received a message from the White House. I will read the message and I have comments to make on that particular message, and it will explain the interruption of the debate on this very important bill that we are addressing.

The message from the White House reads:

To the Senate of the United States:

I withdraw the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

That message was signed by President George W. Bush.

It was 29 months ago that the President of the United States nominated Miguel Estrada. Today, we have received this message that Miguel Estrada's name has been withdrawn from further consideration by the Senate. I expect that many on the other side of the aisle will be glad of this. Indeed, we have seen our Democrat colleagues block the entire Senate from having a very simple, honest up-or-down vote for 29 months—well over 2 years.

Today is a shameful moment in the history of this great institution. The Senate has been denied the right to confirm or reject a brilliant and a well-qualified nominee because of the obstruction of the few—a hard-working and honorable immigrant American who has excelled in the pursuit of the law and risen to the very top of his profession has been turned away because of the rankest political partisanship.

In rising today, I wish to take a moment to express my regret to Mr. Estrada and to his family and to express my regret to the American people who have been denied the service of this extraordinarily talented and accomplished man.

The record, however, is clear—it is crystal clear: Miguel Estrada was and is superbly qualified to serve on the bench. He was, in fact, unanimously well qualified, according to the rating by the American Bar Association, a rating Democrats once called the gold standard.

Miguel Estrada graduated with honors from Columbia University and then from Harvard Law School where he was editor of the Law Review. He went on to public service, including 2 years of service in the Clinton administration. No one—no one—can claim this man is not qualified to serve on the Federal judiciary, and I fully expect that some day he will stand for a vote by this Senate again.

Mr. President, as you know, earlier this year the Senate engaged in an unprecedented month-long debate on the Estrada nomination. This debate has continued for months thereafter and, indeed, before the August recess we took the seventh—the seventh—cloture vote to end debate and to allow the Senate—a very simple request—a simple up-or-down vote, as the Constitution requires. No nominee has ever had this many cloture votes.

As a result of the Estrada debate, the Senate has had the opportunity to consider the proper nature of the advise-and-consent role of the Senate and to question the propriety of the filibuster as applied to judicial nominees. That self-examination is far from over. The fact is that the use of unprecedented filibusters to deny the Senate the freedom to give advice and consent has, I believe, done great harm to the Senate and to, more generally, public discourse.

Mr. President, let me review the lengthy saga of Miguel Estrada's confirmation process.

Miguel Estrada was nominated by President Bush on May 9, 2001, 29 months ago. He was among the very first nominees to be sent to the Senate for consideration, as the Constitution requires, for this body, the Senate, to advise and consent.

It is worth noting since that time Miguel Estrada was nominated, our country has fought two wars and changed the regimes of two nations.

For the first 505 days of the Estrada nomination, the Democrat leadership refused even to hold a hearing. They defended this delay by arguing that they knew nothing about the candidate, as if a hearing were not the usual and customary way to resolve such a concern of hearing about the candidate. In truth, there was more in Mr. Estrada's record than in the records of many judicial nominees Democrats had comfortably confirmed in previous years.

Opponents also argued at the time that Estrada lacked judicial experience, despite the fact this was not an impediment to the Clinton nominees who had never served on the bench, nominees, it should be noted, who went on to serve on the very same court to which Estrada was nominated. In fact, Earl Warren, William Rehnquist, William Douglas, Lewis Powell, and Thurgood Marshall—none of these great jurists had any judicial experience when first nominated to a Federal court. But no matter, our Democrat colleagues continued to obstruct. They continued their obstructionist tactics. Then after finally giving Mr. Estrada a hearing a year ago, they announced it was too late in the year to give Mr. Estrada a vote in the Judiciary Committee.

After the Republicans won the majority in 2002 and Democrats no longer controlled the calendar or the committee, opponents moved to plan B, to level baseless charges.

First came the accusation that Mr. Estrada had ''refused to answer a single question'' at his hearing. At best, that is hyperbole. In fact, Mr. Estrada answered over 125 questions. The transcript from Mr. Estrada's 7-hour long hearing weighs nearly 3 pounds. Admittedly, the transcript is heavy with questions my colleagues knew full well Mr. Estrada could not answer. They knew he could not answer and also maintain his respect for the independent judiciary and abide by the code of judicial ethics.

We learned through the course of a lengthy debate that, in truth, some nominees of President Clinton answered fewer than 20 questions. One nominee answered only three questions, and he was smoothly confirmed by a Republican-led Senate.

In truth, Mr. Estrada answered more than twice as many questions as all three of President Clinton's appointees to the same circuit court were asked at their hearings—all three combined.

Such facts as these naturally raise the serious question as to why our Democrat colleagues imposed a double standard on this particular nominee with his particular background. In fact, the only questions Mr. Estrada declined to answer, as previous nominees had similarly declined to answer, involved how he would rule on cases that might come before him. During his hearing, Mr. Estrada explained why. He told the committee members that he prizes the independence of the